

Freedom of Information Act 2000

Information Request: 2584997

Date of Request: 23rd February 2015

Date of Disclosure: 30th March 2015

Request:-

"I have been looking at contracts between public authorities and private enterprise, on a national basis. It would be helpful if you could provide the information listed below. It is appreciated that some of the material may be subject to commercial sensitivity. The guidance for disclosure is the Veolia case, where the precedent for redactions makes it clear that wholly private companies that engage with public authorities can expect to be subject to increased disclosure of contractual details, save those financial details that would negate financial commercial advantage and therefore decrease competitiveness. However, in this case, as the contract arrangements are between a public authority and a contractor is also wholly owned by another public authority, it is reasonably anticipated that there will be very little reason for any redactions.

This FOI request concerns:

Devon County Council's property services are delivered by NPS South West Ltd (formerly known as Devon Property) which is a subsidiary company of NPS Property Consultants Ltd, the parent company for the NPS Group.

Norse Group Limited is wholly owned by Norfolk County Council (NCC).

NPS South West Limited began trading in April 2007 as a joint venture with Devon County Council. Staff are located in Exeter and Ivybridge, returning 50% of its profits to the Devon County Council (DCC).

Could you please provide the information and documents, as applicable to your organisation:

1. Copies of the contracts between NPS and DCC, including any amendments, whilst bearing in mind that NPS is wholly owned by NCC.
2. For the above contracts, copies of the performance (customer satisfaction, health and safety as applied to NPS and contractors) and financial audits for the period 31 January 2012 to 31 January 2015. (These dates are flexible according to the dates of the audits)
3. For the joint project, demonstration that for the creation of the joint venture, and subsequent contracts with NPS, that the statutory principles of Best Value have been applied.
4. Minutes of meetings at which decisions were made to enter into the joint venture, along with copies of the prior correspondence that preceded and facilitated the joint venture."

Devon County Council's response is provided below in **bold** text:-

1. Please find below a copy of the contract documents between DCC & NPS. You will note that pricing information has been removed, and this is due to the application of Section 43(2) 'Commercial Interests'. DCC deem that release of this information could prejudice the commercial interests of NPS. We acknowledge that this exemption is subject to the Public Interest Test and are confident that the public interest lies in favour of withholding this information at this time.

In addition, Personal Information has been removed in accordance with Section 40(2) of the Freedom of Information Act – 'Personal Information', as we believe that disclosure of this information would breach the Data Protection Act principles and could cause damage or distress to those persons.

Please note that DCC has also supplied a range of documents setting out the ownership linkages for NPS SW Ltd, and these are also provided below.

2. Customer Satisfaction - Please find within the below table the outcomes of customer satisfaction surveys:-

	Qtr 1-12	Qtr 2-12	Qtr 3-12	Qtr 4-12	Qtr 1-13	Qtr 2-13	Qtr 3-13	Qtr 4-13	Qtr 1-14	Qtr 2-14	Qtr 3-14	Qtr 4-14
Our understanding of your project and what you wanted to achieve?	75%	84%	90%	82%	88%	86%	79%	88%	80%	93%	92%	78%
How well we met the agreed timescale?	75%	79%	79%	75%	74%	83%	79%	81%	83%	82%	92%	75%
How we managed the project budget within your available funding?	97%	83%	81%	82%	88%	84%	75%	83%	88%	93%	92%	75%
How we communicated with you throughout the project	75%	77%	85%	81%	81%	82%	79%	81%	82%	84%	83%	78%
NPS's approach to the environmental impact of the project / commission	75%	79%	90%	79%	83%	83%	79%	83%	82%	89%	92%	75%
Our overall level of service from NPS	75%	83%	92%	83%	88%	83%	79%	84%	86%	93%	92%	82%
Would you use NPS again	100%	93%	90%	100%	96%	100%	100%	100%	90%	100%	100%	100%

H&S Compliance Monitoring - Copies of Compliance Monitoring reports produced in the last 12 months are provided below, together with copies of random H&S audits that NPS has carried out at contractors' sites.

Financial audits are undertaken by NPS' external auditors and are then provided to Companies House. This information is, therefore, a matter of public record and can be obtained direct from Companies House [here](#)

3. NPS SW was set up as a Joint Venture between DCC and NPS Property Consultants. The arrangement was subject to a Teckal transfer. The value offered by the contract is periodically reviewed and 'Commercial in Confidence' reviews of fees are carried out with NPS SW Ltd within the parameters of the contract.
4. Please find enclosed copies of the publically available documents authorising the set up of the joint venture:-
 - Executive Committee minutes of 27/2/07 publicly available on our website [here](#)
 - 'The Future of Devon Property' paper submitted to the Executive Committee on 27/2/07 for consideration is provided below.

If you wish to speak with someone regarding the above request, please contact the Information Governance Team on 01392 383445 or email accesstoinformation-mailbox@devon.gov.uk



DEVON COUNTY COUNCIL

DATED 29th March 2007

DEVON COUNTY COUNCIL

- and -

NPS SOUTH WEST LIMITED

**SERVICE
AGREEMENT**

(SPECIFICATION)

**Relating to the provision of
certain property management
services**

**ROGER GASH
COUNTY SOLICITOR
DEVON COUNTY COUNCIL
COUNTY HALL
EXETER EX2 4QD**

Ref: BB/A20512

THIS SERVICE AGREEMENT is made on the 21st day of March 2007

BETWEEN

- (1) **DEVON COUNTY COUNCIL** of County Hall, Topsham Road, Exeter, Devon EX2 4QD ("the Council")
and
- (2) **NPS SOUTH WEST LIMITED** whose registered company number is 060789803 and whose registered address is situate at County Hall, Martineau Lane, Norwich, Norfolk NR1 2DH ("the Company")

("the parties")

RECITALS

- (A) The Council and the Company have agreed that Devon Property will transfer to the Company on the Transfer Date and from that date have agreed the Company shall provide and the Council shall co-operate with it in providing the Services in the manner and upon the terms hereinafter set out.
- (B) Furthermore in transferring Devon Property to the Company the parties have agreed certain measures to safeguard the position of the Original Employees.

NOW IT IS AGREED as follows:

1. Definitions and Interpretations

- 1.1 In this Service Agreement the following words and phrases shall have the following meanings unless inconsistent with the context:

"Actual Operating Profit" means the profit before tax and before any staff bonuses for the Company in any Financial Year as specified in the audited accounts for the Company for the relevant Financial Year but excluding any adjustment made in accordance with Financial Reporting Standard 17 (as may be amended or replaced or re-enacted (as the case may be) from time to time);

"Additional Employees" means persons temporarily or permanently employed by the Company to assist in the provision of the Services who were appointed after the Transfer Date;

"Assets" means any property owned by the Council, other than real property, including the office equipment and technical information and communications technology and related equipment used by Devon Property to undertake the Services immediately before the Transfer Date as listed in schedule 3;

"Best Value" means securing continuous improvement in the way in which the Council's functions are administered and exercised having regard to economy, efficiency, effectiveness and quality;

"Business Day" means any day that is not a Saturday, Sunday or a public holiday in the place to which a Notice is sent;

"Business Plan" means the business plan drawn up and agreed in accordance with Clause 11;

"Charges" means Hourly Rated Work, Fixed Rate Work and Percentage Fees;

"Code" means the Code of Practice on Workforce Matters in Local Authority Service Contracts as currently contained in ODPM Circular 3/03 Annex D;

"Commencement Date" means the first day of April 2007;

"Comprehensive Performance Assessment" means any comprehensive performance review of the Council's services (including the Services) undertaken by the Audit Commission or any other regulatory body pursuant to Section 99 of the Local Government Act 2003 or otherwise;

"Contract Liaison Officer" means those officers of the Company and of the Council who are from time to time appointed to liaise between the Company and the Council on all matters relating to the Service Agreement;

"Devon Property" means the Council's former property services department;

"Directive" means the EC Council Directive 2001/23 as amended;

"Estimated Operating Profit" means the estimated profit before tax and before any staff bonuses for the Company in any Financial Year during the Operating Period, taking into account (without limitation) the likely turnover, income and expenditure of the Company but excluding any adjustment made in accordance with Financial Reporting Standard 17 (as may be amended or replaced or re-enacted (as the case may be) from time to time);

"Financial Year" means the period between 1 February in each year to 31st January in the following year;

"Fixed Rated Work" means an agreed lump sum for specific tasks or programmes of work;

"Group" means a company which is a subsidiary of Norse Group Limited or a subsidiary of a company that is a subsidiary of Norse Group Limited;

"Hourly Rated Work" means work time charged on an hourly basis;

"Intellectual Property Rights" means any and all of the following items, whether or not registered, applications for the following (where registrable) and the right to apply for the following items (where registrable):

- (a) Copyright, design right and registered designs and

(b) Patents;

"IT Systems" means the systems and software more particularly described in the Business Plan;

"LGPS" means the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as amended from time to time;

"Operating Period" means the period beginning on the Transfer Date and continuing for the period set out in Clause 3 unless terminated sooner in accordance with Clauses 27 or 29;

"Original Employees" means those permanent employees of the Council employed wholly or mainly to administer or exercise the Services immediately before the Transfer Date who are listed in Schedule 1;

"Percentage Fees" means the percentage fees applied to the costs of works;

"Performance Indicators" those performance indicators agreed between the Council and the Company set out in the Service Specification or the Business Plan for the relevant Financial Year;

"Premises" means the premises of the Council namely County Hall, Exeter; Civic Centre, Barnstaple; Park Five, Sowton, Exeter and Lee Mill, Ivybridge from which the Company will deliver for the time being the Services;

"Protocols" means the protocols set out in the Service Specification and as issued from time to time by the Council in consultation with the Company setting out how Services will be commissioned by the Council and also setting out certain requirements with regard to audit arrangements as set out in Schedule 4 and use of the Council's financial systems;

"Service Agreement" means this agreement, including the schedules, between the parties;

"Service Directorate Representative" means an authorised representative from a service directorate of the Council;

"Services" means all the property management services more particularly described in the Service Specification provided to the Council by the Company at the Transfer Date;

"Service Specification" means the Service Specification describing inter alia how the Services will be provided and the rates and percentages payable for the Services set out in schedule 2 of this Service Agreement;

"Transfer Date" means 1st April 2007;

"Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

- 1.2 Reference to any statute or statutory provision includes a reference to:
 - (a) that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and
 - (b) all statutory instruments or orders made pursuant to it.
- 1.3 Words denoting the singular number only shall include the plural and vice versa. Words denoting any gender include all genders and words denoting persons shall include firms, corporations and vice versa.
- 1.4 Unless the context otherwise requires reference to any clause, sub-clause or schedule is a reference to a clause, sub-clause or schedule (as the case may be) of or to this Service Agreement.
- 1.5 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Service Agreement.

2. Appointment

- 2.1 Subject to Clause 2.2 the Council appoints the Company to carry out the whole of the Services in accordance with the provisions of this Service Agreement and Service Specification.
- 2.2 The Services to be carried out by the Company pursuant to Clause 2.1 shall not include services which would otherwise form part of the Services but:-
 - 2.2.1 the Council is obliged by a third party to offer the work to competitive bids provided that the Council will use reasonable endeavours to give the Company an opportunity to bid for that work;
 - 2.2.2 the work is of a specialist nature and the Company is not able to offer that specialism;
- 2.3 During the period that this Service Agreement is in force the Council will offer any additional services that the Council requires to be carried out, that are of a similar type to the Services, (subject to the same exceptions as are set out in Clause 2.2) to the Company and the Company shall notify the Council within 10 Business Days of the date that the Council offered the additional services whether or not it wishes to carry out the additional services. Any additional services shall be deemed to be part of the Services and be carried out under the terms of this Service Agreement.

3. Commencement, Duration and Work in Progress

- 3.1 On the Transfer Date Devon Property will transfer to the Company and the Company shall with effect from the Transfer Date be responsible for the Services.
- 3.2 The Council accepts responsibility up to (but excluding) the Transfer Date and the Company accepts responsibility as from and including the Transfer Date for all outgoing, charges, costs and expenses payable under or in connection with the Services hitherto delivered through Devon Property. All apportionments shall be made referable to the extent of use of any item or service. Where any amounts fall to be apportioned as aforesaid, each party shall promptly provide the other with full details of the apportionments, together with supporting invoices, statements and similar documentation and shall use their reasonable endeavours to promptly agree the amount of any payment due.
- 3.3 The Council will be entitled to collect all income from the services transferring arising up to (but excluding) the Transfer Date and the Company will be entitled to collect all income from the services transferring arising from and including the Transfer Date. If the Council has received any payment in respect of income for a period after the Transfer Date then the Council shall pay the Company the amount thereof apportioned by reference to and including the Transfer Date. If the Company has received any payment in respect of income for a period prior to the Transfer Date then the Company shall pay the Council the amount thereof apportioned by reference to the Transfer Date. Where any amounts fall to be apportioned as aforesaid, each party shall promptly provide the other with full details of the apportionments, together with supporting invoices, statements and similar documentation and shall use their reasonable endeavours to promptly agree the amount of any payment due. Any amount payable under this clause 3.3 shall be paid within 30 days of the date on which the amount of the payment has been agreed.
- 3.4 This Service Agreement shall commence on the Commencement Date and shall end on 31st March 2022 unless terminated earlier in accordance with Clauses 27 or 29.
- 3.5 This Service Agreement shall be subject to full review by the Council every five years such reviews to be completed by the fifth and tenth anniversaries of the Transfer Date and the Council may terminate in accordance with Clause 27 this Service Agreement in whole or in part if the conclusion of any review is that the Services or any part of the Services have not delivered Best Value for the Council during the preceding five year period.
- 3.6 The Company shall use its best endeavours to assist the Council in any review of the Services carried out in accordance with Clause 3.6.

4. Information prior to Service Agreement

- 4.1 The Company has entered into this Service Agreement in reliance upon information including financial and costs information and all details concerning employees provided to it by the Council and the Council warrants to the Company that to its best knowledge and belief all the written information, documents and records that it has provided are correct and true.

5. Scope of Services

- 5.1 The Company will carry out the Services in full accordance with terms of this Service Agreement and the terms of the Service Specification.

- 5.2 In performing the Services and in the performance of all its duties and obligations under this Service Agreement and the Service Specification the Company shall:-

5.2.1 exercise the reasonable skill, care and diligence to be expected of a qualified and competent professional with experience in carrying out services similar in size, scope, nature, complexity and value to the Services;

5.2.2 without prejudice to the generality of Sub-Clause 5.2.1 ensure that the Services are performed at all times by appropriately qualified competent and experienced staff;

5.2.3 comply with:-

5.2.3.1 all applicable Acts of Parliament and rules, regulations and orders made pursuant to any statutory instrument including in particular the requirements of the Health and Safety at Work etc Act 1974 and codes of practice relating to health and safety;

5.2.3.2 all applicable European Community Regulations and all applicable decisions of the European Court;

5.2.3.3 all applicable regulations or bye-laws of any local authority;

5.2.3.4 such contract procedures and financial regulations as are from time to time agreed between the parties;

5.2.3.5 with the provisions of the Protocols supplied by the Council from time to time setting out how work will be commissioned by the Council.

- 5.2.3.6 all applicable rules or regulations of any statutory undertaker which has jurisdiction with regard to the Services;
 - 5.2.3.7 good practice and generally in accordance with all appropriate British Standards and all appropriate Codes of Practice (having regard to the provisions of Clause 5.2.5);
 - 5.2.3.8 the Performance Indicators set out in the Business Plan and the Service Specification.
- 5.2.4 Exercise reasonable skill, care and diligence so as to meet the requirements of any programme as may from time to time be agreed by the parties;
- 5.2.5 Specify or recommend in connection with any construction or refurbishment or maintenance of any building or site for which Services are being provided such materials and such methods of design and construction and incur, authorise or recommend expenditure in such a way that the building or site and the maintenance and/or repair thereof, is as cost-effective as is reasonably possible given the standard, quality, size, scope, nature, complexity and value of the building or site.
- 5.3 The Company shall perform its obligations under Sub-Clause 5.2.5 above without prejudice to its other obligations under Clause 5.2 and without detriment to the use of materials, workmanship, design and construction of the standard and quality reasonably to be expected for a building or site of the size, scope, nature, complexity and value of the building or site.
- 5.4 The Company will promote and demonstrate Best Value in the administration and exercise of the Services within the provisions of the Local Government Act 1999.
- 6. Conflicts of Interest**
- 6.1 The Company shall take appropriate steps to ensure that neither the Company nor any employee, servant, agent, supplier or sub-contractor is placed in a position where in the reasonable opinion of the Council there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Company or such persons and the duties owed to the Council under the provisions of this Service Agreement. The Company will disclose to the Council full particulars of any such conflict of interest which may arise.
- 6.2 The provisions of this clause shall apply during the continuance of this Service Agreement and for a period of two years after its termination.

7. Co-operation Between the Parties

7.1 Each party undertakes to co-operate in good faith with each other to facilitate the proper performance of the Service Agreement and in particular will:

7.1.1 use all reasonable endeavours to avoid unnecessary disputes and claims against the other party;

7.1.2 not interfere with the rights of any other party and its servants, agents, representatives, contractors or sub-contractors (of any tier) on its behalf in performing its obligations under the Service Agreement nor in any other way hinder or prevent such other party or its servants, agents, representatives, or subcontractors (of any tier) on its behalf from performing those obligations;

7.1.3 subject to Clause 7.2 assist each other (and their servants, agents, representatives, contractors and subcontractors (of any tier) in performing those obligations so far as reasonably practicable.

7.2 Nothing in this Clause 7 shall:

7.2.1 interfere with the right of each of the parties to arrange its affairs in whatever manner it considers fit in order to perform its obligations under the Service Agreement in the manner in which it considers to be the most effective and efficient;

7.2.2 oblige any party to incur any additional cost or expense or suffer any loss of profit in excess of that required by its proper performance of its obligations under the Service Agreement;

7.2.3 relieve any party from any obligation under any indemnity contained in the Service Agreement or from any obligation to pay any debt due or payable under such documents; or

7.2.4 oblige any party to perform the other party's obligations under this Service Agreement.

8. Community Commitment

8.1 The Company shall in delivering the Services have regard to the Council's community strategy as outlined in the documents entitled "Corporate Programme – Connecting with Communities" and "Regeneration Role and Action Programme" and in respect of the latter any action plans arising thereunder.

8.2 The documents referred to in Clause 8 are indicative of the Council's community aspirations and may be subject to change from time to time.

9. Environmental Requirements

- 9.1 The Company shall use its best endeavours to perform the Services Agreement in accordance with the Council's environmental policy, which broadly is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 9.2 In particular the Company in accordance with its obligations, under Clause 9.1 shall have regard to the Council's "Making Devon Greener" and "Improving Devon's Environment" documents, as amended or replaced from time to time.

10. Benchmarking

- 10.1 Whenever reasonably requested to do so by the Council the Company shall provide to the Council such information and data as are necessary to establish whether or to what extent the Company's performances of the Services matches any Performance Indicators set from time to time and other similar measures.
- 10.2 Whenever reasonably requested to do so by the Council the Company shall provide to the Council such information and data as are necessary to establish whether or to what extent the Company's performances of the Services matches any Performance Indicators set from time to time and other similar measures.

11. Business Plan

- 11.1 The Company shall draw up a Business Plan for every Financial Year.
- 11.2 The Company and the Council will agree each Business Plan at least six weeks prior to the commencement of the Financial Year to which the Business Plan relates.
- 11.3 The Business Plan shall:
- 11.3.1 set out all the outputs of the Company, the Performance Indicators for the Services including any necessary explanation for how compliance with the Service Specifications is planned to be achieved;
 - 11.3.2 include the overall strategy of the Company and how the Company plans to assist the Council in delivery of the Council's community strategy as more particularly described in the documents referred to in Clause 8;
 - 11.3.3 detail the financial and staffing resources expected to be required to enable the Company to deliver the Services in accordance with the Business Plan;

- 11.3.4 describe any improvements or enhancements in or development of the provision of any of the Services;
- 11.3.5 include methods for monitoring the delivery of the Services and the Performance Indicators;
- 11.3.6 include a financial and resourcing plan;
- 11.3.7 include the major investment plan if appropriate.
- 11.4 In the event that the Company and the Council cannot agree upon all or any aspect of the Business Plan within the timeframe set out in this Clause, then the matters in dispute shall be referred for resolution under the provision of Clause 26.
- 11.5 For the avoidance of doubt, insofar as any Best Value Performance Indicators are introduced by the Government or any other relevant regulatory body which are relevant to the provision of any of the Services or any part thereof in any Year after the Business Plan has been agreed for that particular Year, or otherwise been determined in accordance with the provisions of Clause 26, then the current Business Plan shall be amended following notification thereof by the Council to the Company and after a reasonable period to allow implementation provided that any cost implications have been agreed between the parties. Where the parties cannot agree upon the cost implications of implementing such changes the matters in dispute shall be referred for resolution under the provisions of Clause 26.

12. Employees

- 12.1 The parties acknowledge and agree that the Regulations and the Code apply (whether or not it shall be determined otherwise by an employment tribunal or court) and that from the Transfer Date the Company shall employ the Original Employees and shall be responsible for all remuneration benefits entitlements outgoings in respect of the Original Employees including without limitation all wages holiday pay bonuses commission payment of PAYE national insurance and superannuation contributions to the extent that the same arise on or after the Transfer Date.
- 12.2 The Council shall provide the Company with the Council's records for the Original Employees including all personal files and shall provide the Company with the information that it is obliged to provide under the Regulations.
- 12.3 The Council warrants and represents the accuracy of the information that it shall provide pursuant to clause 12.2.
- 12.4 The Council warrants and represents that it is not aware of any proceedings, claims, disputes or grievances relating to the Original Employees except as disclosed in writing to the Company prior to the date of this Service Agreement.

- 12.5 The Council undertakes to indemnify and keep the Company indemnified from and against all claims, liabilities, obligations, costs, and demands incurred by the Company arising from or in respect of any of the Original Employees and/or any other employee or former employee of the Council in so far as and to the extent that the same are caused by any act, neglect or default of the Council at any time before the Transfer Date provided that:
- 12.5.1 the Company makes no statement in connection with such claim that is prejudicial to the Council;
 - 12.5.2 such claim is not caused or contributed to by acts, neglect or omissions of the Company other than in accordance with the provisions of this Service Agreement;
 - 12.5.3 the Council is immediately notified in writing of the details of the claim;
 - 12.5.4 the Council is allowed to conduct and/or settle all litigation and negotiations resulting from such claims;
 - 12.5.5 the Company takes reasonable steps to mitigate its losses arising from such claim; and
 - 12.5.6 the Company gives the Council all reasonable assistance in connection with such claim.
- 12.6 The Company shall indemnify, keep indemnified and hold harmless the Council from and against all claims, liabilities, obligations, costs incurred by the Council and arising from any failure by the Company to comply with any obligation whether under the Regulations, under the Directive or otherwise in respect of the Original Employees and, whether any such claim arises or has its origin before or after the Transfer Date in so far as and to the extent that the same are caused by any act, omission, neglect or default of the Company and provided:
- 12.6.1 the Council makes no statement in connection with such claim that is prejudicial to the Company;
 - 12.6.2 such claim is not caused or contributed to by acts, omissions, neglect or default of the Council other than in accordance with the provisions of this Service Agreement;
 - 12.6.3 the Company is immediately notified in writing of the details of the claim;
 - 12.6.4 the Company is allowed to conduct and/or settle all litigation and negotiations resulting from such claims;
 - 12.6.5 the Council takes reasonable steps to mitigate its losses arising from such claim; and

- 12.6.6 the Council gives the Company all reasonable assistance in connection with such claim.

12.7 TUPE Compliance on Termination

12.7.1 Handover on termination

12.7.1.1 During the 12 months preceding the expiry of this Service Agreement or after the Council has given notice to terminate this Service Agreement or at any other time as directed by the Council and within 15 working days of being so requested by the Council the Company shall, to the extent that it is not prevented from doing so by the provisions of any legislation relating to data protection, fully and accurately disclose to the Council and/or any incoming contractor the employee liability information required under the Regulations and to the extent that the employee liability information does not cover it the following information:-

- (a) a list of employees employed by the Company;
- (b) a list of agency workers, agents and independent contractors engaged by the Company;
- (c) the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those personnel;
- (d) the terms and conditions of employment of the employees their age, salary, date continuous employment commenced and (if different) the commencement date, enhancement rates, and any other factors affecting their redundancy entitlement and any outstanding claims arising from employment;
- (e) any disciplinary proceedings or grievance issued within the previous 2 years;
- (f) any court or tribunal cases brought by the employees in the previous 2 years, or any court or tribunal cases which the company has reasonable grounds to believe that an employee may bring;
- (g) any collective agreement which will have effect after the transfer of the employees.

12.7.1.2 The Company shall warrant the accuracy of all the information provided to the Council pursuant to Clause 12.7.1.1 and, subject to the Council

complying with any relevant data protection legislation, authorises the Council to use any and all the information as it may consider necessary for the purposes of its business or for informing any incoming contractor or tenderer for any services which are substantially the same as the Services (or any part thereof).

12.7.1.3 During the 12 months preceding the expiry of this Service Agreement or where notice to terminate this Service Agreement for whatever reason has been given the Company shall allow the Council or such other persons as may be authorised by the Council to communicate with and meet the employees and their trade union or employee representatives as the Council may reasonably request.

12.7.1.4 During the 12 months preceding the expiry of this Service Agreement or where notice to terminate this Service Agreement for whatever reason has been given, the Company shall not without prior written consent of the Council unless bona fide in the ordinary course of business:-

- (a) vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;
- (b) materially increase or decrease the number of employees employed in connection with the Services; or
- (c) assign or redeploy any employee employed in connection with the Services to other duties unconnected with the Services.

12.7.2 Sub-Contractors

In the event that the Company enters into any sub-contract to carry out a significant part of the Services it shall impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Clause 12.7 and shall procure that the Sub-Contractor complies with such terms. The Company shall indemnify the Council and keep the Council indemnified in full from and against all direct, indirect or consequential liability loss, damages, injury, claims, costs and expenses (including legal expenses) awarded against or incurred or paid by the Council as a

result of or in connection with any failure on the part of the Sub-Contractor to comply with such terms.

12.8 Application of Code to New Employees

12.8.1 New Employees

12.8.1.1 The Council and the Company shall have regard to the Code in interpreting and applying the Code obligations;

12.8.1.2 Subject to Clause 12.8.1.4 the Company shall employ Additional Employees on terms and conditions of employment which are, overall no less favourable than those of the Original Employees engaged in the provision of the Services who are working alongside and holding the same or a similar position to that of the Additional Employees;

12.8.1.3 The Company shall consult with the recognised trade unions and where there is no recognised trade union any other employee representative body on the terms to be offered to the Additional Employees pursuant to Clause 12.8.1.2;

12.8.1.4 In addition to its obligations under Clause 12.8.1.2 above, the Company shall procure that the Additional Employees are offered either:-

- (a) membership of the LGPS; or
- (b) membership of a good quality employer pension scheme, being a contracted-out final salary based defined benefit scheme, or a defined contribution scheme under which the employer must match employee contributions up to 6 per cent; or
- (c) a stakeholder pension scheme under which the employer matches employee contributions up to 6 per cent.

12.8.2. During the term of this Service Agreement, the Company shall on request by the Council provide the Council with accurate and complete information as soon as reasonably practicable, including the terms and conditions of employment of the Original Employees and the Additional Employees, where this is required to monitor the Company's compliance with its Code Obligations.

12.8.3 The Company shall support any Central Government sponsored review and monitoring programme on the impact of the Code and on request by the Council provide the Council

with accurate and complete information as soon as reasonably practicable in order to assist the Council in doing this.

12.8.4 The Council and the Company shall in the first instance seek to resolve by discussion between them any complaints from any employee or any recognised trade union in relation to compliance by the Company of its Code Obligations.

12.8.5 Where it appears to the Council or the Company that it is not possible to resolve the matters by continuing discussions between them pursuant to Clause 12.8.4 or where an employee of the Company or any recognised trade union writes to the Company to confirm that it has been unable to resolve its complaint directly with the Company in relation to the Company's Code Obligations:-

- (a) the Council shall first write to the Company to seek an explanation for the alleged failure by the Company to comply with its Code Obligations. The Company shall provide such an explanation in writing within 5 working days of receipt of the request from the Council;
- (b) if the response provided by the Company satisfies the Council that the Code Obligations have been met, then the Council will inform the complainant of this and the matter will be deemed to have been concluded;
- (c) in the event that the Council decides that it is not satisfied by the response provided by the Company the Council shall write to the Company within 5 working days of its decision requiring the Company to take immediate action to resolve the dispute;
- (d) if, following such a request by the Council the Company still appears to the Council not to be complying with its Code Obligations, the matter shall be dealt with in accordance with the alternative dispute resolution procedure implemented in March 2004 under the Code.

12.9 The Company shall employ sufficient employees of sufficient abilities and skills to carry out the work for the Services or procure specialist consultants where shortages arise and shall ensure as far as possible that the Original Employees are employed wholly or mainly in carrying out the Services.

- 12.9.1 As the nature of the Services may bring employees of the Company into contact with children and vulnerable adults the Company shall produce a policy for checking the background of any potential employees which shall include, without limitation, how checks will be undertaken with the Criminal Records Bureau and how the outcome of such checks are dealt with. The aforementioned policy shall be submitted to the Council for approval within seven (7) Business Days of the Transfer Date.

12.10 Pensions for Original Employees

- 12.10.1 The pension arrangements for the Original Employees shall be as set out in this sub-clause 12.10.
- 12.10.2 The Company shall arrange for the Original Employees to continue in or to participate in membership of the LGPS.
- 12.10.3 In the event that the Company ceases to participate in the LGPS (for whatever reason) it shall set up an alternative pension scheme for the Original Employees in accordance with the provisions of clauses 12.10.4 to 12.10.6 (inclusive), but with reference to the Transfer Date replaced by references to the date of the cessation of participation in the LGPS.
- 12.10.4 The Company shall procure that the Government Actuary or a Fellow of the Institute of Actuaries or of the Faculty of Actuaries employed by the Government Actuary's Department shall determine and certify that the Company's pension scheme provides pension rights for future service which are broadly comparable with the pension rights provided for the Original Employees whilst in the Council's employment.
- 12.10.5 The Company shall procure that the pension scheme shall be capable of receiving one or more bulk transfer payments for past service liabilities for and in respect of any or all of the Original Employees from the LGPS (the amount of such bulk transfer payment or payments to be determined by the Government Actuary's Department) and the Company shall procure that the Trustees of the Pension Scheme accept any such bulk transfer payments.
- 12.10.6 The Company shall offer each of the Original Employees who are a member of the LGPS the option of

transferring the past service benefits from that scheme to the Company's pension scheme.

13. Head of Service

- 13.1 During the Operating Period the Managing Director for the time being of the Company shall attend such meetings as the Council shall reasonably require to discuss matters relating to the Services as set out in the Service Specification.

14. Location of Employees and Licence to Occupy the Council's Premises

- 14.1 The intention of the Company is to relocate its head office to its own alternative premises within 18 months from the Transfer Date such premises to be in or around the City of Exeter but until the Company secures its own alternative premises to house its employees it shall be entitled to use the Premises in the freehold ownership of the Council that were occupied by Devon Property immediately prior to the Transfer Date.
- 14.2 The Premises shall be made available to the Company in connection with the Services on a rechargeable basis as more particularly specified in the Business Plan and shall, except with the express written consent of the Council, be used by the Company solely for the purpose of performing its obligations under this Service Agreement. The Company shall have use of the Premises as licensee and shall vacate the same within 18 months from the Transfer Date or if earlier the termination or abandonment of this Service Agreement.
- 14.3 The Company shall (and shall ensure that their employees, servants, agents, suppliers or sub-contractors) observe and comply with such rules and regulations as may be in force at any time for the use of the Premises as determined by the Council, and the Company shall pay for the cost of making good any damage caused by the Company, its employees, servants, agents, suppliers or sub-contractors other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- 14.4 The parties agree that there is no intention on the part of the Council to create a tenancy of whatsoever nature in favour of the Company or its employees, servants, agents, suppliers or sub-contractors and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Service Agreement, the Council retains the right at any time to use in any manner the Council sees fit any premises owned or occupied by it.
- 14.5 With regard to the properties which Devon Property occupies pursuant to a leasehold interest held by the Council the parties shall use their best endeavours to obtain the landlord's consent to assignments or underleases of such premises and to complete such assignments or underleases to take effect on the Transfer Date and the Company shall indemnify the Council

from all actions costs claims and liabilities whatsoever, excepting those that arise from dilapidations to any property occurring prior to the Transfer Date, arising as a result of such assignments or underleases and any guarantees which the Council may be required to give in connection therewith.

- 14.6 In respect of the Premises the Company shall be entitled to use the facilities and utilities available at the Premises from the Transfer Date such use being on a rechargeable basis.

15. Access to the Council's premises

- 15.1 The Council reserves the right under the Service Agreement to refuse to admit to, or to withdraw permission to remain on, any premises occupied by or on behalf of the Council:

15.1.1 to any member of the Company's staff; or

15.1.2 any person employed or engaged by a sub-contractor, agent or servant of the Company whose admission or continued presence would be, in the reasonable opinion of the Council, undesirable.

- 15.2 The decision of the Council as to whether any person is to be refused access to any premises occupied by or on behalf of the Council shall be final and conclusive.

16. Disruption

- 16.1 The Company shall immediately inform the Council of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations to deliver the Services.

- 16.2 In the event of industrial action by the employees of the Company or the Company's suppliers the Company shall seek the Council's approval to its proposals for the continuance of the performance of the Services in accordance with its obligations under the Service Agreement.

17. Assets

- 17.1 For the period from the Transfer Date to the date that the Original Employees and any Additional Employees are relocated to the alternative premises the Council will permit the Company to use the Assets, on a rechargeable basis, as more particularly specified in the Business Plan, subject to sub-clauses 17.2 to 17.8 below.

- 17.2 The Assets shall be and remain the property of the Council. The Company shall not in any circumstances have a lien on the Assets and the Company shall take all reasonable steps to ensure that the title of the Council to such

Assets and the exclusion of any such lien are brought to the notice of all sub-contractors and other persons dealing with the Service Agreement.

- 17.3 Any Assets made available or otherwise received by the Company shall be deemed to be in good condition when received by or on behalf of the Company unless the Company notifies the Council otherwise within 5 working days of receipt.
- 17.4 The Company shall maintain all Assets in good order and condition, excluding fair wear and tear, and shall use Assets solely in connection with the Service Agreement and for no other purpose without prior written approval from the Council.
- 17.5 Without prejudice to any other rights of the Council, the Company shall deliver up all Assets to the Council when it vacates the Premises or otherwise on demand.
- 17.6 The Company shall ensure the security of all Assets, whilst in the Company's possession, either on its premises or elsewhere during the performance of the Service Agreement, in accordance with the Council's reasonable security requirements as required from time to time.
- 17.7 The Company shall be liable for any and all loss of or damage (excluding fair wear and tear) to any of the Assets, unless the Company is able to demonstrate that such loss or damage was caused by the negligence or default of the Council. The Company's liability set out in this clause shall be reduced to the extent that such loss or damage was contributed to by the negligence or default of the Council. The Company shall inform the Contract Liaison Officer within 2 working days of becoming aware of any defects appearing in or losses or damage occurring to the Assets made available for the purposes of the Agreement.
- 17.8 On relocation to the alternative premises the Company shall at its own expense provide, install, maintain and replace information technology communications systems for the Services, ~~save in respect of the Evolution System which shall remain with the Council~~ ;

18. Software

- 18.1 The parties have agreed that in order to facilitate a cohesive approach to service delivery that it is necessary for them to make available to each other access to and use of certain of their IT Systems which are more particularly described in the Business Plan.
- 18.2 The parties shall take all necessary steps to ensure such access conforms with any and all software licences and each shall:
 - 18.2.1 obtain all required consents from the relevant licensor;
 - 18.2.2 obtain such other consents as maybe required; and

- 18.2.3 take all such other steps and measures as shall be deemed necessary.
- 18.3 In using the IT Systems of the Council the Company shall comply with the Council's Corporate ICT policies and guidelines as detailed from time to time in the Council's Intranet and/or Internet. A summary of the number of Company users of the Council's software is shown at Schedule 3.
- 19. Financial Matters**
- 19.1 The Council shall pay the Company for the administration, exercise and performance of the Services at the Charges as specified in the Service Specification.
- 19.2 In respect of each Financial Year the Council shall be entitled to a discount on the Charges payable under this Clause 19, which discount will be calculated in accordance with Clauses 19.3 to 19.5.
- 19.3 Prior to 31 January in each year of this Service Agreement the parties shall agree an estimated value for the Services which may be carried out by the Company for the Council in the following Financial Year and the parties shall then agree an amount which shall equal one half of the Company's Estimated Operating Profit for the following Financial Year (the "Discount"). The Discount for the period 1 April 2007 to 31 January 2008 shall be in accordance with the agreed Business Plan and the identified volume of work. The Council and the Company agree that if the amount of the Discount due to the Council in accordance with this clause 19.3 is not tax deductible for corporation tax purposes the Council shall receive such Discount net of such tax.
- 19.4 The Discount will be payable to the Council in accordance with the requirements of the Council as may from time to time be specified in writing by the Council to the Company.
- 19.5 In the event that the Company's Actual Operating Profit in any Financial Year is greater than the Estimated Operating Profit for the relevant Financial Year, then the Discount for the relevant Financial Year shall be adjusted in order that such Discount is equal to one half of the Actual Operating Profit. The Council and the Company agree that if the amount of the increased Discount due to the Council in accordance with this clause 19.5 is not deductible for corporation tax purposes the Council shall receive such Discount net of such tax. Any increased Discount due in accordance with Clause 19.5 shall be paid by the Company within fourteen (14) days of the determination of the relevant Actual Operating Profit.
- 19.6 For the avoidance of doubt in the event that the Company's Actual Operating Profit in any Financial Year is less than the Estimated Operating Profit for the relevant Financial Year then the Council shall still be entitled to the Discount as calculated in accordance with this clause 19, provided the

Council has placed the identified volume of work (as set out in the Business Plan) with the Company for that Financial Year.

- 19.7 The Council and the Company agree that Hourly Rated Work and the Fixed Rated Work will be increased or decreased annually by such amount as may be agreed between the Council and the Company, with effect from 1 February in each year of the Service Agreement. In considering any such *increase or decrease the Company and the Council shall have due regard to the National Joint Council for Local Government Services Pay Award for Local Authority Employers for the relevant Financial Year taking into account any material variation in associated costs (such associated costs being the employer's pension contribution rate and the employer's National Insurance contribution rate) or in the absence of such pay award at the 1st April in the relevant Financial Year then such increase or decrease shall equal the percentage budgeted by the Council in respect of the pay award taking into account any significant variation in associated costs (such as employers' pension contribution rate, employers NI contributions) for the applicable Financial Year.*
- 19.8 From 1 February in the Financial Years 2008/9, 2009/10 and 2010/11 the rates for the Hourly Rated Work and the Fixed Rated Work in force for the previous Financial Year of the Service Agreement shall be reduced by one percent following any increase or decrease agreed in accordance with Clause 19.7. The percentage reduction figure to be applied to the Hourly Rated Work and the Fixed Rated Work for the remaining period of the Agreement shall be reviewed and agreed by the parties each year prior to 31st January.
- 19.9 The Company shall invoice the Council for the provision of the Services as provided for in the Service Specification and the Council shall pay each invoice in accordance with the Service Specification.
- 19.10 The Company shall provide a copy of its audited accounts to the Council within six (6) months of the relevant accounting reference date. In the event that the Company fails to provide accounts in accordance with this Clause 19.9, or there is any dispute as between the parties in relation to the Discount for any relevant Financial Year then, without prejudice to any other rights or remedies available to the Council, the Company shall give the Council access to all and any accounting documents and information in the possession, custody or control of the Company.
- 19.11 The Company and the Council will agree within ten (10) Business Days from the Transfer Date the work completed and sums due in respect of items of work which have been performed up to the Transfer Date by the Council and which the parties agree will be completed by the Company.

20. Documents

- 20.1 The Council and the Company shall identify and agree which documents, files and records held by the Council for the purposes of the administration,

exercise and performance of the Services are necessary to enable the Company to perform the Services and its obligations under this Service Agreement and those documents, files and records shall transfer to the Company on the Transfer Date. Any documents, files and records so transferred shall be maintained throughout the duration of this Service Agreement by the Company in accordance with the terms of the Service Specification unless the Council authorises their destruction.

- 20.2 On termination of this Service Agreement the Company shall transfer to the Council all documents, files and records held by the Company for the purposes of the performance of the Services.
- 20.3 The Company and the Council shall have access on request to documents, files and records held for the purposes of this Service Agreement by the other party provided that the provisions of any legislation concerning the protection of data are complied with and the Company shall retain such documents files and records for such period as the Council shall specify.
- 20.4 For the purposes of Clause 20 documents, files and records means documents, files and records held in any form including for the avoidance of doubt in electronic form.

21. Confidentiality

- 21.1 Neither the Council nor the Company shall disclose to any third party any information of a commercially sensitive nature or information relating to any employees which has been or may be disclosed amongst themselves in connection with the Service Agreement unless the parties agree that disclosure is necessary or is required by law. Any information received or acquired by the parties from each other in consequence of this Service Agreement shall be used for the purposes of this Service Agreement and for no other purpose.
- 21.2 No announcement or information concerning this Service Agreement or any ancillary matter shall be made or released or authorised to be made or released in any advertising, publicity, promotional or other marketing activities by either of the parties (but excluding any disclosure required by legal, accounting or regulatory requirements) without the prior written consent of the other, such consent not to be unreasonably withheld or delayed, provided that the prior written consent of the Council shall not be required in respect of any advertising materials produced by the Company in the ordinary course of the business provided further that such advertising materials do not refer to the Council.

22. Data Protection

- 22.1 The Company shall:

- 22.1.1 comply with its obligations under the Data Protection Act 1998 (including where appropriate giving notification to the Information Commissioner thereunder), the Computer Misuse Act 1990, the Human Rights Act 1998 and the Freedom of Information Act 2000 insofar as the performance of the Services and the other requirements of this Service Agreement give rise to obligations under those Acts;
 - 22.1.2 provide the Council with such information as the Council may require to satisfy itself that the Company is complying with the obligations referred to in Clause 22.1.1;
 - 22.1.3 comply with the Company's own obligations under the Freedom of Information Act 2000 and provide the Council with all such assistance as the Council may require to enable the Council to comply with its obligations under the Act;
 - 22.1.4 notify changes to the registerable particulars and take such other steps as may be necessary to afford the Council access to information which is required by the Council in connection with any of its statutory duties and responsibilities and for any purpose connected with this Service Agreement.
- 22.2 Neither party shall knowingly do anything which places the other in breach of its respective obligations under the Data Protection Acts 1998, the Human Rights Act 1998 or the Freedom of Information Act 2000.

23. Intellectual Property Rights and Information Technology

- 23.1 The Council shall be the owner of all Intellectual Property Rights in existence at the Transfer Date or which may come into existence during the Operating Period in any material created in relation to the performance of the Services under this Service Agreement which is created by the Company and for the avoidance of doubt this shall include the copyright and ownership of plans, drawings and other documents provided for the purposes of this Service Agreement.
- 23.2 The Company shall be entitled to reproduce plans drawings and designs created by Devon Property and/or the Company subject to the limits of any licences and to acknowledging the Council's ownership of the Intellectual Property Rights and to ensuring that the Council's rights are not in any way prejudiced by such reproduction and the Company hereby agrees to indemnify the Council against any losses, claims, demands, expenses, damages or other liabilities which may arise out of the use by the Company of such material.

24. Accounts and Reports

- 24.1 The Council and the Company shall each keep proper accounts of all receipts and payments made in connection with the Services and each shall permit the other to inspect such accounts at any reasonable time.
- 24.2 The Company shall prepare and submit to the Council reports of the work it has undertaken and any other information reasonably required by the Council in connection with the carrying out of work for the Services and attend such meetings as the Council shall reasonably require at such intervals and at such times as the Council may request from time to time.
- 24.3 If requested to do so by the Council, the Company shall provide the Council with any relevant information in connection with any legal inquiry, arbitration or court proceedings in which the Council may become involved or any relevant investigation or disciplinary hearing internal to the Council and through the appropriate officers or employees shall assist in such investigations and if required give evidence in such inquiries or proceedings or hearings.

25. Indemnities

- 25.1 Without prejudice to any other indemnity given by the Council to the Company in this Service Agreement the Council shall be responsible for and shall indemnify the Company against any and all claims, demands and liabilities incurred by the Company in connection with the Services which arise as a result of any act, neglect or default of the Council or its employees, agents or sub-contractors provided that:
 - 25.1.1 the Company makes no statement in connection with such claim that is prejudicial to the Council;
 - 25.1.2 such claim is not caused or contributed to by acts, defaults, neglect or omissions of the Company other than in accordance with the provisions of this Service Agreement;
 - 25.1.3 the Council is immediately notified in writing of the details of the claim;
 - 25.1.4 the Council is allowed to conduct and/or settle all litigation and negotiations resulting from such claims;
 - 25.1.5 the Company takes reasonable steps to mitigate its losses arising from such claim; and
 - 25.1.6 the Company gives the Council all reasonable assistance in connection with such claim.
- 25.2 Without prejudice to any other indemnity given by the Company to the Council in this Service Agreement the Company shall be responsible for and

shall indemnify the Council against any and all claims, demands and liabilities incurred by the Council in connection with the Services arising after the Transfer Date which arise as a result of any act, omission, neglect or default of the Company or its employees, agents or sub-contractors provided that:

- 25.2.1 the Council makes no statement in connection with such claim that is prejudicial to the Company;
 - 25.2.2 such claim is not caused or contributed to by acts, neglect or omissions of the Council other than in accordance with the provisions of this Service Agreement;
 - 25.2.3 the Company is immediately notified in writing of the details of the claim;
 - 25.2.4 the Company is allowed to conduct and/or settle all litigation and negotiations resulting from such claims;
 - 25.2.5 the Council takes reasonable steps to mitigate its losses arising from such claim; and
 - 25.2.6 the Council gives the Company all reasonable assistance in connection with such claim.
- 25.3 The Company shall take out or prove that it has the benefit of all insurances necessary to reflect the terms of any indemnity given in this Service Agreement and the nature of the Services being delivered and in particular shall take out Public Liability Insurance ("PL Cover"), Fidelity Insurance ("FI Cover") and Professional Indemnity Insurance ("PI Cover") covering any liability arising out of the provision of the Services with a minimum indemnity limit of £10,000,000 PL Cover and £5,000,000 each for FI and PI Cover in respect of any one occurrence or series of occurrences arising out of any one event until at least the expiry of six years from the date of the last Services performed.
- 25.4 The Company shall produce to the Contract Liaison Officer, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 25.5 If, for whatever reason, the Company fails to give effect to and maintain the insurances required by this Service Agreement the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Company.

26. Dispute Resolution

26.1 The Council and the Company will work in partnership to ensure the continuity of the Service and appropriate working relationships between staff and as such any difficulty or problem shall initially be discussed between the Service Directorate Representative and an officer of equivalent standing from the Company. Thereafter:

26.1.1 in the event that the difficulty or problem remains between the Company and the Council any complaint will be raised between the Contract Liaison Officers;

26.1.2 if the complaint cannot be resolved by the Contract Liaison Officers then the complaint will be referred the appropriate director of the Company and the appropriate head of service for the Council

26.2 If the complaint referred to in clause 26.1 has not been resolved and is against the Company and in particular where it is a complaint that the Company is failing substantially to deliver the Services in accordance with the terms of this Service Agreement and of the Service Specification then without prejudice to its rights in Clause 27 the Council may:

26.1.1 require the Managing Director of the Company to attend such meetings as the Council shall arrange to discuss the complaint and agree a plan for improvement in the delivery of the Services;

26.1.2 require the Company to implement any plan agreed with the Managing Director for improvement in the delivery of the Services;

26.1.3 recover from the Company such sums of money as it has reasonably incurred in dealing with the Company's failure to deliver.

26.3 If the complaint referred to in clause 26.1 has not been resolved and is against the Council and in particular where it is a complaint that the Council is failing substantially to meet its obligations under the terms of this Agreement and of the Service Specification then without prejudice to its rights in Clause 27 the Company may:

26.3.1 require an appropriate officer of the Council who in the first place shall be the Contract Liaison Officer to attend such meetings as the Company shall arrange to discuss the complaint and to agree a plan for improvement;

26.3.2 require the Council to implement any plan agreed with the Company for improvement in the delivery of the Services;

- 26.4 In the event that a complaint cannot be resolved in accordance with clauses 26.1 and 26.2 in order to overcome where possible a dispute arising and in those cases where disputes are likely still to arise to facilitate their clear definition and early resolution (whether by agreement or otherwise) the following procedure shall apply for the avoidance and settlement of any likely disputes.

26.5 Disputes

- 26.5.1 The parties agree that no matter shall constitute nor be said to give rise to a dispute unless and until in respect of that matter an adjudicator has given a decision on an issue under Clause 26.7 and the Council or the Company is not giving effect to the decision and in consequence the other has served a notice in writing ("the Notice of Dispute").
- 26.5.2 Notwithstanding the existence of a dispute following the service of a Notice under Clause 26.5.1 unless this Service Agreement has already been determined or abandoned the parties shall continue to perform their obligations.

26.6 Mediation

- 26.6.1 A party may at any time before service of a Notice to Refer and Notice of Adjudication under Clause 26.7 by notice in writing seek the agreement of the other for the issue to be considered by the Royal Institution of Chartered Surveyors Dispute Resolution Service
- 26.6.2 If the other party agrees to a mediation procedure any recommendation of the mediator shall be deemed to have been accepted as finally determining the issue by agreement so that the matter is no longer in dispute unless a Notice of Adjudication under Clause 26.7 or a Notice To Refer under Clause 26.8 has been served in respect of that issue not later than one month after receipt of the recommendation by the dissenting party.
- 26.6.3 All matters and information placed before a mediator pursuant to a reference under Clause 26.6 shall be deemed to be submitted to him without prejudice and the mediator shall not be called as witness by the parties or anyone claiming through them in connection with any adjudication arbitration or other legal proceedings arising out of or connected with any matter so referred to him.

26.7 Adjudication

- 26.7.1 Each of the parties has the right to refer an issue as to a matter under this Agreement for adjudication and either party may give

notice in writing ("the Notice of Adjudication") to the other of its intention so to do. The adjudication shall be conducted by the Royal Institution of Chartered Surveyors Dispute Resolution Service.

- 26.7.2 Unless the adjudicator has already been appointed he is to be appointed by a timetable with the object of securing his appointment and referral of the dispute to him within 7 days of such Notice of Adjudication.
- 26.7.3 The adjudicator shall reach a decision within 28 days of referral or such longer period as is agreed by the parties after the issue has been referred.
- 26.7.4 The adjudicator may extend the period of 28 days by up to 14 days with the consent of the party by whom the issue was referred.
- 26.7.5 The adjudicator shall act impartially.
- 26.7.6 The adjudicator may take the initiative in ascertaining the facts and the law.
- 26.7.7 The decision of the adjudicator shall be binding until the issue is finally determined by arbitration or by agreement.
- 26.7.8 The adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith and any employee or agent of the adjudicator is similarly not liable.

26.8 Arbitration

- 26.8.1 All disputes arising under or in connection with this Service Agreement other than failure to give effect to a decision of an adjudicator shall be finally determined by reference to arbitration. The party seeking arbitration shall serve on the other parties a notice in writing ("the Notice to Refer") to refer the dispute to arbitration provided that Notice of Dispute has been served in accordance with clause 26.5.
- 26.8.2 Where an adjudicator has given a decision under Clause 26.7 in respect of the particular dispute the Notice to Refer must be served within three months of the giving of the decision otherwise it shall be final as well as binding.
- 26.8.3 The arbitrator shall be a person appointed by agreement of the parties.

- 26.8.4 If the parties fail to appoint an arbitrator within one month of any party serving on the other parties a notice in writing ("the Notice to Concur") to concur in the appointment of an arbitrator the dispute shall be referred to a person to be appointed on the application of any party by the President for the time being of the Royal Institution of Chartered Surveyors.
- 26.8.5 If an arbitrator declines the appointment or after appointment is removed by order of a competent court or is incapable of acting or dies and the parties do not within one month of the vacancy arising fill the vacancy then any party may apply to the President for the time being of the Royal Institution of Chartered Surveyors to appoint another arbitrator to fill the vacancy.
- 26.8.6 In any case where the President for the time being of the Royal Institution of Chartered Surveyors is not able to exercise the functions conferred on him by this Clause the said functions shall be exercised on his behalf by a Vice-President for the time being of the said Institution.
- 26.8.7 Any reference to arbitration in this Service Agreement shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory re-enactment or amendment thereof for the time being in force. The arbitration shall be conducted by the Royal Institution of Chartered Surveyors Dispute Resolution Services. The arbitrator shall have full power to open up review and revise any decision, opinion, instruction, direction, certificate or valuation of an adjudicator.
- 26.8.8 Neither of the parties shall be limited in the arbitration to the evidence or arguments put to any adjudicator pursuant to Clause 26.7.
- 26.8.9 The award of the arbitrator shall be binding on all parties.

27. Termination and Review

- 27.1 This Service Agreement shall terminate automatically on 31 March 2022 unless terminated earlier in accordance with Clause 24.2 or 29.
- 27.2. If the Company or where applicable any director appointed by NPS Property Consultants :-
- 27.2.1 commits a substantial breach of any of the Company's obligations under this Service Agreement;
- 27.2.2 changes the Company's structure in a way which in the opinion of the Council adversely affects the ability of the Company to discharge its obligations under this Service Agreement;

- 27.2.3 has any director or senior manager of it convicted of dishonesty;
- 27.2.4 becomes bankrupt or makes a composition or arrangement with its creditors or has a proposal for voluntary arrangements for a composition of debts, or any scheme or arrangement approved in accordance with the Insolvency Act 1986;
- 27.2.5 has an application made under the Insolvency Act 1986 to the Court for the appointment of an administrator or an administrative receiver;
- 27.2.6 has a winding-up order made or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
- 27.2.7 has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;
- 27.2.8 has an administrator or an administrative receiver (as defined in the Insolvency Act 1986) appointed;
- 27.2.9 has possession taken by or on behalf of the holders of any debenture secured by a floating charge or any property comprised in or subject to the floating charge;
- 27.2.10 is in circumstances which entitle the Court or a creditor to appoint or have appointed a receiver, manager, and administrator or and administrative receiver, or which entitle the Court to make a winding-up order

then in any such circumstances the Council may (if it so decides) exercise the rights described in Clause 27.7.

- 27.3 If there is or has been any act, omission, default or failure by the Company, its employees, sub-contractors or agents in the performance of the Company's obligations under this Service Agreement which in the opinion of the Council significantly delays, interrupts or prevents the performance of the Services required under this Service Agreement in accordance with the terms of the Service Agreement and any standard specified herein the Council shall be entitled (if it so wishes) to exercise the rights described in Clause 27.7.
- 27.4 If any review held under Clause 3 concludes that the Services did not deliver best value in a review period the Council shall be entitled (if it so wishes) to exercise the rights described in Clause 27.7.
- 27.5 In the event that Norfolk County Council is the ultimate parent company of the Company and Norfolk County Council is re-categorised under the Comprehensive Performance Assessment as O star and is not further re-

categorised within 18 months of the date of being categorised as O star the Council shall be entitled (if it so wishes) to exercise the rights described in Clause 27.7.3.

27.6 In the event of any one or more of the events described in Clauses 27.2 to 27.6 the Council may, subject to where an event so described is capable of remedy, the Council first serving notice of such event on the Company requiring remedy within 20 Business Days or such reasonable time as is agreed between the parties and to the Company failing to remedy within the required time, take any or all of the following actions:-

27.7.1 either provide itself or procure the provision of the whole or the relevant part of the Services until such time as (if at all) the Company shall demonstrate to the satisfaction of the Council that the whole or such part of the Services will be once more provided by the Company in accordance with the provisions hereof.

27.7.2 without determining the whole of this Service Agreement terminate forthwith the relevant part of the Services only and thereafter itself provide or procure a third party to provide such part of the Services.

27.7.3 determine the whole of this Service Agreement forthwith.

27.7 In the event that the Council is in significant breach of any of its obligations under this Service Agreement or the Service Specification the Company may acting reasonably, subject where an event of default is capable of remedy to the Company first serving notice of an event of default on the Council requiring remedy of the default within 20 Business Days or such reasonable time as is agreed between the parties and to the Council failing to remedy the default within the required time, if it so wishes determine the whole of this Service Agreement forthwith.

27.8 In the event that the Council is re-categorised under the Comprehensive Performance Assessment as O star and is not further re-categorised within 18 months of the date of being categorised as O star the Company shall be entitled (if it so wishes) to determine the whole of this Service Agreement forthwith.

27.9 On termination of this Service Agreement the Council shall have the option to purchase any equipment, materials, vehicles, fittings, office furniture and loose tools used by the Company for the purpose of providing the Services at a price to be agreed between the parties.

28. Force Majeure

28.1 Neither the Council nor the Company shall be liable for any failure or delay in performance of this Service Agreement that is caused by circumstances beyond the reasonable control of a party.

29. Prevention of Corruption

- 29.1 The Company shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Service Agreement or any other contract with the Council, or for showing or refraining from showing favour or disfavour to any person in relation to the Service Agreement or any such contract. The attention of the Company is drawn to the criminal offences under the Prevention of Corruption Acts 1889 to 1916.
- 29.2 The Company warrants that it has not paid commission or has agreed to pay any commission to any employee or representative of the Council by the Company or on the Company's behalf.
- 29.3 Where the Company or Company's employees, servants, sub-contractors, suppliers or agents or anyone acting on the Company's behalf, engages in conduct prohibited by Clauses 29.1 or 29.2 in relation to this or any other contract with the Council, the Council has the right to:
- 29.3.1 terminate the Service Agreement and recover from the Company the amount of any loss suffered by the Council resulting from the termination; or
 - 29.3.2 recover in full from the Company any other loss sustained by the Council in consequence of any breach of this clause, whether or not the Service Agreement has been terminated.

30. Assignment and Sub-Contracting

- 30.1 Save as provided in 30.2 below the Company shall not assign, sub-contract or in any other way dispose of the Service Agreement or any part of it without the prior written approval of the Council, such approval not to be unreasonably withheld. The Council shall be entitled to request such information about any proposed sub-contractor as it shall reasonably require. Sub-contracting any part of the Service Agreement shall not relieve the Company of any obligation or duty attributable under the Service Agreement.
- 30.2 The Company shall be entitled to sub-contract to other companies within its Group.
- 30.3 The Company shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 30.4 Where the Council has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Council to the Authority within 2 Business Days of issue.

31. Waiver

- 31.1 No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

32. Cumulative Remedies

- 32.1 Termination of this Service Agreement shall not affect any rights of any of the parties accrued up to the date of termination.
- 32.2 All rights granted to any of the parties shall be cumulative and no exercise by any of the parties of any right under this Service Agreement shall restrict or prejudice the exercise of any other right granted by this Service Agreement or otherwise available to it.

33. Severance

- 33.1 If any provision of this Service Agreement shall be prohibited by law or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Service Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Service Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Service Agreement.

34. Contracts (Rights of Third Parties) Act 1999

- 34.1 A person who is not a party to this Service Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms but for the avoidance of doubt it is agreed that the exclusion of the application of that Act shall not prevent all or any future successors in title to any of the parties to this Deed from being able to benefit from or to enforce or be enforced against any of the obligations of the Service Agreement.

35. Service Agreement to Prevail

- 35.1 In the event of any conflict between the terms in the body of this Service Agreement and the terms of the Service Specification the terms in the body of this Service Agreement shall prevail.

36. Notices

- 36.1 Any notice given under this Service Agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or by sending it by prepaid recorded delivery or special delivery to the address and for the attention of the relevant person set out in Clause 36.2 (or as otherwise notified by that party). Any such notice shall be deemed to be received:

36.1.1 If delivered personally, at the time of delivery

36.1.2 In the case of recorded delivery or special delivery, 2 working days after the date of posting

Provided that if deemed receipt occurs before 9.00am on a Business Day the notice shall be deemed to have been received at 9.00am on that day and if deemed receipt occurs after 5.00pm on a Business Day the notice shall be deemed to have been received on the next Business Day.

36.2 The addresses of the parties for service of notices are as follows:

The Council:

County Hall, Topsham Road, Exeter, Devon EX2 4QD

for the attention of the Chief Executive

The Company:

County Hall, Martineau Lane, Norwich, Norfolk, NR1 2D4

for the attention of The Managing Director

or such other addresses and/or named representatives as may be notified in writing from time to time by the relevant party to the other party.

36.3 For the avoidance of doubt notice under the Service Agreement shall not be validly served if sent by fax or email.

37. Entire Agreement

37.1 This Service Agreement (and any deeds and documents made consequential to it) constitutes the entire contract between the parties and may be varied or modified only in writing by the parties stating that this Service Agreement is varied in the manner specified.

38. Proper Law & Jurisdiction

38.1 This Service Agreement shall be governed by and construed in accordance with the law of England and Wales, and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

IN WITNESS whereof the parties hereto have executed this document as a deed on the date stated at the head of this Service Agreement:



**CERTIFICATE OF INCORPORATION
OF A PRIVATE LIMITED COMPANY**

No. 2888194

I hereby certify that

NORFOLK PROPERTY SERVICES LIMITED

is this day incorporated under the Companies Act 1985
as a private company and that the Company is limited.

Given under my hand at the Companies Registration Office,
Cardiff the 17 JANUARY 1994

P. Bevan
P. BEVAN

an authorised officer



CERTIFICATE OF INCORPORATION ON CHANGE OF NAME

Company No. 2888194

The Registrar of Companies for England and Wales hereby certifies that
NORFOLK PROPERTY SERVICES LIMITED

having by special resolution changed its name, is now incorporated
under the name of

NPS PROPERTY CONSULTANTS LIMITED

Given at Companies House, Cardiff, the 24th January 2002

Sarah Morgan
SARAH MORGAN

For The Registrar Of Companies



C O M P A N I E S H O U S E

FUTURE OF DEVON PROPERTY

Report of the Chief Executive, the County Solicitor and the Director of Finance, IT and Trading

Please note that the following recommendation is subject to approval by the Executive (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendations: That subject to confirmation of the final financial, legal and administrative arrangements the Executive:-

- (i) agrees to the formation of the Joint Venture Company NPS South West Ltd, and to the County Council becoming a member of that company together with NPS Property Consultants Ltd;**
- (ii) approves the transfer of Devon Property to NPS South West Ltd on 1st April 2007;**
- (iii) authorises the County Solicitor to enter into all necessary legal documentation to complete the transfer and subsequently to attend and vote on behalf of the Council at all general meetings of NPS South West Ltd.;**
- (iv) considers the appointment of two Directors to the Board of NPS South West Ltd;**

1. Introduction

- 1.1** There have been a number of reports about the trading position of Devon Property. The present sequence started in February 2006 when approval was given to re-shape Devon Property and set up a Trading Unit. It was then agreed that the continuance of the Property Unit as an internal unit to Devon County Council was not a viable option.
- 1.2** Following a report to Executive on 5th September 2006 approval was given to:
 - (i)** Negotiations taking place with NPS Property Consultants Ltd (NPS) about a possible transfer of the property function with effect from 1st April 2007;
 - (ii)** NPS providing an interim manager for Devon Property;
 - (iii)** Full engagement with staff over the future of Devon Property;
 - (iv)** A review of the structure and operation of the Client side of property matters.
- 1.3** On 19th December 2006 a further report to Executive agreed the approval in principle to the formation of NPS South West Ltd.
- 1.4** Since then negotiations with NPS have proceeded positively and this report now recommends final approval of the formation of the Company.

2. Recent Progress

- 2.1** Since December the list of staff to be transferred under the TUPE arrangements has been agreed between Devon County Council and NPS. There is now clarity over current terms and conditions of employment and this information has been released to NPS. Trade

Union Representatives have been notified of these arrangements and staff have been formally issued with letters giving them notice of the transfer.

- 2.2 There have been arrangements for a series of one-to-one meetings for staff to talk with Devon County Council HR representatives and a significant number of staff have availed themselves of this.
- 2.3 In the spirit of co-operation NPS have had their own HR staff visit to meet staff who have had particular questions about future arrangements.
- 2.4 The website that was created to give information to staff has been regularly updated with details on pensions, employment terms and conditions, comparisons of NPS and DCC terms and conditions and a list of 'frequently asked questions'. In addition specific questions have been answered.
- 2.5 The Service Agreement with NPS South West Ltd is close to completion except for final details as to the financial arrangements and service specification. The detail in the Memorandum and Articles of Association of NPS South West Ltd and the Shareholder's Agreement with NPS are close to completion. The main principles of these are attached as Annex 1. It is worth noting that Counsel's opinion has been obtained which confirms that it is proper for the Council to conclude negotiations with NPS.
- 2.6 Copies of NPS South West Ltd's Business Plan have been given to Devon and the figures are being worked through. As further information about future work becomes available these figures will be refined, but the initial assessment is that there is a viable business case.
- 2.7 The range of services provided by NPS South West Ltd and the individual project rates and fees are covered by a service specification. This is being discussed between NPS and Devon. Service Directorates are looking at this document and feeding back their responses. In practice the first year of operation will have to benchmark performance, setting the standard for following years.

One main characteristic of this document is to move away from open ended time charge arrangements to agreed lump sum arrangements. In addition this document gives a clearer definition of what services are covered by fee rates, thus giving a greater transparency to the arrangements between Clients and the Property Service function.

- 2.8 In practice much of the business case and the service specification will remain constant over the 15 years of the Agreement but some details will have to be re-negotiated on a year by year basis as circumstances and types of work change.
- 2.9 Pensions: It is yet to be resolved whether the Devon Pension Fund or the Norfolk Pension Fund will be used. Actuarial reports have been received for the inclusion of NPS South West Ltd into the Devon Scheme and a resolution to allow this was agreed at the 9th February meeting of the Investment and Pension Fund Committee. A response is awaited from the Norfolk Pension Fund. The decision on which fund will be used will be based on which is the most financially advantageous to Devon County Council.

3. Practical Arrangements

- 3.1 The intention is that NPS South West Ltd will remain in County Hall for up to 18 months while they look for alternative accommodation. The cost of the current County Hall accommodation is built into the business case.
- 3.2 IT and Computer Software: Many systems presently run by Devon Property are also used by other Directorates. Similarly, Devon Property has access to a number of corporate

systems. Much work has been done to desegregate the systems and in other cases clarify systems so that access is available to the appropriate parties. While NPS South West Ltd is in County Hall they will continue to use Devon County Council servers, but when they move they will provide their own IT.

- 3.3 Advertisements have been placed for the new Managing Director for NPS South West Ltd. There has been a good response and interviews are ongoing. The County Council is actively involved in the interviewing process.

4. Conclusion

- 4.1 The main items to be resolved are the final details of the business case, some financial issues, the pension position and the service specification.
- 4.2 Subject to the final detail being agreed in consultation with the Leader and Councillor Brazil the Executive is asked to approve the recommendations set out above.

Phil Norrey

Roger Gash

John Mills

Electoral Divisions: All

Local Government Act 1972

Contact for Enquiries: R.O. Buzzacott
Tel. 01392 382617 Room 269

Executive Member: Councillor Brian Greenslade

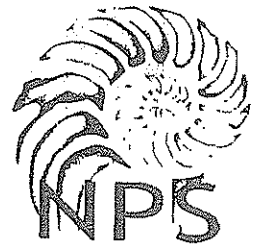
Background Paper Date File Ref

Nil

Direct Dial:
Direct Fax:
E-mail:

Your ref:
Our ref:

MB/HJA



Property Consultants Ltd

Leader of the Council
Norfolk County Council
County Hall
Martineau Lane
NORWICH
NR1 2DL

Lancaster House
16 Central Avenue
St Andrews Business Park
Norwich NR7 0HR
Tel. (01603) 706000
Fax. (01603) 706001

21 March 2007

Dear

**Formation of Subsidiary Company of
NPS Property Consultants Ltd:
NPS South West Ltd**

As you may be aware, NPS Property Consultants Ltd is currently negotiating with Devon County Council a 15-year partnership for the provision of property services. The partnership is intended to assist in delivery of the company's objectives and is in line with the company's Business Plan.

NPS Property Consultants Ltd is in the process of establishing a subsidiary company to deliver the partnership and it is intended that the new company, NPS South West Ltd, will commence trading on 1 April 2007.

The Articles of NPS Property Consultants Ltd provide that the prior written consent of the County Council is required to the formation of a subsidiary company.

Continued

Offices:

Norwich
Aylsham
Brighton
Chelmsford
Hampton Court
King's Lynn
Long Stratton
Luton
Needham Market
Whitstable

Architecture
Building Surveying
Valuation &
Estates Management
Land Agency
Strategic Property Advice
Project Management
Quantity Surveying
Facilities Management
Health & Safety
Graphic Design
Building Services
Engineering



INVESTOR IN PEOPLE

NPS Property Consultants Ltd is a wholly owned subsidiary of Norfolk County Council

2

On 11 February 2002, the Cabinet delegated to the Leader of the Council the authority to give the consent required under the company's Articles. I am, therefore, seeking your written consent to the formation of NPS South West Ltd and apologise sincerely for the delay in seeking this consent.

I would be grateful if you could indicate your consent by signing and dating the declaration below.

Yours sincerely
for and on behalf of
NPS Property Consultants Ltd



Mike Britch
Managing Director

On behalf of Norfolk County Council, I consent to the formation of the subsidiary company, NPS South West Ltd, as set out in the letter above and in accordance with the Articles of Association of NPS Property Consultants Ltd.



Shaun Murphy - Leader of the Council

23 March 2007



CERTIFICATE OF INCORPORATION OF A PRIVATE LIMITED COMPANY

Company No. 6078903

The Registrar of Companies for England and Wales hereby certifies that
NPS SOUTH WEST LIMITED

is this day incorporated under the Companies Act 1985 as a private
company and that the company is limited.

Given at Companies House, Cardiff, the 1st February 2007



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

— for the record —



Please complete in typescript,
or in bold black capitals.

CHWP000

Notes on completion appear on final page

I hereby certify this document
to be a true copy of the original
examined at my office Lancaster House
Norwich on 21.3.07

Henry Jones
Solicitor

10

First directors and secretary and intended situation of registered office

Company Name in full

NPS South West Limited

Proposed Registered Office

(PO Box numbers only, are not acceptable)

Lancaster House

16 Central Avenue, St. Andrews Business Park

Post town Norwich

County / Region Norfolk

Postcode NR7 0HR

If the memorandum is delivered by an agent
for the subscriber(s) of the memorandum
mark the box opposite and give the agent's
name and address.

Agent's Name

Address

Post town

County / Region

Postcode

Number of continuation sheets attached

You do not have to give any contact
information in the box opposite but if
you do, it will help Companies House
contact you if there is a query on
the form. The contact information
that you give will be visible to
archivers of the public record.

Glen Reynolds, Lancaster House, 16 Central Avenue,
St. Andrews Business Park, Norwich, Norfolk, NR7 0HR

Tel (01603) 706040

DX number

DX exchange

Companies House receipt date barcode
is form has been provided free of charge
by Companies House

When you have completed and signed the form please send it to the
Registrar of Companies at:

Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff
for companies registered in England and Wales
or

Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland

DX 235 Edinburgh
or LP - 4 Edinburgh 2



10

Please complete in typescript,
or in bold black capitals.

CHWP000

Notes on completion appear on final page

First directors and secretary and intended situation of
registered office

Company Name in full

NPS South West Limited

Proposed Registered Office

(PO Box numbers only, are not acceptable)

Lancaster House

16 Central Avenue, St. Andrews Business Park

Post town

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County / Region

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for companies registered in Scotland

DX 235 Edinburgh
or LP - 4 Edinburgh 2

Company Secretary (see notes 1-5)

Company name NPS South West Limited

NAME *Style / Title

Mr

*Honours etc

* Voluntary details

Forename(s)

Glen

Surname

Reynolds

Previous forename(s)

Previous surname(s)

Address †

† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address.

Post town

County / Region

Postcode

Country

United Kingdom

I consent to act as secretary of the company named on page 1

Consent signature

G. Reynolds

Date

29/01/2007

Directors (see notes 1-5)

Please list directors in alphabetical order

NAME *Style / Title

Mr

*Honours etc

Forename(s)

Michael Lancaster

Surname

Britch

Previous forename(s)

Previous surname(s)

Address †

† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address.

Post town

County / Region

Postcode

Country

United Kingdom

Day Month Year

Date of birth

Nationality

Business occupation

Director

Other directorships

NPS Property Consultants Ltd, NPS North West Ltd, NPS North East Ltd,

Norse Group Ltd, NPS Stockport Ltd, Norfolk County Services Ltd

I consent to act as director of the company named on page 1

Consent signature

[Signature]

Date

29/01/2007

Directors (see notes 1-5)

Please list directors in alphabetical order

* Voluntary details

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal address.

NAME	*Style / Title	Mr	*Honours etc	
	Forename(s)	Glen		
	Surname	Reynolds		
	Previous forename(s)			
	Previous surname(s)			
	Address ††			
	Post town			
	County / Region		Postcode	
	Country	United Kingdom		
	Date of birth	Day	Month	Year
		Nationality		
	Business occupation	Chartered Accountant		
	Other directorships	NPS North West Ltd, NPS North East Ltd, NPS Stockport Ltd		
		I consent to act as director of the company named on page 1		
	Consent signature	G. Reynolds	Date	29/01/2007

This section must be signed by either an agent on behalf of all subscribers or the subscribers (i.e. those who signed as members on the memorandum of association).

Signed	G. Reynolds	Date	29/01/2007
Signed		Date	29/01/2007
Signed		Date	
Signed		Date	
Signed		Date	
Signed		Date	
Signed		Date	

Notes

Show for an individual the full forename(s) NOT INITIALS and surname together with any previous forename(s) or surname(s).

If the director or secretary is a corporation or Scottish firm - show the corporate or firm name on the surname line.

Give previous forename(s) or surname(s) except that:

- for a married woman, the name by which she was known before marriage need not be given,
- names not used since the age of 18 or for at least 20 years need not be given.

A peer, or an individual known by a title, may state the title instead of or in addition to the forename(s) and surname and need not give the name by which that person was known before he or she adopted the title or succeeded to it.

Address:

Give the usual residential address.

In the case of a corporation or Scottish firm give the registered or principal office.

Subscribers:

The form must be signed personally either by the subscriber(s) or by a person or persons authorised to sign on behalf of the subscriber(s).

2. Directors known by another description:

- A director includes any person who occupies that position even if called by a different name, for example, governor, member of council.

3. Directors details:

- Show for each individual director the director's date of birth, business occupation and nationality.
The date of birth must be given for every individual director.

4. Other directorships:

- Give the name of every company of which the person concerned is a director or has been a director at any time in the past 5 years. You may exclude a company which either is or at all times during the past 5 years, when the person was a director, was:
 - dormant,
 - a parent company which wholly owned the company making the return,
 - a wholly owned subsidiary of the company making the return, or
 - another wholly owned subsidiary of the same parent company.

If there is insufficient space on the form for other directorships you may use a separate sheet of paper, which should include the company's number and the full name of the director.

5. Use Form 10 continuation sheets or photocopies of page 2 to provide details of joint secretaries or additional directors.



Companies House
for the record

Please complete in typescript,
or in bold black capitals.

CHWP000

288a

APPOINTMENT of director or secretary (NOT for resignation (use Form 288b) or change of particulars (use Form 288c))

Company Number

607 890 3

Company Name in full

NPS South West Limited

Date of
appointment

Day Month Year

DO NOT DATE

†Date of
Birth

Day Month Year

Appointment form

Notes on completion
appear on reverse.

NAME

*Style / Title



as secretary



Please mark the appropriate box. If appointment is
as a director and secretary mark both boxes.

*Honours etc

Forename(s)

Surname

Previous
Forename(s)

Previous
Surname(s)

†† Tick this box if the
address shown is a
service address for
the beneficiary of a
Confidentiality Order
granted under the
provisions of section
723B of the
Companies Act 1985

†† Usual residential
address

Post town

Postcode

County / Region

Country

†Nationality

†Business occupation

COUNCILLOR

†Other directorships
(additional space overleaf)

NONE

Consent signature

I consent to act as ** director / ~~secretary~~ of the above named company.

J. Lyd

Date

8th Mar 07

* Voluntary details.

† Directors only.

**Delete as appropriate

A director, secretary etc must sign the form below.

Signed

DO NOT SIGN HERE

Date

DO NOT DATE

(*a director / secretary / administrator / administrative receiver / receiver manager / receiver)

You do not have to give any contact
information in the box opposite but if you
do, it will help Companies House to
contact you if there is a query on the
form. The contact information that you
give will be visible to searchers of the
public record..

Companies House receipt date barcode

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by Companies House

Form 10/03

When you have completed and signed the form please send it to the
Registrar of Companies at:

Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff
for companies registered in England and Wales or
Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland

DX 235 Edinburgh
or LP - 4 Edinburgh 2

Company Number

† directors only.

† Other directorships

NOTES

Show the full forenames, NOT INITIALS. If the director or secretary is a corporation or Scottish firm, show the name on surname line and registered or principal office on the usual residential line.

Give previous forenames or surname(s) except:

- for a married woman, the name by which she was known before marriage need not be given.
- for names not used since the age of 18 or for at least 20 years

A peer or individual known by a title may state the title instead of or in addition to the forenames and surname and need not give the name by which that person was known before he or she adopted the title or succeeded to it.

Other directorships.

Give the name of every company incorporated in Great Britain of which the person concerned is a director or has been a director at any time in the past five years.

You may exclude a company which either is, or at all times during the past five years when the person concerned was a director, was

- dormant
- a parent company which wholly owned the company making the return, or
- another wholly owned subsidiary of the same parent company.



Please complete in typescript,
or in bold black capitals.

CHWP000

288a

APPOINTMENT of director or secretary (NOT for resignation (use Form 288b) or change of particulars (use Form 288c))

Company Number

607 8903

Company Name in full

NPS SOUTH WEST LIMITED

Date of
appointment

Day Month Year

DO NOT DATE

Date of
Birth

Day Month Year

**Appointment
Form**

Appointment as director



as secretary



Please mark the appropriate box. If appointment is
as a director and secretary mark both boxes.

NAME

*Style / Title

*Honours etc

Notes on completion
appear on reverse.

Forename(s)

Surname

Previous
Forename(s)

Previous
Surname(s)

†† Tick this box if the
address shown is a
service address for
the beneficiary of a
Confidentiality Order
granted under the
provisions of section
723B of the
Companies Act 1985



†† Usual residential
address

Post town

Postcode

County / Region

Country

†Nationality

†Business occupation

†Other directorships
(additional space overleaf)

NONE

Consent signature

I consent to act as ** director / secretary of the above named company

* Voluntary details.

† Directors only.

**Delete as appropriate

Signed

M. T. G.

Date

14/3/07

A director, secretary etc must sign the form below.

DO NOT SIGN HERE

Date

DO NOT DATE

(**a director / secretary / administrator / administrative receiver / receiver manager / receiver)

You do not have to give any contact
information in the box opposite but if you
do, it will help Companies House to
contact you if there is a query on the
form. The contact information that you
give will be visible to searchers of the
public record.

Companies House receipt date barcode

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by Companies House

Form 10/03

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for companies registered in England and Wales or
Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland

DX 235 Edinburgh
or LP - 4 Edinburgh 2



Please complete in typescript,
or in bold black capitals.

CHWP000

288a

APPOINTMENT of director or secretary (NOT for resignation (use Form 288b) or change of particulars (use Form 288c))

Company Number

607 8903

Company Name in full

NPS SOUTH WEST LIMITED

Date of
appointment

Day Month Year

Do NOT DATE

†Date of
Birth

Day Month Year

Appointment

Appointment as director



as secretary



Please mark the appropriate box. If appointment is
as a director and secretary mark both boxes.

NAME

*Style / Title

*Honours etc

Notes on completion
appear on reverse.

Forename(s)

Surname

Previous
Forename(s)

Previous
Surname(s)

†† Tick this box if the
address shown is a
service address for
the beneficiary of a
Confidentiality Order
granted under the
provisions of section
723B of the
Companies Act 1985

†† Usual residential
address

Post town

Postcode

County / Region

Country

†Nationality

†Business occupation

†Other directorships
(additional space overleaf)

Consent signature

I consent to act as ** director / ~~secretary~~ of the above named company

* Voluntary details.

† Directors only.

**Delete as appropriate

A director, secretary etc must sign the form below.

Signed

Do NOT SIGN HERE

Date

Do NOT DATE

(**a director / secretary / administrator / administrative receiver / receiver manager / receiver)

You do not have to give any contact
information in the box opposite but if you
do, it will help Companies House to
contact you if there is a query on the
form. The contact information that you
give will be visible to searchers of the
public record..

Companies House receipt date barcode

This form has been provided free of charge
by Companies House

When you have completed and signed the form please send it to the
Registrar of Companies at:

Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff
for companies registered in England and Wales or
Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland

DX 235 Edinburgh
or LP - 4 Edinburgh 2



Companies House

For the record

Please complete in typescript,
or in bold black capitals.

CHWP000

288a

APPOINTMENT of director or secretary (NOT for resignation (use Form 288b) or change of particulars (use Form 288c))

Company Number

607 890 3

Company Name in full

NPS SOUTH WEST LIMITED

Date of
appointment

Day Month Year

DO NOT DATE

Date of
Birth

Day Month Year

Appointment form

Notes on completion
appear on reverse.

Appointment as director



as secretary



Please mark the appropriate box. If appointment is
as a director and secretary mark both boxes.

NAME

*Style / Title

*Honours etc

Forename(s)

Surname

Previous
Forename(s)

Previous
Surname(s)

†† Tick this box if the
address shown is a
service address for
the beneficiary of a
Confidentiality Order
granted under the
provisions of section
723B of the
Companies Act 1985

†† Usual residential
address

Post town

Postcode

County / Region

Country

UK

†Nationality

†Business occupation

COUNCILLOR

†Other directorships
(additional space overleaf)

NONE

Consent signature

I consent to act as ** director / ~~secretary~~ of the above named company

J. Lyil

Date

8th Nov 07

A director, secretary etc must sign the form below.

Signed

DO NOT SIGN HERE

Date

DO NOT DATE

(**a director / secretary / administrator / administrative receiver / receiver manager / receiver)

You do not have to give any contact
information in the box opposite but if you
do, it will help Companies House to
contact you if there is a query on the
form. The contact information that you
give will be visible to searchers of the
public record..

Companies House receipt date barcode

This form has been provided free of charge
by Companies House

10/03

When you have completed and signed the form please send it to the
Registrar of Companies at:

Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff
for companies registered in England and Wales or
Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland

DX 235 Edinburgh
or LP - 4 Edinburgh 2

Company Number

† directors only.

† Other directorships

NOTES

Show the full forenames, NOT INITIALS. If the director or secretary is a corporation or Scottish firm, show the name on surname line and registered or principal office on the usual residential line.

Give previous forenames or surname(s) except:

- for a married woman, the name by which she was known before marriage need not be given.
- for names not used since the age of 18 or for at least 20 years

A peer or individual known by a title may state the title instead of or in addition to the forenames and surname and need not give the name by which that person was known before he or she adopted the title or succeeded to it.

Other directorships.

Give the name of every company incorporated in Great Britain of which the person concerned is a director or has been a director at any time in the past five years.

You may exclude a company which either is, or at all times during the past five years when the person concerned was a director, was

- dormant
- a parent company which wholly owned the company making the return, or
- another wholly owned subsidiary of the same parent company.

Direct Dial: 01603 228883
Direct Fax: 01603 222719
Email: glen.reynolds.nps@norfolk.gov.uk

Your ref:
Our ref: GR/HJM

Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

29 January 2007

Dear Sir

**COMPANY INCORPORATION
NPS SOUTH WEST LIMITED**

Please find enclosed the following:

1. Two copies of the Memorandum of Association for the above company,
2. A duly completed and signed Form 10,
3. A duly completed and signed Form 12,
4. A cheque for £50 made payable to "Companies House" in respect of the charge for same-day incorporation.

X Articles of Association do not accompany this application as the company has adopted the whole of Table A without modification.

Yours faithfully
for and on behalf of
NPS Property Consultants Limited/NPS London Limited



Glen Reynolds
Financial Accountant



Property Consultants Ltd

Lancaster House
16 Central Avenue
St Andrews Business Park
Norwich NR7 0HR
Tel: (01603) 706000
Fax: (01603) 706001

Offices:

Norwich
Aylsham
Brighton
Chelmsford
Hampton Court
King's Lynn
Long Stratton
Luton
Needham Market
Whitstable

Architecture

Building Surveying

Valuation &
Estates Management

Land Agency

Strategic Property Advice

Project Management

Quantity Surveying

Facilities Management

Health & Safety

Graphic Design

Building Services
Engineering



INVESTOR IN PEOPLE

NPS Property Consultants Ltd is a wholly owned subsidiary of Norfolk County Council

Registered in England & Wales No.2888194 - Registered Office: County Hall, Martineau Lane, Norwich, NR1 2SF.

www.nps.co.uk

The Companies Acts 1985 and 1989

Private Company Limited by Shares

NPS SOUTH WEST LIMITED

Incorporated on:

Company Number:

I hereby certify this
document to be a
true copy of the
original examined at
my office Lancaster House
Manuch on 21.3.07

Hilary J.

HILARY JONES

Solicitor

MEMORANDUM OF ASSOCIATION

1. The company's name is "NPS South West Limited".
2. The company's registered office is to be situated in England and Wales.
3. The company's objects are to provide architectural, surveying, drafting, design, engineering, property advice, property development, estates management, facilities management building maintenance, business support and training and development services or work primarily to Stockport Metropolitan Borough Council and other public sector bodies or carrying on any other trade or business whatsoever and the doing of all such other things as are incidental or conducive to the attainment of that object.
4. The liability of the members is limited to the amount (if any) unpaid on the shares held by them.
5. The authorised share capital of the Company is £10 divided into:
8 "A" Ordinary Shares of £1 each ("the A Shares"); and
2 "B" Ordinary Shares of £1 each ("the B Shares")

We, the subscribers to this memorandum of association, wish to be formed into a company pursuant to this memorandum: and we agree to take the number of shares shown opposite our respective names.

Names and addresses of
subscribers

Number of shares taken by each
subscriber

- | | | |
|----|---|----------------------------------|
| 1. | NPS Property Consultants Ltd
County Hall, Martineau Lane,
Norwich NR1 2DH | 8 "A" Ordinary Shares of £1 each |
|----|---|----------------------------------|

Director

Dated 29th day of January 2007

Witness
Name

Address

Heather Anderson
HEATHER ANDERSON

Secretary *G. Reynolds*

Dated *29th* day of *January* 2007

Witness

Name

Address

H. J. Holsten

HEATHER ANDERSON

COMPANIES ACTS
WRITTEN RESOLUTION
OF

NPS SOUTH WEST LIMITED

COMPANY NUMBER : 6078903

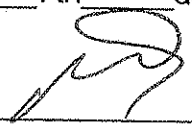
I the undersigned, being the nominated representative of the sole shareholder of the above company, for the time being entitled to receive notice of, attend and vote at General Meetings, hereby pass the following special resolution and agree that the said resolution shall for all purposes be as valid and effective as if the same had been passed at a General Meeting of the company duly convened and held.

It is resolved:

That the main objects of the memorandum of association of the company be and hereby are altered by the deletion of the existing clause 3 and the insertion instead of the following new clause 3:

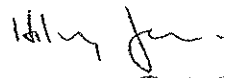
"The company's objects are to provide architectural, surveying, drafting, design, engineering, property advice, property development, estates management, facilities management building maintenance, business support and training and development services or work primarily to Devon County Council and other public sector bodies or carrying on any other trade or business whatsoever and the doing of all such other things as are incidental or conducive to the attainment of that object."

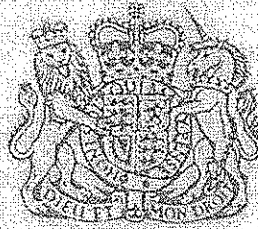
Dated this 7th day of February 2007

Signed 

For and on behalf of NPS Property Consultants Limited

I hereby certify this document to be a true copy of the original examined at my office at Lancaster House Norwich on 20th March 2007


Hilary Jones
Solicitor



THE COMPANIES ACT 1985

Company No. 5694657

The Registrar of Companies for England and Wales hereby certifies that

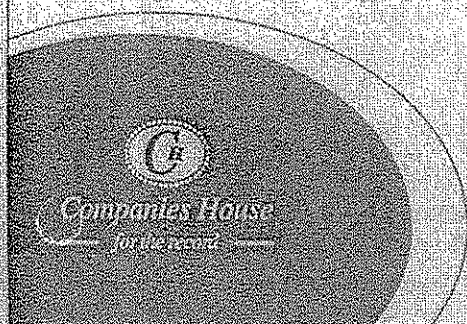
NORSE GROUP LIMITED

was incorporated under the Companies Act 1985

as a limited company on the 1st February 2006

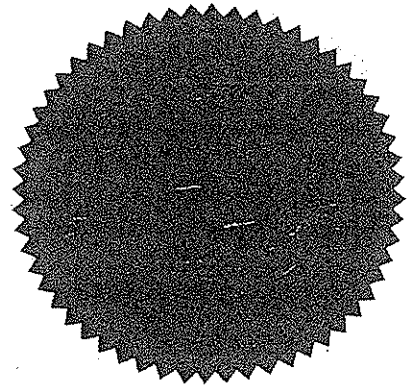
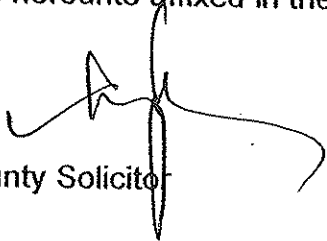
Given at Companies House, Cardiff the 20th March 2007

M D JONES
for the Registrar of Companies



THE COMMON SEAL OF
DEVON COUNTY COUNCIL
was hereunto affixed in the presence of:

County Solicitor



DOCUMENT No. 37675

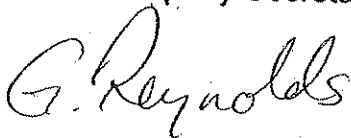
EXECUTED AS A DEED BY
NPS SOUTH WEST LIMITED

acting by two Directors/
one Director and the Company Secretary



Director

Director/ ~~Company Secretary~~



No. of Certificate. TWO

No. of Shares. TWO

Share Certificate

Company Name. NPS SOUTH WEST LIMITED

This is to Certify that DEVON COUNTY COUNCIL

of COUNTY HALL, TOPSHAM ROAD, EXETER, DEVON, EX2 4QD is the registered holder of TWO "B"
ORDINARY
Shares of £ONE each, fully paid in the above-named Company, numbered from 1 to 2

inclusive subject to the Memorandum and Articles of Association of the Company,

STAMP

Given under the Common Seal of the said Company

dated 157 APRIL 2007

DIRECTOR

G. Reynolds

SECRETARY

NO TRANSFER OF ANY OF THE ABOVE-MENTIONED SHARES WILL BE REGISTERED UNLESS ACCOMPANIED BY THIS CERTIFICATE.



DEVON COUNTY COUNCIL

DATED 29th March 2007

DEVON COUNTY COUNCIL

- and -

NPS PROPERTY
CONSULTANTS LIMITED

SHAREHOLDERS
AGREEMENT

Relating to NPS South West
Limited

ROGER GASH
COUNTY SOLICITOR
DEVON COUNTY COUNCIL
COUNTY HALL
EXETER EX2 4QD

Ref: BB/A20512

THIS SHAREHOLDERS AGREEMENT is dated the 29th day of March 2007

PARTIES

- (1) NPS PROPERTY CONSULTANTS LIMITED incorporated and registered in England with company number 02888194 whose registered office is at County Offices, Martineau Lane, Norwich, NR1 2SF ("NPS").
- (2) DEVON COUNTY COUNCIL OF County Hall, Topsham Road, Exeter, Devon EX2 4QD ("DCC").

BACKGROUND

- (A) NPS holds eight A shares in NPS South West Limited a company incorporated in England and registered under registration number 06078903 ("NPS South West").
- (B) DCC holds two B shares in NPS South West
- (C) DCC and NPS have entered into a Service Agreement of even date with the date of this Shareholders Agreement.
- (D) DCC and NPS shall exercise their rights in relation to NPS South West on the terms and conditions of this agreement.

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement:

"Articles": means the Articles of Association of NPS South West;

"Business Day": means a day (other than a Saturday or Sunday) when banks in the County of Devon are open for business;

"Business Plan": means the business plan drawn up in accordance with the Service Agreement;

"Charges" has the same meaning as attributed to the term in the Service Agreement

"Comprehensive Performance Assessment": means any comprehensive review of DCC's services (including the Services) undertaken by the Audit Commission or any other regulatory body pursuant to Section 99 of the Local Government Act 2003 or otherwise;

"DCC Director": means any director appointed to NPS South West by DCC;

"DCC Share": two ordinary B shares of £1 in the capital of NPS South West

"Encumbrance": includes all encumbrances (whether monetary or not) and all other rights exercisable by third parties;

"Expert": means a person appointed in accordance with clause 10 to resolve a matter under this agreement;

"Fair Value": means the value of any shares determined in accordance with clause 10;

"Group": means in relation to a company (wherever incorporated), that company, any company of which it is a Subsidiary (its holding company) and any other Subsidiaries of any such holding company; and each company in a Group is a member of the Group. Unless the context otherwise requires, the application of the definition of Group to any company at any time shall apply to the company as it is at that time;

"NPS Director": means any director appointed to NPS South West by NPS;

"NPS Share": eight ordinary A shares of £1 in the capital of NPS South West designated as the NPS Share;

"Obligatory Transfer Event": means in relation to a party, any event specified in clause 9 that happens to that party;

"Service Agreement": means the service agreement relating to the transfer of the Services to and delivery of the Services by NPS South West and of even date with this Shareholders Agreement;

"Services": means the property management services more particularly described in the specification to the Services Agreement to be transferred to NPS South West by DCC at completion under the terms of the Service Agreement;

"Shareholders": means the holders of shares in NPS South West;

"Shareholders Representative": means the person appointed to represent a shareholder;

"Subsidiary": means in relation to a company wherever incorporated (a holding company) means a "subsidiary" as defined in section 736 of the Companies Act 1985 and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company. Unless the context otherwise requires, the application of the definition of Subsidiary to any company at any time shall apply to the company as it is at that time;

"Taxes Act 1988": means the Income and Corporation Taxes Act 1988;

"Transfer Date": has the definition assigned in the Service Agreement.

- 1.2 Clause and schedule headings do not affect the interpretation of this agreement.
- 1.3 A person includes a corporate or unincorporated body.
- 1.4 Words in the singular include the plural and in the plural include the singular.
- 1.5 A reference to one gender includes a reference to the other gender.
- 1.6 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 Writing or written includes faxes.
- 1.8 A reference to a document is a reference to the document whether in paper or electronic form.

2. THE BUSINESS OF NPS SOUTH WEST

- 2.1 The business of NPS South West is the property management services more particularly described in the specification to the Services Agreement primarily to the DCC and the Shareholders shall use their best endeavours to procure that its business is carried on in pursuance of the objects presently set out in the memorandum of association..
- 2.2 Each party shall use its reasonable endeavours to promote and develop the business of NPS South West to the best advantage of NPS South West.

3. PERIOD TO COMPLETION

- 3.1 NPS shall procure that prior to Transfer Date NPS South West shall not carry on any trade or business or be engaged in any activities of any sort nor have any assets or liabilities.
- 3.2 DCC undertakes to NPS that until the Transfer Date, the Services shall be maintained and conducted without any interruption or alteration in the nature, scope or manner of the Services.

4. AT TRANSFER

- 4.1 At the Transfer Date NPS will procure that NPS South West shall issue credited as fully paid 2 (two) NPS South West Shares to DCC and enter DCC in the register of members of NPS South West as the holder of such NPS South West Shares and issue a share certificate to DCC in respect of all such shares. NPS

will also procure that the Memorandum of Association is amended accordingly and that DCC is furnished with a copy.

- 4.2 On the Transfer Date the parties shall procure that the Business Plan that has been prepared for the Financial Year in which NPS South West is formed and which is in agreed form is adopted by the directors of NPS South West.

5. DIRECTORS AND MANAGEMENT

- 5.1 The board of directors of NPS South West has responsibility for the supervision and management of NPS South West and its business.
- 5.2 Directors shall be appointed in accordance with the Articles. The appointment or removal takes effect on the date on which the notice is received by NPS South West or, if a later date is given in the notice, on that date. Each party will consult with the other prior to any appointment or removal of a director.
- 5.3 The party removing a director shall indemnify and keep indemnified NPS South West against any claim connected with the director's removal from office.
- 5.4 The parties intend there to be a meeting of directors at least quarterly.
- 5.5 A director may, and at the request of a director the secretary shall, call a meeting of directors.
- 5.6 The parties shall ensure that at least seven days' notice of a meeting of directors is given to all directors entitled to receive notice accompanied by:
- (a) an agenda specifying in reasonable detail the matters to be raised at the meeting; and
 - (b) copies of any papers to be discussed at the meeting.
- 5.7 A shorter period of notice of a meeting of directors may be given if at least one NPS director and one DCC director agree in writing.
- 5.8 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors unless all the directors agree in writing.
- 5.9 The quorum at any meeting of directors (including adjourned meetings) is 3 of which two shall be NPS Directors and one shall be a DCC Director.
- 5.10 No business shall be conducted at any meeting of directors unless a quorum is present at the beginning of the meeting and at the time when there is to be voting on any business.

- 5.11 Any director or member of a committee of the directors may participate in a meeting of the directors or such committee by means of conference, telephone or similar communications equipment whereby all participating in the meeting can hear each other and participation in such a meeting in this manner shall be deemed to constitute presence in person at such meeting for the purposes of determining whether a quorum is present.
- 5.12 If a quorum is not present within 30 minutes after the time specified for a directors' meeting in the notice of the meeting then it shall be adjourned for 5 Business Days at the same time and place.
- 5.13 A meeting of directors shall be adjourned to another time or date at the request of all the NPS Directors or all the DCC Directors present at the meeting. No business may be conducted at a meeting after such a request has been made. No more than one such adjournment may be made in respect of a meeting.
- 5.12 Meetings of directors shall make decisions by passing resolutions. A resolution is passed if:
- (a) more votes are cast for it than against it; and
 - (b) at least one NPS Director has voted in favour of it.

6. DISCOUNTS

- 6.1 In accordance with clause 19 of the Service Agreement DCC will receive a discount on the Charges that it pays to NPS South West that will result in DCC receiving an amount equivalent to one half of the pre-tax profits of NPS South West in each Financial Year.
- 6.2 The parties agree that it is their intention that NPS's share in the profits of NPS South West should be the remaining half of the pre-tax profit of each Financial Year.

7. TAX MATTERS

- 7.1 Unless the parties otherwise expressly agree in writing, the parties shall procure that all of NPS South West's trading losses and all other amounts eligible for relief for taxation shall be carried by NPS South West and not surrendered (wholly or partly) to the parties.
- 7.2 Unless the parties otherwise expressly agree in writing, NPS shall be entitled to surrender in proportion to the NPS Shares (and to procure that any other company which is a member of its Group, where such company is entitled to surrender the same pursuant to section 402(3) of the Taxes Act 1988, surrenders) to the NPS South West, trading losses and other amounts eligible for relief from corporation tax under Chapter IV, Part X, of the Taxes Act 1988 up to the maximum extent permitted by law. For this purpose the following provisions shall apply:

- (a) NPS shall give and procure that the relevant surrendering company within its Group (if the surrendering company is not a shareholder in NPS South West) gives all consents and NPS shall take and procure that the relevant surrendering company within its Group (if the surrendering company is not a shareholder in NPS South West) takes such other action as may reasonably be required to ensure that such surrenders are effectively made within any relevant time limits;
- (b) in respect of any such surrender, each of the parties shall procure that NPS South West shall make a payment to the relevant surrendering company as respects the amount surrendered (as referred to in section 402(6) of the Taxes Act) within nine months of the end of the claim period (within the meaning of section 403A of the Taxes Act);
- (c) the amount of payment referred to in clause 7.2(b) shall be equal to the extra amount of tax which would have been payable by the claimant company in the absence of such surrender; and
- (d) any such payment made pursuant to clause 7.2(b) shall be subject to return if, and to the extent, that it is determined that relevant losses or other amounts surrendered are not available for surrender or there is an insufficiency of profits of the claimant company and any such payment shall be adjusted to the extent that it is subsequently found to have been incorrectly calculated.

8. TRANSFER OF SHARES

8.1 Neither of the parties may transfer all or any of their shares in NPS South West to a member of their Group if such transfer could prejudice the status of NPS South West as a contracting authority for the purposes of the Public Contracts Regulations 2006. Either of the parties may transfer their shares to a member of their Group if the contracting authority status of NPS South West is not prejudiced provided that at the time of the transfer and in relation to the shares being transferred, the transferring party:

- (a) procures that the transferee enters into a shareholders' agreement with the remaining party to this agreement on the same terms as apply to the transferring party in relation to those shares immediately before the transfer; and
- (b) guarantees all the obligations and any liability of the transferee under that agreement.

9. OBLIGATORY TRANSFER EVENT

9.1 If anything mentioned in this clause happens to a party it is an Obligatory Transfer Event in respect of that party:

- (a) the liquidation (voluntary or otherwise) of the party other than a genuine solvent reconstruction or amalgamation in which the new company assumes (and is capable of assuming) all the obligations of the party;
- (b) an order is made by a court of competent jurisdiction, or a resolution is passed for the administration of a party, or documents are filed with the court for the appointment of an administrator, or notice of intention to appoint an administrator is given by the party, or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
- (c) any step is taken by any person other than a member of the other party's Group (and is not withdrawn or discharged within 90 days) to appoint a receiver, administrative receiver or manager in respect of the whole or a substantial part of the assets or undertaking of the party or any other company in the party's Group;
- (d) the party being unable to pay its debts as they fall due for the purposes of section 123 of the Insolvency Act 1986;
- (e) the party entering into a composition or arrangement with its creditors;
- (f) any charge or enforcing any charge created over any shares in NPS South West;
- (g) if a process has been instituted that could lead to the party being dissolved and its assets being distributed among the party's creditors, shareholders or other contributors; or
- (i) the Service Agreement is terminated for any reason;
- (j) DCC is categorised as 0 star under the Comprehensive Performance Assessment and is not re-categorised as 1, 2 or 3 star within 18 months of being categorised as 0 star

9.2 For the purpose of this Clause 9 the term party in relation to 9.1(i) shall be construed as meaning NPS notwithstanding that any decision taken by DCC to terminate the Service Agreement will happen as against NPS South West.

10. TRANSFER FOLLOWING OBLIGATORY TRANSFER EVENT

10.1 Where an Obligatory Transfer Event happens to a party it shall give notice of it to the other party as soon as possible and in any event no less than 28 days from the Obligatory Transfer Event.

- 10.2 The party receiving notice of an Obligatory Transfer Event (in this clause the Buyer) may within 35 days of receiving the notice (the first day is the day after it received notice), offer to buy all the shares of the other party (in this clause the Seller) in NPS South West at a specified price for cash and not on deferred terms ("the Offer").
- 10.3 The Seller has a period of 21 days ("the Share Pricing Period") of receiving the Offer (the first day is the day after the day of the Offer) within which to:
- (a) accept the price offered for the shares by the Buyer; or
 - (b) request that a Fair Value for the shares is determined by an Expert appointed by the Institute of Chartered Accountants, and the Seller is deemed to have accepted the Offer at the price stated in the notice if it does not expressly accept or request a Fair Value determination by the end of the Share Pricing Period.
- 10.4 The price for the shares shall be:
- (a) the price offered by the Buyer if, at the expiry of the Share Pricing Period, the Seller has:
 - (i) accepted that price; or
 - (ii) neither accepted that price nor requested the determination of a Fair Value by the Expert; or
 - (b) the Fair Value determined by the Expert if the Seller requests such a determination before the expiry of the Share Pricing Period.
- 10.5 Where the price is referred to the Expert, to exercise his right to buy the Buyer shall give notice to the Seller within 14 days of receiving notification of the Fair Value determined by the Expert (the first day being the day after the Buyer receives the Fair Value notification).
- 10.6 Acceptance or deemed acceptance under clause 10.3 or the service of a notice to buy under clause 10.5 shall bind the parties to buy and sell the shares, as the case may be, in accordance with clause 12.
- 10.7 In this clause the Fair Value of the shares to be sold in NPS South West shall be the value that the Expert certifies to be the fair market value in his opinion based on the following assumptions:
- (a) the value of the shares in question is that proportion of the fair market value of the entire issued share capital of NPS South West that the Seller's shares bear to the then total issued share capital of NPS South West (with no premium or discount for the

size of the Seller's shareholding or for the rights or restrictions applying to the shares under this agreement or the articles of association of NPS South West);

- (b) the sale is between a willing buyer and a willing seller on the open market;
- (c) the sale is taking place on the date that the Obligatory Transfer Event occurred;
- (d) NPS South West's businesses shall continue to be carried on as a going concern;
- (e) the shares are sold free of all liens, charges and other Encumbrances;
- (f) the value/amount of Discount the Council has received in accordance with the provisions of the Service Agreement up to the date of the Obligatory Transfer Event;
- (g) the amount of any discount that the DCC has received in accordance with the provisions of the Service Agreement up to the date of the Obligatory Transfer Event; and
- (h) the amount of any capital investment made in NPS South West by DCC.

10.8 In the alternative the party receiving notice of an Obligatory Transfer Event shall within 35 days of receiving the notice (the first day is the day after it received notice) declare its desire to wind up NPS South West.

11. TERMINATION AND LIQUIDATION

11.1 Except for the provisions which this clause states shall continue in full force after termination, this agreement shall terminate:

- (a) when one party ceases to hold any shares in NPS South West;
- (b) when a resolution is passed by shareholders in accordance with the Articles or creditors, or an order made by a court or other competent body or person instituting a process that shall lead to NPS South West being wound up and its assets being distributed among NPS South West's creditors, shareholders or other contributors.

11.2 The following provisions of this agreement remain in full force after termination:

- (a) clause 1 (interpretation);
- (b) clause 7 (tax matters);
- (c) this clause;

11.3 Termination of this agreement shall not affect any rights or liabilities that the parties have accrued under it.

11.4 If this agreement terminates each party shall, if requested by the other, procure that the name of NPS South West is changed to avoid confusion with the name of the party making the request.

11.5 Where NPS South West is to be wound up and its assets distributed, the parties shall agree a suitable basis for dealing with the interests and assets of NPS South West and shall endeavour to ensure that:

- (a) all existing contracts of NPS South West are performed to the extent that there are sufficient resources;
- (b) NPS South West shall not enter into any new contractual obligations;
- (c) NPS South West is dissolved and subject to the provisions of the Service Agreement the assets are distributed as soon as practical.

12. COMPLETION OF THE SALE AND PURCHASE OF SHARES IN NPS SOUTH WEST

12.1 This clause applies only to transfers between the parties pursuant to clauses 8 and 10.

12.2 At completion the party selling the shares shall:

- (a) transfer the shares free from all Encumbrances by way of a duly completed share transfer form transferring the legal and beneficial ownership in the shares to the buyer together with the relevant share certificate and such other documents as the buyer may reasonably require to show good title to the shares or enable it to be registered as the holder of the shares;
- (b) deliver the resignations of any directors appointed by the selling party to take effect at completion and acknowledging that they have no claims against NPS South West;
- (c) warrant that it has no right to require NPS South West to issue any share capital or other securities and that no Encumbrance affects any unissued shares or other securities of NPS South West;
- (d) warrant that no commitment has been given to create an Encumbrance affecting the shares being sold (or any unissued shares or other securities of NPS South West) and that no person has claimed any rights in respect thereof; and

- (e) undertake to do all it can, at its own cost, to give the buyer the full legal and beneficial title to the shares.
- 12.3 At completion the buying party shall pay the purchase price to the selling party or its lawyers (who have been irrevocably authorised by the selling party to receive it).
- 12.4 The parties shall use their best endeavours to procure that the selling party is released from any guarantees, security arrangements and other obligations that it has given in respect of NPS South West and its business.
- 12.5 The parties shall procure the registration (subject to due stamping by the buyer) of the transfer of shares in NPS South West pursuant to this clause and each of them consents to such transfer and registration pursuant to this agreement and the articles of association.
- 12.6 The shares shall be sold with all rights that attach, or may in the future attach, to them.
- 12.7 The party buying the shares is not obliged to complete the purchase of any of the shares being sold unless the purchase of all the shares is completed simultaneously.
- 12.8 If the party selling the shares fails to complete the transfer of shares as required under this clause, NPS South West:
 - (a) is irrevocably authorised to appoint any person to transfer the shares on the selling party's behalf and to do anything else that the party buying the shares may reasonably require to complete the sale; and
 - (b) may receive the purchase price in trust for the party selling the shares, giving a receipt that shall discharge the party buying the shares.

13. STATUS OF AGREEMENT

- 13.1 Each party shall, to the extent that it is able to do so, exercise all its voting rights and other powers in relation to NPS South West to procure that the provisions of this agreement are properly and promptly observed and given full force and effect according to the spirit and intention of the agreement.
- 13.2 If any provision in the memorandum or articles of association of NPS South West conflicts with any provision of this agreement, this agreement shall prevail.

- 13.3 The parties shall, when necessary, exercise their powers of voting and any other rights and powers they have to amend, waive or suspend a conflicting provision in the memorandum or articles of association to the extent necessary to permit NPS South West and its business to be administered as provided in this agreement.

14. WARRANTY

- 14.1 NPS warrants and represents, at the date of this agreement, NPS South West has not carried on any business, has no assets or liabilities, has no employees and is not a party to any contracts.

15. WHOLE AGREEMENT

- 15.1 This Shareholders Agreement, and any documents referred to in it or executed contemporaneously with it, constitute the whole agreement between the parties and supersede any arrangements, understanding or previous agreement between them relating to the subject matter they cover.

- 15.2 Each party acknowledges that in entering into this Shareholders Agreement, and any documents referred to in it or executed contemporaneously with it, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance or warranty of any person other than as expressly set out in this Shareholders Agreement or those documents.

16 ASSIGNMENTS

- 16.1 No person may assign, or grant any security interest over, any of its rights under this agreement or any document referred to in it without the prior written consent of all the parties such consent not to be unreasonably conditioned, withheld or delayed.
- 16.2 Each person that has rights under this Shareholders Agreement is acting on its own behalf.

17. VARIATION AND WAIVER

- 17.1 A variation of this Shareholders Agreement shall be in writing and signed by or on behalf of all parties.
- 17.2 A waiver of any right under this Shareholders Agreement is only effective if it is in writing and it applies only to the person to which the waiver is addressed and the circumstances for which it is given.
- 17.3 A person that waives a right in relation to one person, or takes or fails to take any action against that person does not affect its rights against any other person.

- 17.4 Unless specifically provided otherwise, rights arising under this Shareholders Agreement are cumulative and do not exclude rights provided by law.

18. NO PARTNERSHIP

- 18.1 The parties to this Shareholders Agreement are not in partnership with each other and there is no relationship of principal and agent between them.

19. GOOD FAITH

- 19.1 Each party shall at all times act in good faith towards the other and shall use all reasonable endeavours to ensure that this Shareholders Agreement is observed.
- 19.2 Each party shall do all things necessary and desirable to give effect to the spirit and intention of this Shareholders Agreement.

20. THIRD PARTY RIGHTS

- 20.1 This Shareholders Agreement is made for the benefit of the parties and their successors and permitted assigns and is not intended to benefit or be enforceable by anyone else.
- 20.2 The right of the parties to terminate, rescind or agree any amendment, variation, waiver or settlement under this Shareholders Agreement is not subject to the consent of any person that is not a party to the Shareholders Agreement.

21. NOTICE

- 21.1 Any notice given under this Shareholders Agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or by sending it by prepaid recorded delivery or special delivery to the address and for the attention of the relevant person set out in Clause 21.2 (or as otherwise notified by that party). Any such notice shall be deemed to be received:

21.1.1 If delivered personally, at the time of delivery; and

21.1.2 In the case of recorded delivery or special delivery, 2 working days after the date of posting

Provided that if deemed receipt occurs before 9.00am on a Business Day the notice shall be deemed to have been received at 9.00am on that day and if deemed receipt occurs after 5.00pm on a Business Day the notice shall be deemed to have been received on the next Business Day.

- 21.2 The addresses of the parties for service of notices are as follows:

DCC:
County Hall
Topsham Road
Exeter
Devon EX2 4QD
for the attention of the Chief Executive

NPS:

Lancaster House
16 Central Avenue
St Andrews Business Park
Norwich NR7 0HR

for the attention of The Managing Director

Or such other addresses and/or named representatives as may be notified in writing from time to time by the relevant party to the other party.

- 21.3 For the avoidance of doubt notice under the Shareholders Agreement shall not be validly served if sent by fax.

22. SEVERANCE

- 22.1 If any provision of this Shareholders Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 22.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted or modified, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

23. FURTHER ASSURANCE

- 23.1 Without prejudice to clause 4, each party shall promptly execute and deliver all such documents, and do all such things, as the other party may from time to time reasonably require for the purpose of giving full effect to the provisions of this Shareholders Agreement.
- 23.2. The parties agree that any publicity or public announcement, concerning this Shareholders' Agreement will be discussed and agreed jointly.

24. COUNTERPARTS

- 24.1 This Shareholders Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

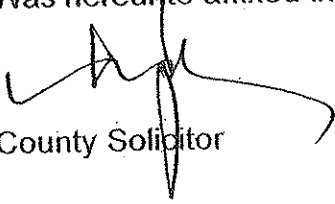
25. GOVERNING LAW AND JURISDICTION

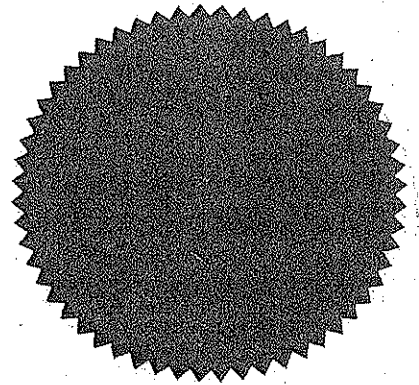
- 25.1 This Shareholders Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.
- 25.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Shareholders Agreement.

IN WITNESS whereof the parties hereto have executed this document as a deed on the date stated at the head of this Shareholders Agreement:

THE COMMON SEAL OF
DEVON COUNTY COUNCIL

Was hereunto affixed in the presence of


County Solicitor



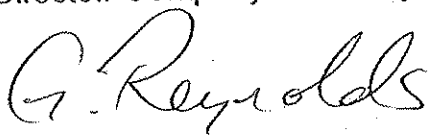
DOCUMENT No. 37674.....

EXECUTED as a DEED by
NPS PROPERTY CONSULTANTS LIMITED
acting by two Directors/ a Director and
the Company Secretary



Director

Director/ Company Secretary



Companies Acts 1985 and 1989

Written Resolutions

of

NPS South West Limited

Company Number 06078903

We the undersigned, being the nominated representatives of the shareholders of the above company, for the time being entitled to receive notice of, and attend and vote at General Meetings, hereby pass the following special resolution and agree that the said resolution shall for all purposes be as valid and effective as if the same had been passed at a General Meeting of the company duly convened and held.

It is resolved that the provisions of the Articles of Association of the company be amended by the adoption of following Articles amending Table A in the Companies (Tables A to F) Regulations 1985:

1 Preliminary

- 1.1 The regulations contained in Table A in the Companies (Tables A to F) Regulations 1985 (as amended) ('Table A') shall apply to the company save in so far as they are hereby modified or excluded.
- 1.2 Regulations 8 to 22 inclusive, 24, 25, 26, 29 to 31 inclusive, 64 to 69 inclusive, 73 to 80 inclusive, and 82, 89, 94, 115 and 118 of Table A shall not apply to the company.
- 1.3 References in Table A and in these Articles to writing shall include typewriting, printing, lithography, photography, e-mail, telex and fax messages and other means of representing or reproducing words in a legible and non-transitory form.
- 1.4 In these Articles 'Holding Company' means a company that is the registered holder of at least 51% of the issued shares.
- 1.5 The company is a private company and accordingly no offer shall be made to the public (whether for cash or otherwise) of any shares in or debentures of the company and no allotment or agreement to allot

(whether for cash or otherwise) shall be made of any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public

2 Shares and allotment and transmission/ transfer

2.1 At the date of the adoption of these Articles the share capital of the company is £10 divided into 8 "A" ordinary shares of £1 each and 2 "B" ordinary shares of £1 each.

2.2 The words "or the holder" shall be omitted from regulation 3 of Table A.

2.3 Subject to the provisions contained in these Articles, the directors may exercise the power of the company to allot relevant securities (within the meaning of Section 80(2) of the Act)

2.4 The general authority conferred by this Article shall:

2.4.1 extend to all relevant securities of the company unissued as at the date of adoption of this article;

2.4.2 expire on the fifth anniversary of the adoption of these Articles unless varied or revoked or renewed by the company in general meeting; and

2.4.3 entitle the directors to make at any time before the expiry of such authority any offer or agreement which will or may require relevant securities to be allotted after the expiry thereof.

2.5 Subject to the provisions contained in these Articles, any shares unissued at the date of the adoption of these Articles and any shares hereafter created shall be under the control of the directors who may allot, grant options over or otherwise deal with or dispose of the same to such persons on such terms and in such manner as they think fit, provided that no shares shall be issued at a discount.

2.6 In accordance with Section 91 of the Act, Sections 89(1) and 90(1) to (6) of the Act shall be excluded from applying to the company.

2.7 The directors shall register a transfer of shares that is presented for registration duly stamped.

3 Proceedings at general meetings

3.1 Regulation 40 of Table A shall be deleted and the following substituted therefor:

'No business shall be transacted at any meeting unless a quorum is present. One person entitled to vote being a duly authorised representative of Devon County Council and one person entitled to

vote and being a duly authorised representative of the Holding Company shall be a quorum'.

3.2 A poll may be demanded at any general meeting by the chairman or by any member present in person or by proxy and entitled to vote. Regulation 46 of Table A shall be modified accordingly.

3.3 The first sentence of Regulation 38 of Table A shall be amended by deleting the words 'or a resolution appointing a person as a director'.

3.4 In the last sentence of regulation 38, delete the words "to all persons entitled to a share in consequence of the death or bankruptcy of a member".

3.5 If and so long as there is only one member of the company, a decision taken by the member which may be taken in general meeting is as effective as if agreed by the company in general meeting.

3.6 A decision taken by a sole member of the company under paragraph 3.5 of this Article (unless taken by way of written resolution) shall be recorded in writing and a copy provided to the company.

4 Votes of members

4.1 A proxy shall be entitled to vote on a show of hands and Regulation 54 of Table A shall be modified accordingly. An instrument appointing a proxy shall be deemed to confer authority to vote on any amendment or a resolution put to the meeting for which it is given as the proxy thinks fit and shall be valid as well for any adjournment of the meeting as for the meeting to which it relates.

5 Appointment, disqualification and removal of directors

5.1 The directors shall not be liable to retire by rotation.

5.2 A director shall not be required to hold any share qualification.

5.3 The number of directors shall be six made up as follows:
(a) the Managing Director of the company for the time being;
(b) three directors appointed by the Holding Company;
(c) two directors appointed by the Devon County Council.

5.4 The office of a director appointed by a Holding Company under article 5.3 (b) shall be vacated if the director ceases to be employed by the Holding Company and/or ceases to be a director of the Holding Company as applicable and/or the appointment is terminated by the Holding Company and regulation 81 of Table A shall be amended accordingly.

5.5 Should the office of director appointed by a Holding Company under article 5.3 (b) be vacant at any time for any reason the vacancy shall be filled by

an employee or director of the Holding Company appointed by the Holding Company.

5.6 The office of a director appointed by Devon County Council under article 5.3(c) shall be vacated if the director ceases to be a member or employee of the Devon County Council and/or the appointment is terminated by the Devon County Council and regulation 81 of Table A shall be amended accordingly.

5.7 Should the office of a director appointed by Devon County Council under article 5.3(c) be vacant at any time for any reason the vacancy shall be filled by an employee or member of Devon County Council appointed by the Devon County Council.

5.8 If and for so long as there is a Holding Company the following provisions shall apply and to the extent of any inconsistencies shall have overriding effect as and against all other provisions of these Articles:

5.8.1 no unissued shares shall be issued or agreed to be issued or put under option without the written consent of the Holding Company and the Devon County Council;

5.8.2 subject to the provisions of Article 6 any or all powers of the directors shall be restricted in such respects and to such extent as the Holding Company and Devon County Council shall agree and by notice to the company from time to time lawfully prescribe.

5.9 Any such appointment, removal, consent or notice made or given in accordance with Articles 5.3 to 5.8 inclusive shall be in writing served on the company (by deposit at its registered office or handing to the company secretary). No person dealing with the company shall be concerned to see or enquire as to whether the powers of the directors have been in any way restricted or as to whether any requisite appointment or removal has been made by the Holding Company or Devon County Council has been obtained and no obligation incurred or security given or transaction effected by the company to or with any third party shall be invalid or ineffectual unless the third party had at the time express notice that the incurring of such obligation or the giving of such security or the effecting of such transaction was in excess of the powers of the directors.

6 Powers of Directors

6.1 The directors shall not make -

- (a) any decision relating to the conditions and terms of service of any employee of the company who is also a director of the company; or

(b) any decision relating to pay and salary scales or establishment levels which would affect any employee of the company who is also a director of the company; or
(c) an appointment, agreement, arrangement, determination of terms or decision to pay remuneration under regulation 84 of Table A
save with the prior written consent of the Leaders of Norfolk County Council and Devon County Council and regulation 84 of Table A shall be amended accordingly.

6.2 The directors shall ensure that the company does not engage in activities in which Norfolk County Council has no powers to engage.

6.3 For so long as any Holding Company of the company remains under the control of Norfolk County Council and Devon County Council holds shares in the company the company shall not without the prior written consent of Norfolk County Council and Devon County Council do any of the following:

- (a) take any action, including entering into any contract which is not within the parameters of a business plan approved by the Holding Company and Norfolk County Council and the Devon County Council;
- (b) give any guarantee, security or indemnity whatsoever or create any encumbrance over any of the assets of the company;
- (c) increase or vary the company's authorised share capital or create new shares or alter the rights or obligations attached to any of the shares of the company or issue or allot any shares of the company to any person, firm or company whatsoever;
- (d) sell, lease, transfer, charge, or otherwise dispose of the whole or any substantial part of the undertaking or assets of the company (and for the purposes of this article, "substantial" means assets having an aggregate book value of more than 20% of the net asset value of the company);
- (e) form, acquire or dispose of any subsidiary or amalgamate or merge with any other company or concern or acquire any shares of any other company or participate in any significant partnership or joint venture;
- (f) lend or advance to any person, firm or company any monies exceeding in aggregate £15,000 or more in any financial year of the company;
- (g) carry out any change in the company's business;
- (h) enter into any personal favourable contract or arrangement with any member or officer of Norfolk County Council or of the Devon County Council or any of their subsidiaries;
- (i) enter into or vary the terms of any credit transaction falling within the definition contained in regulation 12 of the Local Authorities (Companies) Order 1995 except where the credit transaction is between members of the Norfolk County Council group for accounting purposes;
- (j) apply for any European Community grant;

- (k) dispose of any assets the proceeds of disposal of which would be treated as a capital receipt if the proceeds of disposal were received by Norfolk County Council or the Devon County Council;
- (l) make any change in the company's accounting reference date or registered office;
- (m) remove or vary any of the terms of appointment of the company's auditors;
- (n) participate in any scheme of arrangement or petition or pass any resolution to wind up the company or make application for an administrative order;
- (o) change the name of the company.

7 Proceedings of the directors

7.1 A director who is in any way either directly or indirectly interested (whether through persons connected with him/her as defined in Section 346 of the Act or otherwise) in any contract, transaction or arrangement (whether or not constituting a contract and whether actual or proposed) shall declare the nature of his/her interest at a meeting of the directors in accordance with Section 317 of the Act and shall declare any interest which would have to be declared under any code of conduct adopted by Norfolk County Council. Having declared an interest a director may speak and vote on the matter that is the subject of the interest unless the interest is a prejudicial interest within the meaning of a code adopted by Norfolk County Council.

7.2 Any director or member of a committee of the directors may participate in a meeting of the directors or such committee by means of conference, telephone or similar communications equipment whereby all participating in the meeting can hear each other and participation in such a meeting in this manner shall be deemed to constitute presence in person at such meeting.

7.3 The quorum for the transaction of the business of the directors shall be three including at least two directors falling within the class set out in Article 5.3(b) and one director falling within the class set out in Articles 5.3 (c).

8 Notices

8.1 Any notice or other document may be served on or delivered to any member by the company either personally or by sending it by post addressed to the member at his registered address or by facsimile transmission or telex or other instantaneous means of transmission to a number provided by the member for this purpose, or by leaving it at his registered address addressed to the member or by any other means authorised by the member concerned and regulation 112 of Table A shall be modified accordingly.

8.2 Any notice or other document to be served on Norfolk County Council shall be served by sending it by post addressed to the Chief Executive to a number provided by the Chief Executive for this purpose, or by leaving it at his registered address addressed to him, or by any other means authorised by him.

8.3 Any notice or other document to be served on the Devon County Council shall be served by sending it by post addressed to the Chief Executive to a number provided by the Chief Executive for this purpose, or by leaving it at his registered address addressed to him, or by any other means authorised by him.

8.4 Any notice or other document which is sent by post shall be deemed to have been served or delivered two working days after posting and in proving such service or delivery it shall be sufficient to prove that the document was properly addressed, stamped and put in the post. Any notice or other document left at a registered address otherwise than by post or sent by facsimile transmission shall be deemed to have been served or delivered when it was so left or sent.

9 Auditors

9.1 The company shall appoint as its auditors the auditors for the time being of the Holding Company and the company shall remove its auditors upon notice from the Holding Company that the Holding Company's auditors have been removed and the company shall replace its auditors with the new auditors of the Holding Company.

9.2 The company shall not remove or vary any of the terms of appointment of the Company's auditors without the prior written consent of the Holding Company.

10 Records and documents

10.1 Norfolk County Council and Devon County Council and their external auditors shall be entitled, by any employee or professional advisor, to inspect all accounting records and all books, documents, statements and records whatsoever of the company.

11 Indemnity

11.1 The company shall in accordance with Section 310(3) of the Act pay for any liability insurance and also indemnify any director, officer or auditor of the company against any liability incurred by him in defending any proceedings (whether civil or criminal) in which judgement is given in his favour or he is acquitted in any connection with an application under Section 144(3) or (4) or Section 727 in which relief is granted to him by the court from liability for

negligence, default, breach of duty or breach of trust in relation to the affairs of the company.

11.2 The company shall arrange cover for its directors and officers from and against all such risks as may arise from the performance of their duties in connection with the company.

Dated this second day of April 2007

Signed


County Solicitor
Name WIGEN EASH

Name

For and on behalf of The Devon County Council

Signed



Name

M.L. BRITTON

For and on behalf of NPS Property Consultants Limited

Draft Key Performance Indicators for JVC

It is proposed to use targets in line with construction industry standards to enable benchmarking. It is also proposed that the indicators relate to estates work (valuations, acquisitions, disposals) as well as construction, maintenance and minor works. Areas covered by KPIs are likely to include:

1. Project time predictability:
 - i) Time to receive project programme from original commission
 - ii) Actual gateway dates vs project programme dates
 - iii) Percentage of projects or programmes delivered on time – Feasibility/ design and construction (use Constructing Excellence KPIs)
2. Cost predictability
 - i) Percentage of projects delivered on budget
 - ii) Actual project cost vs estimate at commitment to invest (stage D)
 - iii) Actual project cost vs estimate at commitment to build (letting of contract)
3. Satisfaction rating
 - i) Percentage which pass through Gateway at first attempt
 - ii) Percentage of projects achieving good/excellent satisfaction scores for product - Questionnaires to be conducted with end user and internal directorate
 - iii) Percentage of projects achieving good/excellent satisfaction scores for service – Questionnaires to be conducted with end user and internal directorate
4. Environmentally related
 - i) Number of projects which achieve BREEAM (including CO2 emissions for new build) – detail to be agreed.
5. Community related

Support extended school agenda with work experience placements
6. Efficiency savings

Decrease in construction costs over 2 year rolling periods
7. Defects

Number and impact multiplied together and given a weighting to produce an overall score.
8. Safety

Contractors safety on site based on accident incident rate formula

9. Responsiveness to customers

- i) Time to respond by phone
- ii) Time to respond to letter
- iii) Time to respond to complaints

10. Financial

- i) Percentage budget spend within time
- ii) Percentage of invoices raised within time
- iii) Percentage of invoices paid within time

11. Compliance (Radon, Asbestos, DDA, Legionella)

- i) Percentage of surveys completed
- ii) Percentage of remedial works completed

12. Information management

- i) Accuracy of information held
- ii) Timeliness of information to client

December 2006

CLIENT SATISFACTION - PRODUCT

Purpose	To determine the overall level of client satisfaction with the completed product.
Definition	<p>How satisfied the client was with the finished product/facility, using a 1 to 10 scale, where:</p> <p>10 = <i>Mostly satisfied</i></p> <p>5/6 = <i>Neither satisfied nor dissatisfied</i></p> <p>3 = <i>Mostly dissatisfied</i></p> <p>1 = <i>Totally dissatisfied</i></p>
Method	<ol style="list-style-type: none"> 1 Carry out a survey on completion of the project to determine how satisfied the client was with the finished product/facility using the 1 to 10 scale above. 2 The Client Satisfaction – Product performance is the client's rating out of 10. 3 Measure the benchmark score by plotting the performance on the Client Satisfaction – Product KPI graph.
Example	During a post-project review, the client scores satisfaction with the product at 8 out of 10. Using the Client Satisfaction - Product graph, the performance score of 8 equates to a benchmark score of 51%.
Note	This question may be asked as part of a more comprehensive survey or post-project review.

CLIENT SATISFACTION - SERVICE

Purpose	To determine the overall level of client satisfaction with the service of the consultants and main contractor during the project.
Definition	<p>How satisfied the client was with the service of the consultants and main contractor, using a 1 to 10 scale, where:</p> <p>10 = <i>Mostly satisfied</i></p> <p>5/6 = <i>Neither satisfied nor dissatisfied</i></p> <p>3 = <i>Mostly dissatisfied</i></p> <p>1 = <i>Totally dissatisfied</i></p>
Method	<ol style="list-style-type: none"> 1 Carry out a survey on completion of the project to determine how satisfied the client was with the service of the consultants and main contractor using the 1 to 10 scale above. 2 The Client Satisfaction – Service performance is the client's rating out of 10. 3 Measure the benchmark score by plotting the performance on the Client Satisfaction – Service KPI graph.
Example	During a post-project review, the client scores satisfaction with the service of the consultants and main contractor during the project at 6 out of 10. Using the Client Satisfaction - Service graph, the performance score of 6 equates to a benchmark score of 12%.
Note	This question may be asked as part of a more comprehensive survey or post-project review.

DEFECTS

Purpose	To assess the impact on the client of any defects at the point of handover.
Definition	<div>The condition of the product/facility with respect to defects at the time of handover, using a 1 to 10 scale, where:</div> <div><div></div><div>Some defects with no significant impact on client</div><div>5/6 = Some defects with some impact on client</div><div>3 = Major defects with major impact on client</div><div>1 = Totally defective</div></div> <div>A defect is a fault which adversely affects the appearance or full intended function of the product.</div> <div>Point of handover is the time when ownership of the product is transferred from the main contractor to the commissioning client.</div>
Method	<div>1 Carry out a survey on completion of the project to determine the client's assessment of the condition of the facility with respect to defects using the 1 to 10 scale above.</div> <div>2 The Defects performance is the client's rating out of 10.</div> <div>3 Measure the benchmark score by plotting the performance on the Defects KPI graph.</div>
Example	During the inspection at the point of handover, a small number of minor defects are discovered which can be corrected within the first month of use with minor disruption to the facility. The client scores the project 7 out of 10. Using the Defects graph, the performance score of 7 equates to a benchmark score of 23%.
Note	This question may be asked as part of a more comprehensive survey or post-project review

PREDICTABILITY - COST

Purpose	To measure the reliability of cost for a project.
Definition	<div>There are three indicators for Predictability - Cost: project, design and construction:</div> <div><div>1 Project: actual cost of the combined design and construction process at Available for Use (C) less the anticipated cost of the combined design and construction process at Commit to Invest (A), expressed as a percentage of the anticipated cost of the combined design and construction process at Commit to Invest (A).</div><div>2 Design: actual cost of the design process at Available for Use (C) less the anticipated cost of the design process at Commit to Invest (A), expressed as a percentage of the anticipated cost of the design process at Commit to Invest (A).</div><div>3 Construction: actual cost of the construction process at Available for Use (C) less the anticipated cost of the construction process at Commit to Construct (B), expressed as a percentage of the anticipated cost of the construction process at Commit to Construct (B).</div></div> <div>Further information on Key Project Stages A, B and C is given in the Handbook in Step 2: Collect Data.</div>
Method	<div><div>1 Collect the following data for the project:<div><div>• anticipated cost of the project at A</div><div>• anticipated cost of design at A</div><div>• anticipated cost of construction at B</div><div>• actual cost of the project at C</div><div>• actual cost of design at C</div><div>• actual cost of construction at C.</div></div></div><div>2 Calculate the Predictability – Cost performance, which is the percentage change between the later and earlier cost, using the appropriate formula:</div><div><div>Performance (%) predictability cost: project =<div><div>Actual project cost at C – Anticipated project cost at A</div><div>Anticipated project cost at A</div><div>x 100</div></div></div><div><div>Performance (%) predictability cost: design =<div><div>Actual design cost at C – Anticipated design cost at A</div><div>Anticipated design cost at A</div><div>x 100</div></div></div><div><div>Performance (%) predictability cost: construction =<div><div>Actual construction cost at C – Anticipated construction cost at B</div><div>Anticipated construction cost at B</div><div>x 100</div></div></div><div>3 Measure the benchmark score by plotting the performance on the appropriate line of the Predictability - Cost KPI graph</div></div></div></div></div>

PREDICTABILITY - COST (contd.)

Example

Using the following data for a project:

Estimated cost of project at A = £3,800k

Final cost of project at C = £3,965k

Tendered cost of design at A = £500k

Final cost of design at C = £490k

Tendered cost of construction at B = £3,400k

Final cost of construction at C = £3,475k

Indicator 1

$$\text{Predictability Cost: Project (A to C) performance} = \frac{£3,965k - £3,800k}{£3,800k} \times 100 = +4\%$$

Using the Predictability - Cost (Project) graph to calculate a benchmark score, +4% equates to a benchmark score of 40%.

Indicator 2

$$\text{Predictability cost: design (A to C) performance} = \frac{£490k - £500k}{£500k} \times 100 = -2\%$$

Using the Predictability - Cost (Design) graph to calculate a benchmark score, -2% equates to a benchmark score of 79%.

Indicator 3

$$\text{Predictability cost: construction (B to C) performance} = \frac{£3,475k - £3,400k}{£3,400k} \times 100 = +2\%$$

Using the Predictability - Cost (Construction) graph to calculate a benchmark score, +2% equates to a benchmark score of 42%.

Notes

The anticipated design cost and construction cost should, where possible be the amounts of the respective accepted quotations/tenders, agreed target cost or agreed maximum price.

The actual design cost and construction cost should where possible be the amounts of the respective final accounts.

If these are not available the best available estimate should be used.

Construction cost should include all work in the main contract and should only include site clearance and enabling work when this is included in the main contract.

Those wishing to achieve *on cost delivery* as opposed to *cost savings* should use the above method but calculate the benchmark score using the Variance Cost Graph contained in the Additional Performance Indicators book in the KPI Pack.

PREDICTABILITY - TIME

Purpose

To measure the reliability of time for a project.

Definition

There are three indicators for Predictability - Time: project, design and construction:

- 1 Project: actual duration of the combined design and construction process at Available for Use (C) less the anticipated duration of the combined design and construction process at Commit to Invest (A), expressed as a percentage of the anticipated duration of the combined design and construction process at Commit to Invest (A).
- 2 Design: actual duration of the design process at Commit to Construct (B) less the anticipated duration of the design process at Commit to Invest (A), expressed as a percentage of the anticipated duration of the design process at Commit to Invest (A).
- 3 Construction: actual duration of the construction process at Available for Use (C) less the anticipated duration of the construction process at Commit to Construct (B), expressed as a percentage of the anticipated duration of the construction process at Commit to Construct (B).

Further information on Key Project Stages A, B and C is given in the Handbook in Step 2: Collect Data.

Method

- 1 Collect the following data for the project:
 - anticipated duration of the project at A
 - anticipated duration of design at A
 - anticipated duration of construction at B
 - actual duration of design at B
 - actual duration of the project at C
 - actual duration of construction at C.
- 2 Calculate the Predictability - Time performance which is the percentage change between the anticipated and actual duration, using the appropriate formula:

Performance (%) predictability time: project =

$$\frac{\text{Actual project time at C} - \text{Anticipated project time at A}}{\text{Anticipated project time at A}} \times 100$$

Performance (%) predictability time: design =

$$\frac{\text{Actual design time at B} - \text{Anticipated design time at A}}{\text{Anticipated design time at A}} \times 100$$

Performance (%) predictability time: construction =

$$\frac{\text{Actual construction time at C} - \text{Anticipated construction time at B}}{\text{Anticipated construction time at B}} \times 100$$

- 3 Measure the benchmark score by plotting the performance on the appropriate line of the Predictability - Time KPI graph

CONSTRUCTION COST (contd.)

Example (Method 1) (contd.)	Using the Construction Cost graph to calculate a benchmark score, -2% equates to a benchmark score of 53%.
Method 2 (accurate)	<div><div>1</div><div>Collect the following data for the both the current project and the comparison project (one year earlier):<ul style="list-style-type: none">project tender price index. This may be obtained from DTI or BCIS.the location factor (if applicable) from tables published by DTI or BCISthe resource cost index from tables published by DTI or BCISthe size factor (where available) from tables published by DTI or BCISThe data needed to normalise a project is published quarterly by DTI and BCIS (see the Further Help and Information section of the Handbook).</div><div>2</div><div>Calculate the capital cost index (CCI) for both projects using the formula:<div><div>Project Capital Cost Index =</div><div><div>Tender Price Index</div><div>Location Factor x Function Factor x Size Factor</div></div><div>x</div><div><div>100</div><div>Resource Cost Index</div></div><div>(CCI)</div></div></div><div><div>3</div><div>Calculate the Construction Cost performance using the formula:<div><div>Performance (%) construction cost =</div><div><div>Current Project CCI – Previous Project CCI</div><div>Previous Project CCI</div></div><div>x 100</div></div></div><div><div>4</div><div>Measure the benchmark score by plotting the performance on the Construction Cost KPI graph.</div></div></div></div>
Example (Method 2)	<div>Calculation of a project Capital Cost Index for a £20m new build road construction project in the south east of England (whose calculated tender price index is 110 in the first quarter of the current year) using adjustment factors contained in the tables published in DTI's Quarterly Building Price and Cost Indices:<div><div>Location Factor</div><div>= 1.09 (from Table 7.4)</div><div>Function Factor</div><div>= 0.99 (from Table 8.2)</div><div>Size Factor</div><div>= 0.92 (from Table 9.2)</div><div>Resource Cost Index</div><div>= 108 (from Table 12.2)</div></div><div><div>Capital Cost Index =</div><div><div>110</div><div>1.09 x 0.99 x 0.92</div></div><div>x</div><div><div>100</div><div>108</div></div><div>= 103</div></div><div>If an equivalent calculation, carried out for a similar project in the previous year, had provided a Project Capital Cost Index of 105, then the Construction Cost performance (change in real cost of construction) between these two projects would be:<div><div>Construction Cost performance =</div><div><div>103 – 105</div><div>105</div></div><div>x 100 = -1.9%</div></div><div>Using the Construction Cost graph to calculate a benchmark score, -1.9% equates to a benchmark score of 53%.</div></div></div>

BILITY

To measure the profitability of a construction company before tax and interest.
Company profit before tax and interest as a percentage of sales.
<div><div>1</div><div>Collect the following information for a company for a complete year:<ul style="list-style-type: none">value of profit before tax and interestvalue of sales.</div><div>2</div><div>Calculate the Profitability performance using the formula:<div><div>Performance (%) profitability =</div><div><div>Profit before tax and interest</div><div>Value of sales</div></div><div>x 100</div></div></div><div><div>3</div><div>Measure the benchmark score by plotting the performance on the Profitability KPI graph.</div></div></div>
<div>Using the following data for a company:<div><div>Profit before tax and interest</div><div>= £2.10m</div><div>Value of sales</div><div>= £30m</div></div><div><div>Profitability performance (%) =</div><div><div>£2.10m</div><div>£30m</div></div><div>x 100 = +7.0%</div></div><div>Using the Profitability graph to calculate a benchmark score, +7.0% equates to a benchmark score of 47%.</div></div>
Organisations wishing to calculate profitability at a project rather than company level should refer to the method given in the Handbook under Further Help and Information.

CONSTRUCTION TIME

Purpose	<p>To measure the change in construction time from one year to the next.</p> <p>If two identical structures were built in successive years, the Construction Time KPI shows how much the construction times have changed in the year.</p> <p>It is unusual to have two identical structures, so data from similar projects has to be normalised to enable comparison to be made. Normalisation is the statistical method of removing the effects of specification, location, function, size and inflation.</p>
Definition	The normalised time to construct a project in the current year, less the time to construct a similar project one year earlier, expressed as a percentage of the time to construct a similar project one year earlier.
Method	There are two methods of measuring Construction Time. Method 1 is a simple 'rule of thumb' which may be used as a quick and approximate method. Method 2 is more complex, more reliable, and most accurately follows the method used to produce the published KPI graphs.
Method 1 ('rule of thumb')	<ol style="list-style-type: none"> Collect the following data: <ul style="list-style-type: none"> contract period for the current project (CP1) contract period for the comparison project (one year earlier) (CP2). Calculate the following for the current project: <ul style="list-style-type: none"> the percentage adjustment that needs to be made to time due to specification differences from the previous year's project (Spec %) the percentage adjustment that needs to be made to time due to the size difference from the previous year's project (Size %). Calculate the Construction Time performance using the formula: $\text{Performance (\%)} = \frac{((\text{CP1} \pm \text{Spec \%}) \pm \text{Size \%}) - \text{CP2}}{\text{CP2}} \times 100$ Measure the benchmark score by plotting the performance on the Construction Time KPI graph.
Example (Method 1)	<p>Calculation of Construction Time using data from two office building projects.</p> <p>Current project:</p> <p>Contract period = 67 weeks</p> <p>Specification = Calculated at 8% higher than the comparison project</p> <p>Size = Calculated at 10% smaller than the comparison project</p> <p>Comparison project (constructed a year earlier):</p> <p>Contract period = 71 weeks</p> $\text{Construction Time performance} = \frac{((67 \text{ weeks} - 8\%) + 10\%) - 71 \text{ weeks}}{71 \text{ weeks}} \times 100 = -4.5\%$ <p>Using the Construction Time graph to calculate a benchmark score, -4.5% equates to a benchmark score of 58%.</p>

CONSTRUCTION TIME (contd.)

Method 2 (accurate)	<ol style="list-style-type: none"> Collect the following data for the both the current project and the comparison project (one year earlier): <ul style="list-style-type: none"> contract sum (CS) contract period (CP) the location factor (LF), if applicable, from tables published by DTI or BCIS the function factor (FF), if applicable, from tables published by DTI or BCIS the size factor (SF), where available, from tables published by DTI or BCIS project tender price index (TPI). This may be obtained from DTI or BCIS. <p>The data needed to normalise a project is published quarterly by DTI and BCIS (see the Further Help and Information section of the Handbook).</p> Calculate the Construction Time Factor (CTF) for both projects using the formula: $\text{CTF} = \text{CP} + \left(\frac{\text{CS (£000s)}}{\text{LF} \times \text{FF} \times \text{SF}} \times \frac{100}{\text{TPI}} \right)$ Calculate the Construction Time performance using the formula: $\text{Performance (\%)} = \frac{\text{Current Project CTF} - \text{Comparison Project CTF}}{\text{Comparison Project CTF}} \times 100$ Measure the benchmark score by plotting the performance on the Construction Time KPI graph.
Example (Method 2)	<p>Calculation of a project Construction Time Factor for a new factory project built in the first quarter of the current year in the south east of England using the tables published in DTI's Quarterly Building Price and Cost Indices:</p> <p>Location Factor = 1.03 (from Table 2.4)</p> <p>Function Factor = 1.00 (from Table 3.4)</p> <p>Size Factor = Not applicable</p> <p>Tender Price Index = 108 (from Table 1.3)</p> $\text{Construction Time Factor} = 15 + \left(\frac{5,000}{1.03 \times 1.00 \times \text{NA}} \times \frac{100}{108} \right) = 0.00334$ <p>If a similar calculation, carried out for an equivalent project in the previous year, had provided a Construction Time Factor 0.00347, then the Construction Time performance (change in time for construction) between these two projects would be:</p> $\text{Construction Time performance} = \frac{0.00334 - 0.00347}{0.00347} \times 100 = -3.7\%$ <p>Using the Construction Time graph to calculate a benchmark score, -3.7% equates to a benchmark score of 44%.</p>

Schedule 4

DCC Internal Audit arrangements

DCC and NPS will agree each year a planned programme of internal audits that may review the following:

- That procurement carried out on behalf of DCC complies with DCC or EU procurement standards as appropriate
- That any lists of approved contractors made available to DCC or its stakeholders are maintained to a high standard, regularly updated and failing contractors are removed following failure events
- That NPS is complying with its duties under Health & Safety legislation
- That the financial transactions NPS conduct on behalf of DCC are compliant with the required accounting standards and carried out in a timely fashion
- That NPS are maintaining adequate records that at least comply with contract and legislative requirements
- That maintenance schedules are put together in a consistent and regular manner and the schedules clearly identify priorities

There may also from time to time be other audit requests which NPS will be asked to comply with.

Whilst NPS South West maintains its ISO 9001 accreditation, it will not be necessary for DCC to audit this area. However, if for any reason the accreditation is removed and is not replaced with a recognised national equivalent, DCC would require confirmation that NPS has an adequate quality management system in place.

NPS will allow DCC Internal Auditors open book access to records for the purposes of carrying out internal audits or investigations in accordance with the annual programme. Auditors will be permitted to obtain copies of data either in paper form or electronically if available.

NPS will provide auditors with access to staff within a reasonable time of the request being made (not exceeding 20 working days) and DCC will provide appropriate advance notice of any meeting requests.

DCC Internal Audit will take all reasonable steps to maintain the security and confidentiality of the data provided.

Anna Davidson

FIRST CLASS

Roger Gash
County Solicitor

Managing Director
NPS Property Consultants Limited
Lancaster House
16 Central Avenue
St Andrews Business Park
Norwich NR7 0HR

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Your ref:
My ref: ROB/NPS

Date: 19 April 2007
Please ask for: Mr Buzzacott

Phone: (01392) 382617
Fax: (01392) 382286

e-mail: Richard.buzzacott@devon.gov.uk
DX: 8345 EXETER

Dear

NPS SOUTH WEST LIMITED

It was nice to meet you again at the launch of NPS South West Limited on 3 April and I look forward to working closely with you and your colleagues to help ensure the success of the company.

Inevitably, just prior to sign off there was a last minute flurry of activity which meant that three individuals who were on the list of staff that were to transfer (see Schedule 1) did not infact transfer. They are

In addition a paragraph was missed out of Appendix 2 to the Service Specification and if you are agreeable I would like to insert the wording below as a new second paragraph on page 58:-

"Code of Business Conduct

When acting as agents for Devon County Council, NPS staff will be expected to follow the relevant provisions of the DCC Code of Business Conduct in particular with specific reference to the Procedures for Tenders and Contracts. Devon County Council, Code of Business Conduct can be found on:
<http://www.devon.gov.uk/part5>"

I would be grateful if you could indicate your consent to the above by signing and returning the enclosed copy of the letter to me. I will then retain a copy of the letter with my copy of the Service Agreement and you will, no doubt, wish to do likewise.

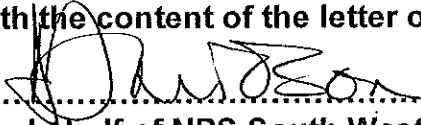
Yours sincerely



Richard Buzzacott
Head of Business Transformation

I agree with the content of the letter overleaf

Signed
For and on behalf of NPS South West Limited



Dated.....

1st May 2007

cc: _____ NPS.
Ann Heppell and Bob Beechen, DCC.

SERVICE SPECIFICATION

for

NPS South West Ltd

From 1 April 2007 – 31st January 2008

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I. Introduction

Devon County Council and NPS Property Consultants Ltd have formed a joint venture company called NPS South West Ltd, (referred to throughout the remainder of this document as NPS). NPS will provide a range of services, acting as a supplier of multi-disciplinary property consultancy services to Devon County Council (referred to hereafter as DCC), in accordance with the service agreement. This document forms the service specification to the agreement and details the range and cost of services available.

2. NPS Structure

NPS is structured into three groups: Project & Design, Property & Estate Management and Business Support. The managers of each group together with the Managing Director form the company's Senior Management Team.

2.1 Project & Design

This group comprises three teams:

- Architectural Design
- Engineering & Quantity Surveying
- Project Management.

The group is responsible for designing and managing the construction of new buildings for DCC, including the extension and upgrading of existing buildings to meet new legislative and service requirements.

2.2 Property & Estate Management

This group comprises four teams:

- Estates & Valuation
- Asset Management
- Maintenance
- Minor Works.

The Estates & Valuation team acquires land and buildings for DCC and disposes of any surplus property, and provides valuation and rating advice. It manages the County Farm Estate and undertakes all property management functions in respect of the leased in and out operational and non-operational property portfolios.

The Asset Management Team provides strategic property advice and support to service directorates in relation to all aspects of DCC's property holdings. It also undertakes the management of various property related budgets on behalf of DCC.

The Maintenance Team identifies and prioritises all maintenance works required to DCC buildings and organise repair works in accordance with DCC's Property Maintenance Fund, and maintenance monies devolved to schools.

The Minor Works Team provides a full and comprehensive small works service to clients including extensions and improvement schemes.

2.3 Business Support

The Business Support Group provides essential support to the company and its functions include HR, Finance, ICT, Performance & Marketing and Administration. In addition, the team perform a number of functions chargeable to DCC. These are explained more fully on page 7.

3. Customer Care and Quality of Service

3.1 NPS Ambition

NPS's ambition is to be the property consultant of choice by the public sector in the South West. This will be achieved by:

- Putting our customers first
- Innovating to improve the efficiency of our business and the quality of our services
- Acting with integrity and respect in everything we do
- Empowering, motivating and developing our staff.

3.2 Customer Care

NPS GROUP CUSTOMER CARE STATEMENT

To recognise the importance of the customer to the success of the business by:

- Seeking a thorough understanding of the customer requirements.
- Striving to meet customer needs in an honest and professional way within agreed timescales.
- Responding to communications from clients without delay.
- Continually seeking customer views on the performance of NPS.
- Consistently monitoring customer care to ensure standards are maintained or improved wherever possible.
- Ensuring all staff operate in accordance with NPS Mission Statement.

In accordance with its Customer Care statement, NPS will strive to meet the following Key Performance Standards as adopted by the NPS Group:

NPS GROUP CUSTOMER PERFORMANCE STANDARDS

- Confirm instructions within 7 working days of a firm instruction or brief being received from the customer.
- Achieve at least an 85% measure of customer satisfaction.
- Ensure that customers and NPS staff are aware of the NPS Complaints Resolution Process and that it is applied in a consistent way. This is attached at Appendix 1
- Seek customer feedback and use this information to develop NPS services and products as part of a continuous improvement process.
- Determine the overall performance of contractors and consultants and use this information to develop NPS services and products as part of a continuous improvement process.
- Ensure the safe delivery of construction, maintenance and management of DCC land and buildings so that the incidence of accidents and injuries is minimised.

3.3 Monitoring Performance

NPS will seek to obtain regular feedback from clients on its performance using the following activities:-

- DCC multi - client user group to be held every 6 months
- DCC single client user group to be held quarterly
- Feedback questionnaires to client departments on general services – at least annually
- Feedback questionnaires to both client and end user on projects – at appropriate stages.

NPS will also monitor its performance in construction projects against Key Performance Indicators including the Local Government 'Constructing Excellence' KPIs, and in accordance with DCC & NPS Environmental Policies.

In addition, NPS will seek to achieve continuous improvement in the quality of services provided by operating standard programmes of review, benchmarking of property performance and processes, and by following the principles of the BSI Quality Management System ISO 9001:2000, against which the company has achieved registration.

4. DCC Corporate Services

DCC will retain responsibility for strategic activities relating to corporate asset management. These include:

- Preparation of corporate Asset Management Plan
- Property advice into Corporate strategy, Policies etc
- Input to Local Plans & Development Frameworks

- Advice to Corporate Asset Group and other property working groups
- Development of corporate property strategies
- Development of Community Planning & Partnership initiatives
- Development of DCC Capital Programme strategy
- Development of DCC maintenance and compliance programme strategy
- Financial planning/ overview of property programmes/farms budget/maintenance budget/compliance budget etc
- Determination of corporate construction and maintenance standards as appropriate
- Development of corporate e-government initiatives & solutions
- Safe storage of DCC deeds
- Lead in replacement of framework partnerships.
- Represent DCC at the Association of Chief Corporate Property Officers in Local Government (COPROP) meetings

If there are insufficient resources within DCC to undertake these activities, some may need to be commissioned from NPS.

5. NPS Services

5.1 NPS Contribution to Corporate Service

NPS will contribute to the corporate agenda by delivering a range of services, as commissioned by the Corporate Property Team of DCC. Some of the services below are within the fixed corporate fee and others will be additional commissions. Please see Section 9.2 for details of charging mechanisms.

Services available will include:

- Assisting in the development of policies and working standards and promoting best practice in asset management
- Providing strategic property advice to Service Directorates
- Assisting in the development of corporate and service Asset Management Plans
- Maintaining the corporate property databases
- Providing valuation, disposal & acquisition functions
- Providing reports and attending meetings as requested
- Managing the corporate maintenance programme
- Undertaking strategic property reviews
- Advice on design & performance standards
- Attending conferences/seminars either as a contributor or representative of DCC
- Undertaking Safety at Sports Ground Inspection Surveys/Reports.
- Undertaking energy (including Renewable Energy) and water audits
- Representing Devon County Council as Competent Person for Legionella and Asbestos and as Radon Protection Supervisor
- Representing DCC at SCALA / Chief Building Surveyors (CBSS) meetings (also local energy forum)
- Supply information for returns to Society of Chief Architects in Local Authorities (SCALA), Chartered Institute of Public Finance and Accountancy (CIPFA) etc, and COPROP, including benchmarking

- Representing DCC and participating in various public sector property organisations, including Association of Chief Estates Surveyors (ACES), and the Valuation Liaison Group (VLG).

5.2 Business Support Group – services available

Finance

General Finance Support

- All activities to be undertaken within timescales as provided by DCC finance staff.
- General financial advice & MTFS – NPS will highlight financial issues relating to areas for improvements/ issues to be resolved: processes/procedures, potential Improvement and Efficiency savings, areas where general improvements could be made and areas of inadequate resourcing due to changes in statutory/general policy.
- Financial planning - To provide base information and support for the production of revised and future plans.
- Maintenance of accounts – in accordance with DCC standards.
- Meetings and contact – Formal monthly meetings and informal regular contact with DCC finance staff to discuss delivery of programmes of work.

Farms Estate Finance (revenue, capital and "enabling" budget)

- Budget – Based on DCC corporate target and guidelines, NPS to provide the detailed budget (including NPS fee) to be agreed with DCC finance.
- Monitoring – detailed monthly monitoring (capital and revenue accounts), Farms Committee reports and ad hoc reports as requested.
- Order and invoice preparation, rent collection and service charges - Rental invoices to be sent within statutory timescales or as directed by the land agent and the monitoring and follow-up of outstanding debtors; appropriate recording and safe-keeping of cash and cheques. Preparation of orders and payments to be passed to DCC staff for processing to the financial information system.
- Year- end accounts - Closure of accounts activities including chasing outstanding orders, invoices and debts, processing creditors and liaising with DCC staff on deadlines and issue solving. Preparation of final accounts including detailed statements as required by DCC finance and Farms Estate annual report figures.

Industrial Estates Finance

- Occasional preparation of orders and invoice for passing to DCC staff for processing to the financial information system.

Building Maintenance & Compliance programmes – Finance

- Budget – After consultation with DCC, to build up a costed programme of works within the target to be agreed
- Monitoring – Costed programmes of work to be entered in to agreed system. Monthly extraction of information as agreed with DCC staff.
- Order and invoice processing - Processing of orders and payments on to management system and daily update to the DCC financial information system.

- Year- end accounts – Closure of accounts activities including chasing outstanding orders, processing creditors and liaising with DCC staff on deadlines and issue solving.

Member of Staff	Telephone No.	Post
		Finance Manager
		Finance Manager

ICT

Managing the Corporate Property Systems

Services provided

The IS team provides professional information systems support for all Property-related systems and data sources including:

Evolution
Genes1s+
Legacy systems
Global Docs.

- a) Corporate support
 - Support for users of corporate systems
 - Project management of enhancements and upgrades to software
 - Testing of enhancements and upgrades to software
- b) Corporate development
 - Analysis, specification and business case development for changes to corporate systems
 - Property systems advice on the rationalisation of systems, compliance with government legislation, deployment of appropriate systems solutions
- c) Provision of information
 - Extraction and collation of information from property systems for KPIs and benchmarking
 - Extraction of property costs from DCC's corporate finance system

Contact Details for NPS IS Team

Member of Staff	Telephone No.	Post
		IT Manager

5.3 Project and Design Group

The Project & Design Group provides the professional property services required to deliver the capital programme of DCC.

The standard and additional services detailed within this section are based on the latest conditions of engagement by the following professional institutions:

- Royal Institute of British Architects
- Royal Institution of Chartered Surveyors
- Association of Consulting Engineers
- Association of Planning Supervisors.

Charging mechanisms for services provided by the Project & Design Group are detailed in Section 9.1.

5.3.1 Services available

a) Architectural Design

- Brief Compilation
- Feasibility Studies
- Design and Specification
- Contract Administration
- Landscape Design
- Land and Property Surveys
- Acting as 'designer' under Constructor Design Management (CDM) regulations
- CDM co-ordination
- Clerk of Works/Supervisors
- Submission of planning & building control applications

b) Project Management

- Provision of Project & Programme Managers for all types and scale of construction and property related works
- Advice on the appointment of consultants
- Co-ordination of Client's brief, design and quality control
- Preparation of regular reports to the Client and attendance at meetings
- Preparation & monitoring of the programme in line with the agreed project methodology set out at project inception stage
- Identify and advise the Client and Clients Representative of any constraints or risks which may affect budget or programme
- Provide financial management of the project
- Monitor cash flow
- Co-ordinate planning applications and conditions
- Co-ordinate contract procedures and management
- Ensure that a CDM Co-ordinator has been appointed when required under the CDM Regulations 2007
- Liaise with all parties on practical building management, commissioning and maintenance

- Agree phasing or sequence of works with commissioning officer and premises manager
- Liaise with the premises during the works to ensure that any interfaces are co-ordinated.
- Management of enabling works and provision of temporary buildings
- Monitoring the management of Health and Safety by the contractors. This will be achieved by ensuring: that the constructor has developed a Construction phase Health and Safety Plan; that a Health and Safety Policy is in place; that risk assessments and method statements are prepared; that accident data (frequency and severity) is captured and maintained via Key Performance Indicators under the Constructing Excellence Framework Agreement.
- Proactive management of the project risk register
- Management and co-ordination of project requirements
- Management and co-ordination of other disciplines

c) Quantity Surveying

- Cost Estimates
- Cost Planning/Management
- Bills of Quantities
- Whole life value advice
- Procurement and contracts
- Final accounts

d) Building Services Engineering Design

- Design, Specification and Administration
- Cost Estimates
- Energy Calculations

e) Structural & Civil Engineering

Design, Specification and Administration of :

- Structures
- Roads and Paving
- Drainage
- Structural surveys
- Site investigations

f) DQI (Design Quality Indicator) facilitation & assessments

The Design Quality Indicator (DQI) is a pioneering process set up by the Construction Industry Council for evaluating design quality of buildings. It can be used by everyone involved the development process to contribute to improving the quality of our built environment. At present it is a client decision as to whether DQI is required on individual projects. NPS can offer both leader and facilitator services from its own staff or by employing suitable consultants.

Should DQI be required there will need to be a team of individuals set up as below:

- A **DQI leader** to champion the process and to work with a facilitator to achieve the best results. Ideally the DQI leader should be a member of the project team.

- **DQI respondents** (typically 5-15 people) who will be briefed by the DQI facilitator and then asked about their wishes for the proposed building, or their thoughts about the building or design through the DQI. Respondents should be drawn from a range of stakeholders including; clients, members of the design team, users, contractors and facilities managers.
- A **DQI facilitator** who will help get the most out of the process. Independent facilitation is strongly recommended by CIC.

g) Building Research Establishment Environmental Assessment Method (BREEAM) assessments

- Auditing
- Design Advice
- Quality Control

Please see page 24 for further information

5.3.2 Monitoring Performance: Project & Design Group

In delivering project and design services, NPS will follow the protocols and processes as defined within Section 6 of this document 'NPS & DCC responsibilities'.

NPS believes that performance measurement helps it to set goals, measure achievement and unify the direction of the organisation. The company will follow the KPI 'best practice principles' as defined by the 'Constructing Excellence' organisation:

- Start simple
- Measure what is important
- Communicate effectively – let the data speak
- Have clear responsibility not bureaucracy
- Use appropriate technology
- Become a data based decision maker
- Understand that action not data drives improvement

NPS will measure its project & design performance against the following Constructing Excellence Key Performance Indicators, and will benchmark results with other organisations:

Indicator	What it measures
1. Client Satisfaction – Product	The overall level of client satisfaction with the completed product.
2. Client Satisfaction – Service	The overall level of client satisfaction with the service of the consultant and the main contractor.

3. Defects	The impact on the client of any defects or snags at the point of handover
4. Cost predictability	The reliability of cost estimates for both design and construction (three indicators)
5. Time predictability	The reliability of time estimates for both design and construction (three indicators)
6. Safety on site	Construction companies' safety performance
7. Construction cost (retrospective annual comparison)	Annual comparison of cost per square metre
8. Construction time (retrospective annual comparison)	Annual comparison of construction time
9. Environmental (Whole Life Performance)	The extent to which whole life performance issues were taken into account in the completed facility

KPI definitions and collection methods for indicators 1-9 above are in accordance with Constructing Excellence national standards. It should be noted that the above indicators measure the outcomes of the project team as a whole, including the performance of the client commissioner and the constructor. Although it will actively seek to influence KPI outcomes, NPS can only be held responsible for those elements over which it has direct control.

In addition, to ensure that each project procured from the Project & Design Group is effectively managed, NPS will undertake the following:

5.3.3 Programme of work

For all projects, agreed timescales will be set and performance monitored for each stage i.e. feasibility, design, tender, and construction following regular consultation with the client and end user. Against these targets, the performance of NPS will be judged by a formal system of regular monitoring whereby actual outputs will be compared with the required timescales.

5.3.4 Contract administration

During the construction period, NPS will ensure that:

- The Project Leader will visit the site at intervals appropriate to the stage of construction to effectively administer the contract.
- The Engineers and other consultants associated with the project will visit the site at key stages and on request of the Project Leader.
- Formal minuted site meetings shall be held each month to assess progress and answer queries.
- Detailed inspections shall be made at practical completion and on making good defects. This applies to both total project and individual phases of the work.
- Arrangement of interim and final payments to the contractors in accordance with the contract conditions.
- Issue monthly cost statements.

- NPS will inform the Client of completion of the works of each and every project with estimated final cost.
- The Project Leader will ensure that CDM regulations are complied with.

5.3.5 Clerk of Works /Supervisor

The Clerk of Works/ Supervisor will regularly visit sites where works are taking place. The works and components used in the works will be inspected and a written quality audit trail produced. The following issues will be addressed in regular written reports:

- Quality of components and materials incorporated in the works
- Quality of workmanship
- Contractors management of zero defects
- Contractors management of Health and Safety
- Quality of information and service provided by the contractor/subcontractor team
- Quality of information service provided by the consultant team
- Customer care issues raised by the establishment managers (e.g. head teachers)
- Adherence to the programme

The Clerk of Works/Supervisor will carry out a full or partial service, to be agreed in advance with the client.

Depending upon whether a full or partial service is required, the following will be adhered to:

<i>Partial Service</i>	<i>Full service</i>
<p>To include :</p> <ul style="list-style-type: none"> • At least four visits per month (inc. attendance of monthly site meetings) to check on general standards and progress. • Completion of record of progress • Preparation of schedule of defects • Attendance at the meetings held to inspect the works at practical completion, and on making good defects. 	<p>To include :</p> <ul style="list-style-type: none"> • At least eight site visits per month to inspect work and ensure compliance with contract specification. • Maintenance of full records of on-site progress, labour, materials and plant. • Preparation of a schedule of defects • Attendance at all site meetings • Supervision of all on-site tests • Liaison with head of establishment (on-site client - for refurbishment and extension projects only) • Preparation of a weekly site report

5.3.6 CDM Co-ordinator Services

DCC retain their client role under CDM Regulations 2007 for the following:

- Check competence and resources of all appointees.
- Ensure there are suitable management arrangements for the project.
- Allow sufficient time and resources for all stages.
- Provide pre-construction information to designers and contractors.
- Appoint CDM co-ordinator.
- Appoint principal contractor.
- Make sure that the construction phase does not start unless there are suitable:
 - Welfare facilities; and
 - Construction phase plan in place.
- Retain and provide access to the health and safety file.

It is the client's statutory duty under the CDM Regulations 2007 to appoint a CDM Co-ordinator on all notifiable projects.

NPS will assist DCC in discharging their statutory duty by providing a competent CDM Co-ordinator who will be a key project advisor in respect of construction health and safety risk management matters under the CDM Regulations 2007 and will:

- Give suitable and sufficient advice and assistance to clients in order to help them to comply with their duties, in particular:
 - the duty to appoint competent designers and contractors; and
 - the duty to ensure that adequate arrangements are in place for managing the project.
- Notify HSE about the project.
- Co-ordinate design work, planning and other preparation for construction where relevant to health and safety.
- Identify and collect the pre-construction information and advise the client if surveys need to be commissioned to fill significant gaps.
- Promptly provide in a convenient form to those involved with the design of the structure; and to every contractor (including the principal contractor) who may be or has been appointed by the client, such parts of the pre-construction information which are relevant to each.
- Manage the flow of health and safety information between clients, designers and contractors.
- Advise the client on the suitability of the initial construction phase plan and the arrangements made to ensure that welfare facilities are on site from the start.
- Produce or update a relevant, user friendly, health and safety file suitable for future use at the end of the construction phase.

5.3.7 Environmental Issues

NPS will comply with its own environmental policy, subject to agreement with the client as well as the environmental policy of DCC (a copy of which is available on the DCC Intranet). Both the above are subject to practicalities and sufficient funding being made available. The NPS environmental policy is available on the NPS website.

5.3.8 Post Project Reviews

The project lead will organise an appropriate Post Project Review for all projects over £100K to ensure that the integrated project team has fulfilled any specific requirements agreed with the client in the project brief and to identify key learning points to feed into future projects.

5.3.9 Post Occupancy Reviews

The project lead will organise a post occupancy review for all major projects (usually those of a construction value of £500K or over) approximately one year after occupation of the building to review with the client and end user design effectiveness and fitness for purpose.

5.3.10 Customer Satisfaction Surveys

Customer satisfaction information is sought for all completed projects through the use of a brief questionnaire mailed to commissioning client and users with regard to quality of service and quality of product.

5.3.11 Contact details for the Project and Design Group:

<i>Member of Staff</i>	<i>Telephone No.</i>	<i>Post</i>
		Project & Design Group Manager
		Architectural Design Manager
		Engineering & QS Manager
		Lead Project Manager

5.4 Property and Estate Management Group

Charges for the Property & Estate Management Group services are detailed in Section 9.2.

5.4.1 Estates and Valuation team – services available

The Estates & Valuation team is able to provide an integrated estate management service as set out below. Where the Estates & Valuation Team act on behalf of the Devon County Council it will act as agent in the role of corporate client in instructing the DCC Solicitor on the agreed terms and managing transactions through to legal completion.

a) Property Sales

- Advise on, and undertake marketing and negotiations for the sale of land and properties
- Act on behalf of DCC as vendor
- Obtain specialist advice in the role of corporate client e.g. planning and marketing

b) Compulsory Purchase, Compensation and Acquisition by Agreement

- Advise on, and undertake negotiations for the assessment of compensation payable for land or buildings required under Compulsory Purchase powers, or by Agreement.
- Act on behalf of DCC as either purchaser or claimant.
- Receive, consider the validity of and settle claims for compensation arising as a consequence of the County Council's projects, including Part 1 Land Compensation Act 1973 and other statutory provisions.
- Undertake search of available property, shortlist & seek instruction
- Represent DCC as Expert Witness before the Lands Tribunal.
- Ensure that occupancy costs arising from the use of the property are identified before legal completion.

c) Land Surveys and Advice on the Resolution of Boundary Disputes

- Undertake Cadastral Surveys, Land Surveys, and area checks.
- Advise on other site investigation procedures.
- Undertake topographic surveys to establish the accurate location of current boundaries and features
- Advise on boundary disputes.

d) Rating

- Undertake all valuations and negotiations for DCC's non-domestic property portfolio.
- Undertake appeals before the Local Valuation Tribunal and Lands Tribunal when required.
- Provide estimates of rate liability arising from capital projects.
- Monitor the accuracy of refunds and credits.

e) Valuations

- Undertake capital and rental valuations for all purposes in connection with DCC's property portfolio.
- Undertake a rolling programme of valuations of DCC's fixed property assets.
- Deal with any queries arising from the reported valuations.

f) Granting of New Leases and Licences

- Undertake marketing and negotiations for leases of vacant land and buildings.

g) Lease and Licence Renewals

- Negotiate lease or licence renewals in DCC's capacity as either landlord or tenant.
- Act on behalf of DCC as landlord
- Represent DCC before the appropriate tribunals.

h) Rent Reviews

- Negotiate rent reviews in DCC's capacity as either landlord or tenant.

i) General Estate Management

- Undertake all aspects of general estate management of DCC's owned and leasehold estate, dealing with routine requests from tenants, enquiries from client departments, Members, the public or officers.
- Monitor action dates under agreements and seek instructions to implement the actions due thereunder.
- Provide general advice to client departments on all aspects arising from their holding of properties.
- Manage budgets on behalf of clients departments to develop and manage property portfolios e.g. economic / employment holdings.
- Monitor lease term compliance, where specifically instructed.
- Children Leaving Care Act 2000 – property inspections, instructing solicitors to complete guarantor agreement, negotiating claims arising from guarantee
- Negotiate and settle dilapidations claims in respect of tenanted property.

j) Easements and Wayleaves

- Grant or acquire easements or wayleaves on behalf of client departments.

k) Leasehold Property Searches/New Lease Acquisition

- Establish client property requirements.
- Undertake a search of available property, shortlist options and seek instructions.
- Negotiate transaction terms in respect of the preferred property, report to the DCC Solicitor and manage the transaction through to completion.
- Ensure that all occupancy costs arising from the use of the property are identified as far as possible before contractual commitment and that properties comply with all legislative standards

l) Rural Estate Management

- To manage the County Farms Estate Service in accordance with the Authority's approved:
 - Estate Management Strategy 2002 to 2012 and any subsequent edition
 - Estate Plan 2002 to 2012 and any subsequent edition
 - Estate Finance Plan 2002 to 2012 and any subsequent edition

In managing the Estate NPS shall provide the particular services described without prejudice to the generality and will ensure that all statutory requirements and contractual rights and liabilities are complied with and notify DCC where a service cannot be performed. Such duties to ensure that the best interests of the Estate are secured and protected.

Note: the term 'generality' referred to above has the implied meaning of

providing the complete services, without variation or omission, delivered previously by the County Land Agents.

- To deliver the following client related financial services:
 - Prepare in the Autumn an annual revenue budget for the Estate
 - To manage and monitor the approved revenue budget
 - Prepare an annual capital programme of works for the Estate
 - To manage and monitor the Useable Capital Receipts Programme
- The Senior Land Agent to act as 'client' when instructing NPS or other specialist agents or consultants to deliver programmed and unforeseen repairs and maintenance, and minor works programmes.
- To prepare all requisite reports for the County Farms Estate Committee and/or other Committees as may be required from time to time in accordance with Corporate procedures, and to represent DCC at Committee. To check/correct the minutes of each meeting.
- To prepare Members briefing notes, site visits and meetings.
- To handle member, MP, other interested party and public enquiries and prepare Press Releases relating to the County Farms Estate Service.
- To advise DCC on any National or EU Legislative, Regulatory or policy changes that may affect the management of the Estate
- To advise the DCC's Corporate Asset Group and its sub groups, in developing and implementing effective Estate asset management.
- To assess and report on the Estate assets including extent of ownership, value, condition, suitability, maintenance backlog and usage.
- To serve and receive all Notices for and on behalf of DCC to protect DCC's interests in the Estate
- To sign as Agents for and on behalf of DCC all forms, documents papers and contracts of agreement save for Leases, Wayleaves and Easements.
- To appoint Agents or Consultants for and on behalf of DCC where it is considered to be necessary or expedient to do so for the provision of Estate management services
- To seek legal advice as necessary for and on behalf of DCC
- To report and consult as and when necessary with the County Solicitor and/or Director of Finance, IT and Trading on strategic operational or management decisions
- To monitor, record, benchmark and report to DCC on key Performance Indicators as set out in the Estate Management Strategy
- To attend at the request of DCC all internal and external meetings requiring input/involvement of the County Farms Estate Service to deliver Corporate and Service Directorate aims and objectives.

5.4.2 Monitoring Performance: Estates & Valuation Team

The Estates and Valuation Team will aim to: -

- Enter into a constructive dialogue with clients and / or confirm instructions within 7 days of first instruction (to include cost and timescale estimates).
- Receive from Devon Property and retain all existing and new files in accordance with the NPS Retention Policy, with an appropriate audit trail of evidence to demonstrate:
 - Regular client contact and updates, or as appropriate to the client's KPI requirements.
 - Clients instructions have been sought prior to reporting on progress
 - All necessary approvals, following negotiation with client have been completed
 - The DCC Solicitor is instructed upon agreement of terms
- Value properties and report back within agreed timescales, including annual requirements of SORP 2006 or most recent regulations)
- Serve 100% of notices and counter notices on time in Landlord and tenant matters.

In addition, the NPS Estates Team will liaise regularly with the commissioning officer and will seek to achieve the specific outputs as detailed below:

- Provide estimates of cost and time scale for work to the Client departments, if required, in advance of beginning the work.
- Submit rating appeals on those properties which have been assessed at a higher rate than is considered reasonable and negotiate settlements. NPS will provide annual schedules showing gross increase/decrease.
- Seek to acquire land in accordance with the times scales agreed with service committees.
- Seek to achieve capital receipt income to meet the targets agreed with the Director of Finance, IT and Trading, providing monthly information to the DCC capital accountant as well as responding to reasonable requests for ad hoc information
- Ensure that capital receipts are generated in sufficient time to effect capital projects forming part of "In and Out" schemes.
- Ensure that all planning permissions, submitted by the Team, are appropriately managed and action taken to renew / protect / secure new planning permissions.
- Ensure that all surplus land is appropriately let or managed.
- Seek to maximise capital receipts generated as a result of capital review.
- Manage DCC's property stock in accordance with corporately agreed objectives & standing orders.

- Certify and approve property transactions terms as acceptable on behalf of DCC and report every six months to the DCC Executive approved transaction for ratification.

5.4.3 Contact details for Estates & Valuation Team:

Member of Staff	Telephone No.	Post
		Estates & Property Management Manager
		Estates and Valuation Manager
		Land Agent
		Development Surveyor

5.5. Asset Management Team

5.5.1. Services available

The Asset Management Planning team provides the professional property planning and data management services required to assist the DCC in the proactive planning maintenance and development of its property assets. This service, listed below, will be delivered both as a corporate service to DCC and bespoke commissions to service managers. Some of the services below are within the fixed corporate fee and others will be additional commissions. (See Section 9.2.3 for details).

The asset planning service will be delivered to comply with statutory requirements, current standards, policies, Standing Orders, Corporate Asset Management Plan and budgets of DCC.

a) Corporate Advice

- Property related advice and support to Members and officers in relation to all aspects of the DCC's strategic objectives.
- Support for, and involvement with, corporate initiatives.

b) Property Asset Management

- Advising and assisting in the preparation and implementation of the DCC's Corporate Asset Management and property strategies.
- Supporting the Director of Finance, IT and Trading in co-ordination and monitoring the capital programme.

c) Review & Maintenance

- Assessing and reporting on the DCC property assets including extent of ownership, value, maintenance backlog, costs and usage.
- Managing and undertaking a programme of property reviews to identify opportunities to improve service delivery and efficiencies.
- Provision of property asset benchmark data.
- Assisting in best value property reviews

- Advising and supporting DCC in pursuing its property objectives in the efficient and economical use of its property assets.
- Monitoring, reporting and advising on energy efficiency and water consumption in accordance with Best Value indicator 180.

d) Departmental Support

- Supporting client departments in the identification of their property needs to support service delivery and improvement.
- Assisting client departments in formulating their property proposals and advising on the property implications arising there from.
- Identifying options, making recommendations of property programmes of works and initiating the implementation of preferred option and priorities.
- Contributing to and attending client / project review panels.

e) Corporate Office Management

- Supporting the development and implementation of a corporate office accommodation strategy.
- Undertake accommodation review of the office estate to identify opportunities to improve service delivery and efficiencies.
- Organise and implement office relocations

f) Management of Asset Management Data

- Compile and manage 100% of the DCC core property data and register.

g) Energy and Sustainability Services

- Energy & water efficiency project specification & management.
- Renewable energy advice, project specification & management.
- Energy Certificate/rating.
- Environmental Design Advice.
- BREEAM Schools assessments.
- Part L (Advice and SBEM).
- Maintenance & minor works energy efficiency advice.
- Energy Research and Development.
- Sustainable Energy Project Development

5.5.2 Monitoring performance: Asset Management Planning Team

Compile 100% of relevant property performance data required to meet the Review Programme for the year and the requirements of SORP 2006 (or the most recent regulations), including energy and water audits.

5.5.3 Asset Management Team

5.5.3.1 Information Services covered from corporate fund:

a) Core Data

Core data is the skeleton structure of the estate, which all other data references.

- Establishment – keep an asset register identifying every property, function, directorate, contact details, address, category, maintenance arrangements.
- Site – identify site area, tenure.

- Building – identify each building on our sites, construction, age, tenure if different from site.
- Rooms – identify room use, area, room name.

Each property is also shown in Geographic Information System, showing Property Location, Site Extent (where appropriate), Building Reference.

b) Terrier

Manage all legal documents to do with Property. i.e. Freehold, Leasehold, Sub Leases, Rights, Covenants, Wayleaves, User Agreements, Dual Use Agreements, Registrations.

- Geographic Information System – showing spatial extent, seller, purchaser, costs, date, registration numbers, rights.
- Leases Database – recording parties, costs, dates, terms, responsibilities, etc.
- Schedules – lists of documents held.
- Information for Site Investigation work, covenants, restrictions, (only on sites for specific developments).

c) Compliance

Act as Agent on behalf of DCC and in respect to the Competent Persons role will carry out the Client's duties under the Health And Safety at Work Act, The Management of Health and Safety at Work Regulations, COSHH Regulations, Control of Asbestos Regulations 2006, Approved Code of Practice L8 and the Ionising Radiations Regulations 1999 in respect of radon gas within buildings.

- liaise with the relevant enforcement agencies
- Advise the County Council on how to meet its strategic challenge of ensuring that all activities relating to property management incorporate the principles of health and safety legislation pertaining to the management of asbestos containing materials, the control of legionellosis and other relevant property compliance matters.
- Development policies and standards on the management of asbestos, legionellosis and Radon Gas including implementation, monitoring and identification training needs.
- Ensure that the County Council's asbestos register is maintained and accurate through an appropriate programme of surveys.
- Ensure that measures to prevent the potential release of asbestos fibres and risk of legionellosis are prioritised, costed and undertaken; including the assessment of individual buildings, specification, procurement and project management of suitable contractors and consultants.
- Ensure that all appropriate parties are informed of the location, condition and associated risks of all asbestos containing materials and the potential of legionellosis.
- Ensure that appropriate inspections, testing, sampling, cleaning and maintenance of water systems are undertaken by the appropriate officer to control the risk of legionellosis.

d) Condition

Record schools condition data in compliance with the Department for Education and Skills (DfES) guidelines.

e) Planning Database

Record all renewable planning consents on temporary buildings and provide a diary check service on permissions' time limits.

f) DDA

Record the results of DDA surveys. In conjunction with the DCC equalities officer, monitors performance on DDA action plans. Undertake DDA surveys as commissioned by DCC.

h) Valuations

Record asset and rating valuations.

i) Suitability Surveys

Record suitability surveys where they have been carried out.

j) Others

Responsibility for other data, e.g. Listed Building, Mining Database, School Designation Area (on behalf of CYPs), etc.

k) Energy & Sustainability

NPS will:

- collect, analyse and report on energy and water performance of DCC's estate.
- operate a rolling programme of Energy (including Renewable Energy) and Water Audits in all DCC corporate and school properties to identify how each property can achieve Best Practice in terms of energy and water efficiency. This will consist of NPS SW visiting each property and providing a report that will identify actions each property should take to achieve best practice.
(Implementation of suggested actions and project management for any scheme will have to be funded on an individual project basis)
- provide a basic Energy & Sustainability advice service to DCC property managers and staff. ***(Each enquiry is time limited after which projects would have to be established and funded)***
- provide expert advice on the corporate Energy agenda, through attendance on corporate groups, and advice to DCC council members.

5.5.3.2 Additional Services based on a Fee

Energy and sustainability

a) Energy & water efficiency project specification & management

- Once NPS SW Ltd have undertaken an energy audit the implementation of recommendations to achieve energy and water efficiency best practice can be project managed.
- Individual projects initiated outside of the normal corporate energy & water audit rolling programme can be developed, implemented and project managed by NPS SW Ltd.

- This will be charged on a percentage basis
- a) **Renewable energy advice, project specification & management**
 - NPS SW Ltd can undertake detailed feasibility, project management and implementation of renewable energy projects.
 - This will be charged on an hourly basis.
- b) **Energy Certificate/rating**
 - The introduction of energy certificates for public buildings under the European performance of buildings directive is imminent. NPS SW Ltd can provide a survey and reporting service to provide an energy rating and certificate for display as detailed under the directive.
 - This will be charged on a building area basis
- c) **Environmental Design Advice**
 - NPS SW Ltd are registered Low Carbon Consultants and can provide design advice on new build, extensions and refurbishment projects to ensure that the designs utilise sustainable construction methods and technology.
 - This is charged on a lump sum basis, in accordance with the size of the project.
- d) **BREEAM Schools**
 - NPS SW Ltd is have two qualified and licensed BREEAM assessors for schools. This allows a complete service to be provided from feasibility to post construction review of new build, extensions and refurbishment projects.
 - Each assessor can provide advice on design decisions' affect on BREEAM ratings for individual projects. A BREEAM facilitator role can also be provided between the client, the design team and the contractor.
 - BREEAM assessments are charged on an area basis. The BREEAM advisor and facilitator role are provided on an hourly basis.
- e) **Part L (Advice and SBEM)**
 - NPS SW Ltd have undertaken the training requirements of the Part L competent persons scheme and can therefore take projects through the Part L process. This includes both advice and SBEM calculations to meet the requirements of the building regulations.
 - This will be charged on a lump sum basis in accordance with the size and complexity of the building and the number of tests required.
- f) **Maintenance & minor works energy efficiency advice**
 - Advice on sustainability aspects in specifications for maintenance and minor works projects can be provided. This would include energy efficiency of building services and plant and best practice for sustainability.
 - This is charged on an hourly basis.
- g) **Research and Development**
 - NPS SW Ltd have expert knowledge of current developments in energy efficiency technology, renewable energy and sustainable construction methods. Scoping for cost effective installations of new technologies or improving standards in existing buildings can be carried out.
 - This will be charged on an hourly basis.

h) Sustainable Energy Project Development

- Projects that have been proposed by NPS SW Ltd or by DCC and require further scoping or feasibility work can be developed.
- The development would proceed to project implementation and project management.
- This will be charged on an hourly basis.

5.5.4 Contact Details for NPS Asset Management Planning Team

Member of Staff	Telephone No.	Post
		Estates & Property Management Manager
		Asset Management Planning Manager
		Energy and Sustainability Officer
		Competent Person

5.6 Building Surveying and Maintenance Team

The Maintenance team provides the professional property services required to deliver the building survey and maintenance programmes of DCC as defined below.

The building surveying and maintenance service will be delivered to comply with statutory requirements, current standards, maintenance framework partnerships, property insurance maintenance schemes (and any successive schemes), policies, Standing Orders and budgets of DCC.

5.6.1 Performance Monitoring

Prior to the start of DCC's financial year, the DCC client will agree with NPS the targets for each activity. NPS will propose detailed programmes of work to be agreed with DCC corporate client and Directorate, scheduling works with individual clients. NPS will alert the client to changes in legislation which could require significant changes in priority or resource allocation.

In addition to the key performance standards listed in the Introduction the Building Surveying and Maintenance Team will:

- Complete 100% of programmed surveys and inspections as determined in the DCC Maintenance Strategy.
- Achieve 100% spend on the DCC building maintenance and compliance budgets.
- Deliver the ratio of programmed / reactive maintenance works as determined in the DCC Maintenance Strategy.
- Deliver targets set out within PROMISE IV and MUMIS (and any successive schemes) and any targets agreed with the DCC client user groups including The Premises Board (Schools) and The Maintenance Consultation Group (non schools).
- Deliver specific service outputs as specified below.

5.6.2 General Conduct

NPS Surveyors shall act courteously and provide professional advice at all times in the delivery of services specified in this agreement. In particular this will mean:

Site visits / inspections	<p>All visits to premises by NPS Surveyors shall, where possible, be by prior appointment and upon arrival the Surveyor shall announce their visit to a person of responsibility and comply with any registration / booking-in requirements at the premises.</p> <p>Any Health and Safety items identified during site visits will be notified immediately to the premises manager and the appropriate H&S Representative for the DCC directorate.</p>
Contractors' visits	<p>All contractors will be instructed to attend site in line with the requirements of the appropriate premises manager and to give 24 hours notice of attendance, except in case of emergencies, and to announce their arrival on site before proceeding with any works.</p>
Supervision of Contractors	<p>NPS will check Contractors' compliance with works method statements, supervision of work, signing-in on site, signing of asbestos register and the issuing of hot works permits where required.</p>
Risks Checklist	<p>NPS will monitor performance of appointed Contractors to ensure that works and activities are appropriately assessed for risk. This will include:</p> <p>Access and egress, asbestos, confined spaces working, COSHH assessments, cutting equipment, dangerous atmospheres, dust, electrical equipment, excavations, fire detection, handling and stacking of materials, highly inflammable liquids and LPG, lifting, lighting, mechanical equipment use, noise, opening etc, scaffolding, temperature, traffic routes, waste disposal and welding.</p>
Contractors welfare	<p>NPS will check that appropriate welfare is provided by Contractors for their operatives. This will include:</p> <p>Drinking water, first aid, protective clothing, shelters and mess rooms, toilet facilities and washing facilities.</p>
Checking Orders	<p>All works orders placed by NPS shall be checked and counter-initialled by a senior member of NPS staff.</p>

5.6.3 Inspections and Advice on Budget Preparation

Annually (in February) prepare a schedule of property condition, compliance, need and priority through regular inspection and visits to premises. Inspections include:

- Condition surveys
- Compliance surveys e.g. Asbestos, Legionella, DDA, Radon, Oil Tanks
- Statutory inspections of sports grounds

An update exercise will be undertaken in early summer for the MTFs, identifying pressures and bids.

NPS will recommend an annual maintenance and compliance programme to keep safe and maintain the buildings in accordance with the budgets provided by DCC.

Other inspection and survey services are offered by NPS South West Ltd including:

- Archaeological survey
- Building and land survey
- Building failure diagnostic reports
- Condition schedules
- Dilapidations survey
- Environmental impact survey
- Expert Witness reports
- Fire risk assessments
- Health and Safety survey
- Insurance Assessment Claims
- Maintenance forecast survey
- Party Wall survey and advice
- Photographic survey
- Structural survey
- Suitability survey
- Sustainable drainage survey
- System building survey
- Topographical survey

Output Specification

Item	Inspection period.	Reports / Recommendations
Condition updates	Schools in accordance with PROMISE IV Other DCC property once per year.	Annually report on condition, compliance, backlog, need and priority. Update condition element of Asset Management Plans in accordance with national guidance. Condition information will be stored on the property database and condition reports will be available to service managers. Annually advise DCC on appropriate budget allocation for maintenance of its property estate.

		<p>Annually recommend an annual maintenance programme to keep safe and maintain the buildings in accordance with the budgets provided by DCC. The budget allocation will determine the split between planned and reactive maintenance works.</p> <p>NOTE: Schools which are not members of the PROMISE scheme are responsible for undertaking their own condition surveys and providing the LEA with a copy of the updated Asset Management Plan.</p>
Full condition survey	Once every five years.	Ditto
Compliance surveys e.g. Asbestos, Legionella, DDA, Radon, Oil Tanks	In accordance with current statutory guidance.	<p>Annually report on compliance status of DCC's property estate.</p> <p>Annually advise DCC on appropriate budget allocation for compliance works required on its property estate.</p> <p>Annually recommend an annual compliance programme to keep buildings safe for use in accordance with the budgets provided by DCC.</p>
Statutory inspections of sports grounds	In accordance with current statutory guidance	Report in accordance with statutory guidelines.
Other inspection and survey services	As commissioned by DCC	Report in accordance with each commission.

5.6.4 Management of Property Maintenance Insurance Schemes

Provide management of DCC's current schools' PROMISE IV and MUMIS schemes (and subsequent replacement schemes). A similar scheme is offered to VA schools.

Output Specification

Item	Service specification.
PROMISE IV	Management of the services and budget as set out in the scheme (and any successive scheme).
MUMIS	Ditto
VA PROMIS III	Ditto

5.6.5 Management of Programmed Maintenance

The programmed maintenance service applies to the management of programmes of works identified through agreed surveys and inspections and delivered in accordance with appropriate DCC budgets (revenue and capital).

Output Specification

Item	Undertaking	Outcome
Delivery of Programmed Works	<p>The NPS Surveyor will explain and agree with the designated premises manager the activities to be undertaken by the appointed Contractor.</p> <p>The Surveyor will visit the site at appropriate intervals to reflect the complexity and scale of the works to monitor progress and standard prior to authorising payment of the final account.</p>	<p>Agreed start / finish date. Agreed storage facilities. Agreed sequence of works.</p> <p>Works delivered to agreed time, cost and quality.</p>

5.6.6 Management of Responsive (unforeseen) Maintenance

The responsive maintenance service applies to unforeseen failures and unplanned maintenance of building elements and service installations outside DCC's agreed and budgeted programmes of maintenance.

Output Specification

Item	Response rate / availability	Comments
Responsive Maintenance Advice	'Normal working hours': 9.00am to 5.00pm Monday to Friday, except Bank Holidays	<p>NPS will make available appropriately qualified staff to give advice by telephone on all maintenance and repair matters, property Health and Safety and / or attend on site and deal with building failures, breakdowns and emergencies during 'normal working hours'.</p> <p>The service may be provided through 'call facilities' from maintenance contractors approved and appointed by DCC from time to time.</p>

Emergency Maintenance Advice	Outside 'normal working hours' specified above.	NPS will provide contact details of Maintenance Surveyors and Contractors who will be 'on-call' to deal with emergencies outside 'normal working hours'.
Issuing Orders for repairs	<p>As specified in the DCC Maintenance Framework Partnerships (and any successive schemes).</p> <p>Priority 1 - Within 2 Hours</p> <p>Priority 2 - Within 4 Hours</p> <p>Priority 3 - Within the working day if known before 10.00 a.m.</p> <p>Priority 4 - Within 3 Days</p> <p>Priority 5 - More than 3 Days but within 2 weeks</p>	Response times for contractors to complete repairs are specified in the DCC Framework Partnership to reflect the urgency of the maintenance need.

5.6.7 Management of Servicing and Testing of Installations

Co-ordinate, manage and monitor the programmed maintenance and testing of mains services and installations including servicing contracts to comply with statutory requirements. Test certificates will be held by NPS and copies will be made available upon request. Remedial works will be funded from the corporate maintenance fund, PROMISE / MUMIS or delegated budget as appropriate. NPS will provide each Premises Manager with call-out contact details of appropriately qualified contractors in case of breakdown.

Output Specification

Item	Inspection / test period.	Further action
Boilers and fixed heating plant including pressure vessels where part of the system	Once per year	Remedial works carried out as necessary.

Electrical installations	Once every five years	Remedial works carried out as necessary.
Emergency Lighting	Four times per year	Remedial works carried out as necessary.
Fire Alarms	Four times per year	Remedial works carried out as necessary.
Hoists (fixed)	Two times per year	Remedial works carried out as necessary.
Legionella	Risk assessed in accordance with current ACOP	Remedial works carried out as necessary.
Lifts	Four times per year.	Remedial works carried out as necessary.
Mains Services	In accordance with statutory guidance.	Remedial works carried out as necessary.
Swimming pools	Once per year	Remedial works carried out as necessary.
Water Tanks	Twice per year	Cleaned and chlorinated as necessary.

Note: The following items are NOT inspected by NPS as they are currently delegated to service managers:

- Portable appliances
- Non fixed lifting equipment
- Pressure vessels where not part of the system

5.6.8 Management of DCC's Maintenance Framework partnerships and/or select list of Contractors

The management of DCC's partnership with maintenance contractors to ensure performance of those contractors as specified in the agreement in the delivery of maintenance works.

Output Specification

Item	Service Specification.
Maintenance Framework	<p>Management of the services and performance targets set out in DCC's partnership agreements with maintenance contractors (and any successive partnership/contractor selection scheme).</p> <p>Response times for delivery of maintenance works, including emergency cover, by Contractors are specified in the partnership agreement.</p>

5.6.9 Devolved Maintenance

DCC devolves maintenance budgets to its directorates for internal repairs and decoration. NPS will provide for 'call-off' arrangements to be in place with appropriate Contractors for premises managers to place orders direct for this element of maintenance. NPS will also provide a service to advise and place orders for devolved maintenance items on behalf of premises managers.

5.6.10 Contact Details for NPS Building Surveying and Maintenance Services

Member of Staff	Telephone No.	Post
		Estates & Property Management Manager
		Building Survey & Maintenance Manager
		Team Leader (North Devon)
		Team Leader (South West Devon)
		Team Leader (East Devon)

5.7 Building Improvements and Minor Works Services

5.7.1 Services available

The Minor Works team provides the professional property services required to deliver improvements and small extensions and changes to service installations to the DCC property estate.

The minor works will be delivered to comply with statutory requirements, current standards, policies, Standing Orders and budgets of DCC.

5.7.2 Performance Monitoring

In addition to the key performance standards listed in the Introduction the Minor Works Team will delivery to the same performance standards set out for the Project and Design team.

5.7.3 General Conduct

NPS Minor Works Surveyors shall act courteously and provide professional advice at all times in the delivery of services specified in this agreement. Specific conduct is as set out for the Survey and Maintenance Team.

5.7.4 Minor Works Service

The Minor Works service will include:

Site visits / inspections	The Minor Works Surveyor will arrange to meet with a client representative and provide professional advice on the practicalities of the proposed project.
Feasibility Study	Assist the client to formulate and agree a project brief and prepare for the client a feasibility study identifying options.
Procurement Advice	Advise the client on the appropriate method of procuring the project taking into account time constraints, funding and budgets. Implementation of procurement service as agreed with the client.
Execution of Works	Co-ordination and management of necessary design and supervision of contractors on site. This will include: <ul style="list-style-type: none"> • Preparation of specifications and drawings • Obtaining planning approval • Obtaining building regulation approval • Obtaining other approvals e.g. listed buildings, landlords, adjoining owners • Receipt of tenders from Contractors in accordance with DCC requirements • CDM where appropriate • Monitor works on site • Ensure Contractors comply with terms of contract to deliver on time, to the agreed quality and budget • Agree payments of accounts
Monitor Expenditure	Report on expenditure on minor works and improvements against agreed budgets and spending profile. Recommend any necessary action to ensure programmes are delivered to the agreed spending profile.

5.7.5 Contact Details for NPS Building Surveying and Maintenance Services

Member of Staff	Telephone No.	Post
		Estates & Property Management Manager
		Minor Works Manager
		Minor Works Team Leader (North Devon)

	Minor Works Team Leader (South West Devon)
	Minor Works Team Leader

6. NPS and DCC responsibilities

6.1 NPS responsibilities

6.1.1. Professional Competence:

- All services provided will be in accordance with the standards set by the relevant Professional Institutions, eg. Royal Institute of British Architects, Royal Institution of Chartered Surveyors etc.
- All members of staff shall be suitably qualified and experienced and shall, where appropriate follow a structured course of "Continuing Professional Development" as required by their Professional Institutions.
- All new NPS staff receive appropriate induction including customer care training

6.1.2 Quality:

- NPS South West has achieved ISO 9001/2000 registration, and all services are provided in accordance with the NPS Business Management system. (Details can be provided on request)
- NPS is developing systems, in conjunction with its work on quality management, to address the environmental impact of its business practices. These conform to the objectives within its environmental policy and fully reflect its goal in seeking registration to the environmental standard ISO 14001:1996.
- NPS shall seek to continuously improve the quality of service through client care questionnaires, departmental user groups, post implementation reviews, internal and external audits, ongoing quality reviews and benchmarking.

6.1.3 Health and Safety:

- NPS has a clearly defined Health and Safety policy in place which is clearly communicated to all staff.
- Under the policy, staff roles and responsibilities for managing health and safety are clearly defined and all members of staff will be suitably qualified, experienced and trained to undertake these duties.
- NPS will ensure that all organisations employed directly by them are appropriately managed in accordance with the Health & Safety at Work Act 1974 and the Health & Safety Management Regulations 1999.

6.1.4 Documentation and Information systems:

- NPS shall use standard and consistent documentation as approved by the relevant professional institutions.
- NPS shall use the National Building Specification/National Engineering Specification for project documentation where appropriate.
- Copyright is covered within the provisions of the service agreement
- NPS staff, whilst using DCC ICT information and systems will be bound by the ICT policies and guidelines as published on the DCC Intranet.
- NPS will procure all major projects in accordance with EU procurement standards and DCC's current and developing procurement policy. NPS will use the Devon Portal to procure DCC contracts, subject to DCC making appropriate access to the intranet available. DCC will include NPS staff in any future training sessions.
- All databases shared by DCC and NPS should be accessible to appropriate staff in both organisations with agreed reporting functions. Reasonable requests for ad hoc reports for the DCC corporate team should be complied with.

6.1.5 Finance

NPS staff are expected to comply with DCC financial regulations and standing orders particularly, Best Practice and Contract procedure when undertaking client budget work. DCC will set authorised officer levels with NPS, specifying access to Finest. NPS will adhere to the requirements specified in the Financial Protocol, attached as Appendix 2.

6.1.6 NPS – response to commissions

- NPS will confirm all commissions/instructions for services to the relevant Client Officer in writing using the agreed 'Record of Commission' (ROC) form.
- Where a project is developed in stages, eg initial feasibility followed by a detailed brief, two ROCs will be issued, one for the feasibility and the second once the client has 'firmed up' the project brief.

6.1.7 Commit to Invest Stage

- At the end of the feasibility stage, NPS will confirm to the client the 'Commit to Invest' details by letter, which will form the basis of measurement for the KPIs and include:
 - Estimates of construction costs & fees
 - Anticipated start on site & completion dates

6.1.8 Variation Notification & Approval

- NPS shall undertake to inform the Client at the earliest opportunity via the project cost report of any significant event or variation affecting progress.

6.1.9 Presentation of invoices

Billing mechanism for revenue work

NPS will bill DCC monthly in arrears as follows:

Indicative budget work – 1/12 of agreed annual sum
(NPS will record time spent on programmes of work for each customer as categorised below. The charges will set against the indicative budget for performance monitoring purposes & reviewed quarterly with the DCC Commissioning Officer.)

Time charge work (outside fixed fee) – as booked

Billing mechanism for capital schemes

NPS will bill the client monthly in accordance with % of work completed

Monthly invoices will indicate:

- Client reference number (if provided)
- Job / DCC budget code
- Client Officer
- Contract sum
- Fee basis
- Previous invoice total
- Current invoice total
- Full invoice total

In addition to the above, for time-charged projects, NPS will provide details on request of the number of hours charged and the hourly rates used in calculating the charge. The invoice will be sent electronically to the relevant service client officer as appropriate.

NPS will provide a monthly summary statement of invoices to the DCC Finance Officer, identifying capital and revenue invoices.

6.2 DCC responsibilities

- 1) All commissions / instructions for work should be in writing including a reference number which will be quoted by NPS on the subsequent fee invoice. The instruction should be authorised by the appropriate commissioning officer.
- 2) A clear and accurate written brief should be agreed with NPS, to CABE standards.
- 3) The commissioning officer shall seek NPS's comments and approval on any formal reports incorporating NPS's advice on property matters.
- 4) Ensure that any specific conditions imposed by outside funders e.g. procurement methodology or timescales for expenditure of funding, are made known to NPS in the commissioning document.

5) Sign off at end of stages. Appendix 3 illustrates the Gateway and project stages.

6) The commissioning officer shall also undertake to inform NPS at the earliest opportunity of any significant changes required to its brief, or other variations. NPS shall give the commissioning officer written notice of the intention to recover additional costs resulting from any such variation. The notice shall identify the following:-

- The contract/case or job involved.
- The event or variation under which the claim is to be made.
- The time at which the delay or additional work occurred.
- The financial implication of the delay/or additional work.

7) Payment of Invoices

- DCC will make payment within 30 days of receipt of invoice
- The commissioning officer should notify NPS of any dispute on an invoice within 14 days of receipt
- DCC will pay by BACS transfer

8) DCC recognises its legal duties as required under the CDM Regulations 2007, which include:

All Projects:

- Check competence and resources of all appointees.
- Ensure there are suitable management arrangements for the project.
- Allow sufficient time and resources for all stages.
- Provide pre-construction information to designers and contractors.

Additional Duties for Notifiable Projects:

- Appoint CDM Co-ordinator.
- Appoint Principal Contractor.
- Make sure that the construction phase does not start unless there are suitable:
 - Welfare facilities; and
 - Construction phase plan in place.
- Retain and provide access to the Health & Safety file.

These duties cannot be transferred to a Client's agent.

The Client must appoint a CDM Co-ordinator on notifiable projects before significant detailed design work begins.

Please see Section 5.3.8 for further details.

7. Complaints procedure

In matters of complaint regarding the provision of these services, staff involved (both NPS & DCC) should use their best endeavours to resolve the matter in accordance with the NPS Complaints Resolution Process as detailed in Appendix 1.

8. Record of named staff

NPS Contacts

Responsibility for the overall management of this agreement is with the Managing Director of NPS South West Ltd. The main point of contact for general issues will be the Business Support Manager. Individual members of NPS South West have responsibility for designated areas of work and the Client is recommended to contact them directly with specific queries:

Staff	Telephone No.	Post
		Managing Director
		Project & Design Team Manager
		Property Management & Estates Manager
		Architectural Design Manager
		Engineering & QS Manager
		Building Surveying Manager
		Building Maintenance Manager
		Lead Project Manager
		Business Support Manager
		Business Development Manager
		Estates & Valuation Manager
		Asset Planning Manager

9. Detailed charging mechanisms for provision of property services to DCC Service Departments - 1 April 2007 to 31 January 2008

9.1 Charging format for Project and Design Services

Fee scales are related to banded levels for construction costs. To determine the appropriate band the construction cost should be rounded to the nearest £1,000.

9.1.1 Feasibility studies

Feasibility Studies are undertaken to help the client decide whether or not to proceed with a scheme. At the end of each study a comprehensive report will be compiled for the client to identify the following:

- Ownership
- Planning constraints
- Archaeological/Historical considerations
- Geological/Site investigations
- Drainage issues
- Analysis of Structural conditions
- Statutory undertakings & other services
- Site factors/H&S issues
- Construction factors
- Environmental Factors
- Environmental impact analysis
- Landscape & bio-diversity
- Local appraisal
- Initial stakeholder consultation
- Design possibilities
- Cost estimate
- Outline programme
- Procurement & contract route
- Designer's risk assessment
- Risk register/analysis
- Change control log

Fees for feasibility studies are outlined below. Where a lump sum cost is indicated, this would normally exclude:

- Whole life costings
- Full premises development plans
- Preparation of plans to RIBA stage C

Value of Works	Fee Rates
Under £100,000	
£100,000 – £499,999	
£500,000 – £999,999	

- The project fee shall be based upon the construction cost including all project contingencies, and should therefore be deemed to include all our work associated with variations funded from within the contract sum, including contingencies.
- The lump sum fixed project fee will not be reduced if contingencies are not spent in full or part. Similarly NPS will not be reimbursed for time spent obtaining quotations for additional work to be funded from within the contract sum, if the client decides not to proceed.
- For additional works not funded from within the contract sum but arising from additional funding or extraordinary requirements for planning consent required by a planning authority, an assessment of the cost of the variation including additional fees will be provided by NPS for the client to agree, prior to execution. In this case, where NPS has been involved in significant cost and the client decides not to proceed, NPS reserves the right to recover costs.
- Similarly, if the client requests changes that involve NPS in abortive or additional work then NPS reserve the right to claim costs to cover such work.
- Please note that where a dedicated project manager is not required for a project a member of the project team, usually the Design Team Leader, will be assigned the role of project manager and that the fee for this role is contained within the percentage fees stated above.

Additional Services

NPS project and design services are based on professional project delivery encompassing Architectural Design, Project Management, Quantity Surveying, Building Services, Structural Engineering and Health and Safety Co-ordination. In support of these professional services additional technical support on an ad hoc basis may be required beyond that included within the agreed target fee. Typical additional support may therefore include, but not necessarily be limited to the following activities:

- Topographic surveys
- Detailed measured surveys of buildings / building services where no accurate electronic archive information exists
- Detailed fabric or structural surveys of buildings
- Asbestos surveys
- Ground Condition surveys
- Acoustic surveys and tests
- Flood risk assessments
- Specialist fire engineering
- Access surveys
- Drainage Surveys
- Thermal imaging
- Breeam services
- Predictive modelling
- Airtightness Tests
- Dispute Resolution
- Feasibility studies or campus development plans
- Kitchen design services

- Clerk of Works / Supervisor services
- Statutory charges levied by regulatory bodies.

It is recognised that further services beyond those typically deemed included within the above may also from time to time be sought. For example, Landscape Design services beyond those normally provided by the Architect, may by joint agreement and for an additional fee, be supplied. The following services may therefore, if required, be supplied by joint agreement:

- Dispute Resolution
- Presentation drawings and 3D CAD imaging
- Dedicated project manager services
- Building models
- Landscape Architect services
- Interior designer services
- Sound-field system design
- Complex and specialist engineering works
- Life cycle costing
- Risk management.

NB: Whilst this list attempts to be fully comprehensive there may well be other unusual items which occur from time to time, which would be discussed with the client on a case by case basis. In general all charges will initially be paid by NPS who will then counter invoice the client department under the NPS project number.

These extras cannot be quoted as specific lump sums on a generic basis as the requirements for every project will be unique to the proposals/location.

General Points:

- Should a number of projects be aggregated into a programme, the NPS fees will still be calculated using the construction values for each specific project.
- Fees for high profile or fast track projects will be individually identified by NPS and negotiated with the client. Such a project would normally require extra resources above and beyond the norm to deliver a particularly onerous set of criteria.
- When NPS is requested to assist the client with strategic issues we would wish to agree a lump sum cap which would not be exceeded without further agreement. Fee recovery would be on a time charge basis.
- Where the project is funded (or partly funded) from sources external to DCC the NPS fees will be calculated at no less than the SLA rate irrespective of any rates established by external funders. (Any variation to this policy will be subject to an agreement between the NPS Managing Director and the Senior Client Officer for the client department)

9.1.3 Charges for dedicated Project Managers

It will not be necessary on every project to secure the services of a dedicated Project Manager. However, the need for this service will be discussed with the client during the briefing period and the client will be given a clear indication of the level of service available in either scenario (ie either with or without a dedicated project manager). In

this way, the client can make their decision based on a clear understanding of the implications. Where required, Project Management services can be provided on a percentage basis of between dependent on the level of service and complexity of the project.

This charge will be in addition to any other consultants fees incurred for the commission of a project.

9.1.4 Charges for Programme Managers

Limited Programme Management Services for existing programmes will be made available to DCC as part of the fee where the information required is being collected anyway by NPS as part of its normal undertakings. Where the requirement is more onerous than this, NPS reserves the right to charge DCC on a percentage basis of between dependent on the level of service and complexity of the programme and the duration of works.

This charge will be in addition to any other consultants fees incurred for the commission of a project.

9.1.5 Charges for Campus Development Plans (CDPs) for individual school sites

A Campus Development Plan (CDP) provides a strategic view of how to bring each school premise up to the optimum standard, in a sequence of prioritised development phases which will take place as and when funding becomes available. A CDP provides the long-term vision for the development of each school premises. It will not be influenced by the assumption that the proposals are unaffordable or unachievable.

A CDP is intended to establish a strategic development framework to inform decisions on capital development for the school site.

CDPs are 'living' documents which will need to be updated when the attributable factors change.

These include:

- As and when phases within the CDP are complete
- Changes to number of pupils on roll, ages and/or supplementary areas/extended use
- AMP information is updated
- Curriculum developments
- Changes in priorities
- Funding availability
- Detailed suiting development

Fee charges for the preparation of CDPs will depend on a number of factors such as the type and size of the school being assessed. It will also depend on the detail of the study undertaken. The fees charged will need to relate to the costs incurred. A budget cost and timescale will be estimated for each CDP and agreed with the client. Monthly reports will be provided to monitor progress. The budget cost will not be exceeded without the client's consent.

9.1.6 Charges for BREEAM Assessments

BREEAM (Building Research Establishment's Environmental Assessment Method)

The assessment covers a wide range of environmental impacts, which arise from the construction and operation of school buildings.

It is at present normally a client decision as to whether BREEAM assessment is required on individual projects. However, funders may require this as part of the project's funding conditions.

For example the DfES funding conditions currently require that Targeted Capital Fund (TCF) projects, major new build and refurbishment projects valued at over £500,000 for primary schools and £2million for secondary schools and involving rebuilding or complete refurbishment of more than 10% of the floor area of the school, BSF and Academies projects are all required to achieve a 'Very good' rating using the BREEAM assessment method developed by the DfES and the BRE.

Each project assessed will occasion additional cost as follows:

- BREEAM Assessor fee.
- BRE Quality Assurance and Certification
- Additional Design Team involvement.

We would advise that the above would attract an agreed additional lump sum calculated on a project by project basis, payable to NPS when the project is registered with the BRE.

9.1.7 Charges for Parts F & L of the Building Regulations:

Changes in the Building Regulations came into force on 6th April 2006. The aims of the new measures are to make buildings more energy efficient, with a target of a 40% improvement on current standards. It is acknowledged that these changes may increase the average capital cost of projects although it is difficult to ascertain whether this potential increase in fee income would be sufficient to offset the costs of the additional requirement to undertake predictive environmental modelling and increased post construction testing.

As a result, for 2007/08, these tests will be the subject of individual lump sum charges based upon the size and complexity of the building and the number of tests required.

During 2007-08 NPS will monitor the costs associated with predictive environmental modelling and post construction testing and if necessary adjust its pricing for 2008-09.

9.1.8 Charges for CDM Co-ordination:

The new CDM Regulations 2007 come into force on 6 April 2007. In 2007/08 NPS will monitor if there are any additional costs associated with the introduction of these regulations and if necessary adjust its pricing for 2008/09.

9.1.9 Charges for Design Quality Indicator Process:

All costs will be recovered from the client. For initial guidance, costs for this service are likely to be in the range of The actual amount will be dependent on the size and complexity of the project and particularly whether a DQI facilitator service is required.

9.1.10 Charges for external consultants assisting in delivery of Devon's capital programme:

Where external consultants are employed by NPS to undertake DCC projects the fees charged to the client department will be the actual fee paid to the consultant plus a management fee of half of one percent as against the standard NPS fee for the relevant services. NPS South West may in future set up a framework agreement with a number of consultants for each main design discipline and consultants will be selected from this list where required.

9.1.11 Charging Methodology for other additional services

9.1.12 Clerk of Works/Supervisor

In general circumstances a Clerk of Works/Supervisor service will not be provided for projects having a contract cost of less than unless otherwise requested by the client.

The following charges relate to full and partial clerk of works services:

Contract Period in Months	Service Specification	Fee Lump Sum Charge Per Month Under Construction £
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Where the duration of the construction contract exceeds 12 months and the works are more complex than the normal traditional construction, NPS reserve the right to suggest and negotiate extra fees for an enhanced service to suit the particular needs of the project.

9.1.13 SUMMARY OF CHARGING MECHANISMS FOR ADDITIONAL PROJECT & DESIGN SERVICES

Explanatory Note: X = method of charging

Service	Lump Sum	% Fee	Time Charge £/hour
* Exceptional negotiations with statutory bodies			
* Insurance and Rating Valuations			
* Exceptional meetings with project stakeholders as required by the client			
* Liquidations and insolvency			
* Project related departmental returns/consent applications			
* Surveys of existing buildings and land			
* Structural reports			
* Special presentations, e.g. models, perspectives, 3D computer imaging			
* Investigate building failures			
* Environmental, Ecological and Traffic impact assessment Studies			

*	DDA Surveys	--		
*	Acoustic investigations			
*	Grant applications			
*	Attendance of review groups			
*	Non Project Specific Client Advice relating to Corporate procedures etc			
*	Providing general architectural/financial advice to Client			--
*	Dispute Resolution			--

9.1.14 Hourly time charge rates for Project Design Services

The rates shown below are applicable from 1.4.2007- 31.1.2008

For work which is undertaken on a **time charge basis** the following rates will be used to generate the appropriate charges. The charges are inclusive of all necessary administration and clerical support costs.

Post	Rate per Hour £
Project & Design Group Manager	
Senior Professional	
Professional	
Technician	
Junior	

NB:

All projects underway at the time of transfer will remain on previously agreed rates. The new rates will apply to new commissions only.

9.2 Property & Estate Management Services

9.2.1 Charging Format for Estates and Valuation Services

An annual indicative budget will be agreed with the Corporate Client property officer and each Directorate for the provision of estates and valuation services. This will be based on predicted workloads derived from estimates of commissions under each category of estates and valuation work for the year and the level of experience and skills necessary to carry out the programme.

	Minimum fee	Percentage fee	Time charge
Acquisitions			
Leases taken, granted, renewals and rent reviews.			
General property management and advice. Establishing client needs and responding to legal enquiries on transactions.			
Rating			
Planning applications			
Arbitrations, tribunals, appeals, public inquiries.			
Valuations and estates			
Easements, licences, wayleaves, grass keeps			
Management agreements			
Farms estate			
All work with property transactions below the value of the DCC definition of a 'minor item' (£5000 capital and £2000 revenue)			

Charges for work not included in indicative budget sum:

	Minimum fee	Percentage fee	Time charge
Market Disposals			
To sitting tenants			
Industrial land			
Pre marketing work			
Managing external agents			
Legal enquiries			
Ad hoc commission			

NB The above percentage fees are on the assumption that terms are agreed without the requirement to refer to a third party or tribunal for determination.

Hourly Time Charge Rates for Estates and Valuation Services

For work which is undertaken on a time charge basis the following rates will be applied. Charges are inclusive of all necessary administration and clerical support.

Post	£ per hour
Estates and Property Management Manager	
Senior Professional	
Professional	
Technician	
Junior	

9.2.2 Charging Format for Asset Management & ICT Services

Service	Annual Lump Sum (H24)*	Negotiated fee	Time Charge
Corporate Advice			
Property Asset Management <ul style="list-style-type: none"> Advising on Corporate Asset Management and property Strategies 			
<ul style="list-style-type: none"> Supporting the Corporate Asset Group (as requested) 			
<ul style="list-style-type: none"> Supporting the co-ordination and monitoring the capital programme 			
Review and Maintenance <ul style="list-style-type: none"> Assessing, recording and reporting property assets 			
<ul style="list-style-type: none"> Managing and undertaking a programme of property reviews 			

• Provision of property asset benchmark data			
• Assisting in best value property reviews			
• Advising and supporting on property objective			
• Monitoring, reporting energy and water consumption.			
• Data transfer projects			
Client support			
Corporate Office Management			
Management of Asset Management Data			
Provision of property guidance, manuals and training			

9.2.4 Hourly Time Charge Rates for Asset Management Services

For work which is undertaken on a time charge basis the following rates will be applied. Charges are inclusive of all necessary administration and clerical support.

Post	£ per hour
Estates and Property Management Manager	
Senior Professional	
Professional	
Technician	
Junior	

9.2.5 Charging Format for Building Survey and Maintenance Services

The Estates and Property Management Manager will be responsible for managing the DCC's building maintenance fund. The management and implementation of the fund will be undertaken in accordance with the DCC property maintenance strategy, consultation with service directorates and the survey and maintenance output specification between NPS and DCC. The amount of hours required to complete any individual commission will be discussed in advance with the commissioning officer. The method of charging for this service is set out below:

Service	Lump Sum	% Fee	Time Charge
Inspections and Advice on Budget Preparation			
• Condition surveys			
• Compliance surveys e.g. Asbestos, Legionella, DDA, Radon, Oil Tanks			
• Statutory inspections of sports grounds			

<ul style="list-style-type: none"> • Preparation of planned maintenance and compliance programmes 			
<ul style="list-style-type: none"> • Preparation of Annual reports 			
<ul style="list-style-type: none"> • Establishment and Review of Maintenance and Compliance Standards 			
<ul style="list-style-type: none"> • Input to Committee Reports 			
<ul style="list-style-type: none"> • Project related departmental returns/ consents 			
<ul style="list-style-type: none"> • Grant Applications 			
Other inspection and survey services <ul style="list-style-type: none"> • Archaeological survey • Building and land survey • Building failure diagnostic reports • Condition schedules • Dilapidations survey • Environmental impact survey • Expert Witness reports • Fire risk assessments • Health and Safety survey • Insurance Assessments and Claims • Maintenance forecast survey • Party Wall survey and advice • Photographic survey • Structural survey • Suitability survey • Sustainable drainage survey • System building survey • Topographical survey 			
Management of Property Maintenance Insurance Schemes <ul style="list-style-type: none"> • Management and advising the DCC on maintenance insurance schemes 			
<ul style="list-style-type: none"> • Issuing and management of repairs within a scheme 			
Management of Programmed Maintenance <ul style="list-style-type: none"> • Management of Building Maintenance Fund 			
<ul style="list-style-type: none"> • Routine visits to properties 			
<ul style="list-style-type: none"> • Issuing and management of programmed repairs 			

<ul style="list-style-type: none"> Appointment and management of specialist consultants 			
Management of Responsive (unforeseen) Maintenance <ul style="list-style-type: none"> Issuing and management of responsive day to day repairs 			
<ul style="list-style-type: none"> Issuing and management of responsive 'out of hours' repairs* 			
<ul style="list-style-type: none"> Appointment and management of specialist consultants 			
Management of Servicing and Testing of Installations <ul style="list-style-type: none"> Management of regular inspection, servicing of boilers, water, gas and electrical installations, lifts etc. 			
Management of DCC's Maintenance Framework partnerships and/or select list of Contractors <ul style="list-style-type: none"> Management of Maintenance Framework 			
<ul style="list-style-type: none"> Management of Approved / Select List of Maintenance Contractors 			
Devolved Maintenance <ul style="list-style-type: none"> Issuing and management of devolved repairs 			
<ul style="list-style-type: none"> Appointment and management of specialist consultants 			

*Based on costing rates

Schedule of Percentage Fee Charges

Item	Delivered through Framework Partnership	Delivered outside Framework Partnership
Management of Programmed Maintenance <ul style="list-style-type: none"> Issuing and management of programmed repairs 		

Management of Responsive (unforeseen) Maintenance <ul style="list-style-type: none"> Issuing and management of responsive day to day repairs 		
Management of Servicing and Testing of Installations <ul style="list-style-type: none"> Management of regular inspection, servicing of boilers, water, gas and electrical installations, lifts etc. 		
Devolved Maintenance <ul style="list-style-type: none"> Issuing and management of devolved repairs 		

NB: These rates will be subject to review on the implementation of the new procurement arrangements.

9.2.6 Hourly Time Charge Rates for Survey and Maintenance Services

The rates shown below are applicable from 1.4.2007 - 31.3.2008

For work which is undertaken on a time charge basis the following rates will be applied. Charges are inclusive of all necessary administration and clerical support.

Post	£ per hour
Estates and Property Management Manager	
Senior Professional	
Professional	
Technician	
Junior	
*Note: 'Out of hours' / emergency response for all of the above is charged at 1.5 times respective time charge rate, subject to a minimum of one hour charge per call.	

9.2.7 Charging Format for Minor Works Services,

These figures include all disciplines excluding the services outlined below. The method of charging for this service is set out below:

Service	Lump Sum	Percentage Fee	Time Charge
Feasibility Study			X (with negotiated cap)

Project Delivery* Works Value £0 – £99,999 >£100k	see note below		
---	-----------------------	--	--

For works values of more than £100k: To be charged as set out under fees for multi discipline projects of this document. Should this fee structure not be appropriate then by agreement between the client and NPS e.g. where a single discipline project is required.

*Unless otherwise agreed the above charges exclude:

- Acoustic Engineers
- Bills of quantities
- Charges from statutory companies / regulatory bodies
- Clerk of works / quality inspections
- Feasibility studies and development plans
- Interior Designs
- Landscape Architect
- Models
- Planning fees etc
- Presentation drawings and 3D CAD imaging
- Specialist surveys and investigations (eg bats)
- Structural Engineers
- Measured and land surveys
- Asbestos Surveys

Where such costs are incurred they will be passed to the client for payment in accordance with the charging mechanism detailed in Section 1.9.10.

9.3 Expenses and Disbursements

Please note that normal disbursements (copying, travel and subsistence) and graphic charges incurred by NPS in the course of providing our services as outlined within this document are not charged as extra items, but are absorbed by NPS within the hourly time charges or percentage fees. The charges set out below relate to additional items specifically requested by the Client and NPS will inform the client in advance if such charges may apply.

Scanning Drawings	Basic	Complex
Cost for transferring A1 drawings into Autocad format		

Printing	cost per print £	
	paper	Negative film
AO		
A1		
Smaller than A1 prints		

Photography

At cost, upon production of account.

Advertising

At cost, upon production of account, other than local advertising.

Photocopying	cost per photocopy	
	£	
Size of Copy	Black & White	Colour
A4		
A3		

Purchase of Special Documents and Publications

At cost.

Temporary Accommodation, Travel and Subsistence Costs

Hotel expenses shall be met by the Client where an overnight stay is unavoidable. Similarly where meals are purchased away from the office the cost of subsistence shall be recoverable from the Client. Wherever possible the expenses shall be in accordance with the current National Joint Council for APT and C staff published rates. All expenses will be supported by the appropriate proof of expenditure.

Mileage costs, irrespective of the designated status of the driver and car, will be at the flat rate of £0.40 per mile (the Inland Revenue rate for 2007/08) and thereafter, the revised Inland Revenue rate.

Specialist Advice

Where a project requires additional specialist advice, NPS shall recover the actual costs of obtaining the advice and the costs on a time charge basis of briefing the adviser. Consent of the Client shall be obtained for the appointment and briefing of specialists.

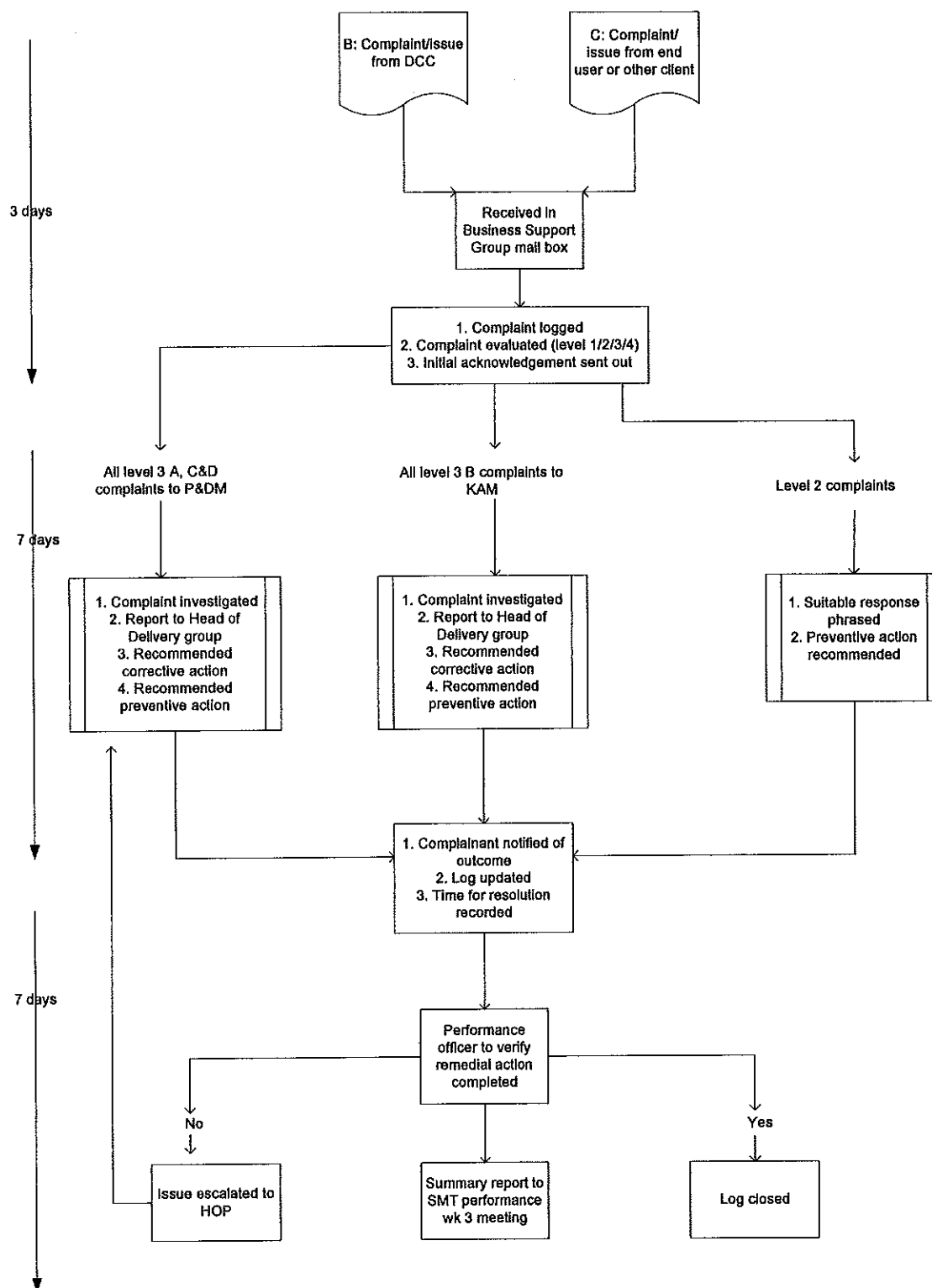
Statutory Fees

NPS will make all necessary payments on behalf of the Client that relate to obtaining statutory approvals, (e.g., Planning Applications, Building Regulations). Statutory fees shall be recovered from the purchaser by invoice, coded to the appropriate project/case.

VAT

All fees referred to in this document are subject to VAT at the appropriate rate.

Complaints resolution process



Description of Complaints levels:

Level 1: Complaint of a corporate nature. Level 2: Instance requiring apology to complainant and consideration of preventive action to be actioned. Level 3: Complaint requiring investigation. Level 4: Complaint has been resolved locally. Log but no further action required.

Financial Protocol

“FINEST” - All references to FINEST relate to the Council's Computerised Finance System. The Council reserves the right to change financial systems and require NPS operation after providing due notice.

Financial Regulations – Overview

When NPS Employees use the Council's Finance systems they are required to follow the Council's Financial Regulations which provide a framework for managing the Council's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.

Additionally, the Council expects a duty of care to be exercised when dealing with its financial arrangements and assets.

Confidentiality

All the Council information in FINEST and other systems is to be considered confidential and commercially sensitive and may not be disclosed to a third party without the express permission of the designated Finance Liaison Officer and in accordance with the provisions of the main contract.

Financial Regulations

Financial Regulations embrace the following:

- A Financial Management
- B Financial Planning and Control
- C Risk Management
- D Systems and Procedures
- E External Arrangements

Detailed guidance under these headings can be found on the Council website.

All staff that use the Council's Financial systems are required to have access to Financial Regulations via the intranet or to have a hard copy. A hard copy should be kept in each office to ensure that staff have easy access. This hard copy should be renewed when the financial regulations are revised.

Any new staff who have access to the Council's Financial systems are required to sign a statement indicating that they have read and understood financial regulations; that they will abide by them and that they have access to a copy for future reference. The Council's auditors will periodically check to ensure that this is kept up to date to include new employees.

FINEST System and Accounting Arrangements

FINEST is the accounting software used by the Council. Access to the accounting functions within the system is controlled by means of user profiles.

All NPS users requiring access to the FINEST accounting system will have their system permissions set up by means of the user profile template signed by the Finance Liaison Officer. The FINEST Team manager will be satisfied that the NPS staff member has received the appropriate FINEST and Construction Industry Scheme (CIS) operation training before granting access permissions to the system.

Amendments to existing users or the addition of new users will also use the template and require authorisation by the Finance Liaison Officer.

NPS management are required to notify the Finance Liaison Officer and the FINEST Team manager if it wishes to withdraw a person from access/user rights to FINEST. NPS will need to specify a date and time from which the withdrawal will be effective. This must not extend beyond the term of their legitimate need to access the system so that if a member of staff leaves or transfers he/she should no longer be able to access FINEST.

Financial authorisation limits for the placing of orders and payments of invoices will be managed within the individual's user profile. Any operational requirements to amend or exceed the limits must be agreed through the Finance Liaison Officer. NPS will be notified in writing of the maximum limits to be applied to NPS staff on orders placed and payments made. These limits will be reviewed annually during the contract.

If exceptionally large individual payments of £250,000 or over are due to be made the Council's Investment team should be notified by e-mail or phone of the date the payment will be made at least 3 working days notice should be given.

If exceptionally large individual receipts of £250,000 or over are due to be received then the Council's Investment team should be notified by e-mail or phone of the anticipated date of the receipt at least 3 working days notice should be given.

VAT and other taxes must be properly identified and accounted for within FINEST by the due dates.

Any feeder systems developed by NPS to integrate into FINEST must be approved for use by the FINEST Support Team and must properly identify all taxes and, specifically, payments falling within the provisions of the Construction Industry Scheme.

The Council will ordinarily expect payments to suppliers to be made by BACS. In exceptional circumstances and by prior agreement with the Finance Liaison Officer a CHAPS payment can be made if necessary to meet a contractual commitment.

Additional Requirements relating to Payments and Receipts

Payments to suppliers must be within agreed terms unless the payment is disputed.

Invoices falling within the requirements of the Construction Industry Scheme must be actioned according to the requirements of the System.

Levels of Invoice Scrutiny - special arrangements have been made regarding the checking of maintenance invoices . These written agreements are made between the Director of FITT, the Council internal auditors and NPS. NPS will abide by these special arrangements and will retain a copy of the current arrangements within the office copy of the financial regulations.

Legal requirements in respect of the Taxing Authorities and other bodies.

Where NPS produces or manages financial information on behalf of the Council which forms part of Council's returns to the taxing authorities or will be used in the production of management reports, returns to third parties etc., it will provide the information within any timescales set nationally or locally. The requirements for such information will be directed by the Finance Liaison Officer.

Retention of original documentation

Any departure from the normal retention policy e.g. relating to scanning and electronic retention of documents will be agreed in writing between the Council and NPS.

Audit and Inspections

NPS staff when undertaking financial work on behalf of the County Council will be expected to co-operate with the County Council's internal auditors and external auditors. This includes the reporting of any irregularities or suspected irregularities.

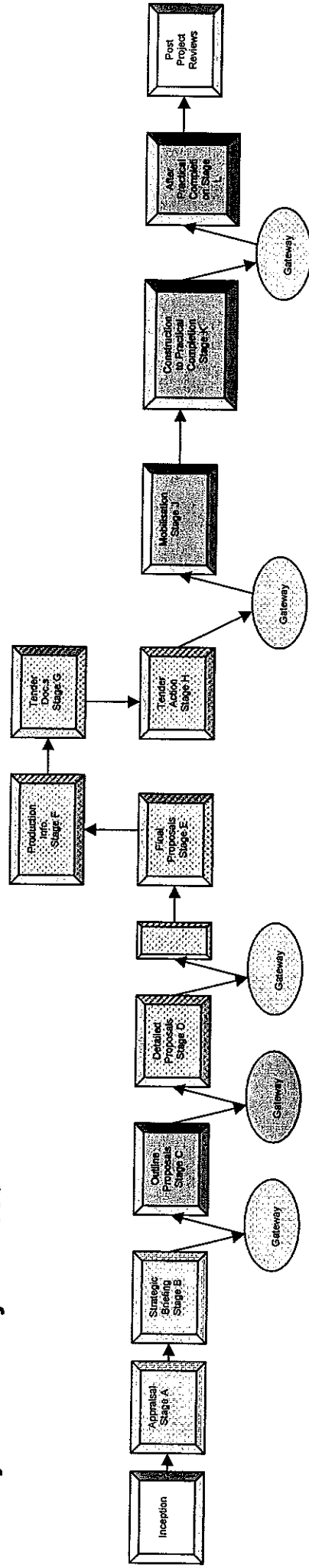
NPS will be required to hold records in accordance with financial regulation C4. Records will need to be held in an accessible location and filed so as to provide an audit trail. The Council Finance staff and the Council's external auditors will be allowed access to financial records at any reasonable time

NPS staff will cooperate with any requests or requirements for information from the taxing authorities during their inspections of the Council's finances. Such requests must be managed via the Finance Liaison Officer.

If a NPS member of staff misappropriates County Council funds or perpetrates a deception that leads a third party to have a claim against the Council then NPS will reimburse to the County the sum misappropriated or the value of the claim by a third party.

While the finance department will try to keep all accountable budget holders aware of significant changes to these documents, the onus is on the budget holder to keep up to date with any such changes.

Project Gateway Process



Contractors CDM Regulation Compliance Audit

Location	
Inspection Date	
NPS Project Number	
Project Name	
Client	
Contractor	
Site Manager	
Report Completed By	
Project CDMC	
Score Achieved	
Inspection Score & Rating Achieved	Poor <input type="checkbox"/> Satisfactory <input type="checkbox"/> Good <input type="checkbox"/>
2 or More ICs of A	YES <input type="checkbox"/>

Inspection Codes (IC)	D	Good / best practice demonstrated
	C	Complies with industry standards, monitor for continued compliance
	B	Below acceptable standards – rectify as soon as practicable
	A	Well below acceptable standards – immediate action required
	O	Not checked / not applicable / advisory note

Scoring System	Notes	Inspection Ratings	Score Range
	Auditor to score 1 point for compliance and 0 for noncompliance. Total score is 71 points.	Good	65 – 71
	Auditor is to add Inspection Codes (IC) to each item. Award 1 if item not applicable to project.	Satisfactory	50 – 64
	If contractor receives 2 or more ICs of A overall Inspection Rating will be deemed as poor.	Poor	0 – 49

Copies to (via Email)	Sent	Remarks
Contractor	Y <input type="checkbox"/> N <input type="checkbox"/>	
Site Manager	Y <input type="checkbox"/> N <input type="checkbox"/>	
Client Representative	Y <input type="checkbox"/> N <input type="checkbox"/>	
Project Manager	Y <input type="checkbox"/> N <input type="checkbox"/>	
Project CDMC	Y <input type="checkbox"/> N <input type="checkbox"/>	
DCC	Y <input type="checkbox"/> N <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/>	Kingsley Clarke kingsley.clarke@devon.gov.uk Jon Williams (score of POOR only) jon.williams@devon.gov.uk
Project File	Y <input type="checkbox"/> N <input type="checkbox"/>	Electronic Copy ONLY

No	Item	Score	IC
Site Documentation			
1	▪ F10 displayed – correct information (i.e. dates) <i>Notifiable ONLY</i>	-	-
2	▪ Insurance Certificates – displayed and in date (public and employers)	-	-
3	▪ HSE Law Poster – displayed and details completed	-	-
4	▪ Emergency Contact Details	-	-
5	▪ Project Programme – available and current	-	-
6	▪ PCI – incorporated into the CPP	-	-
7	▪ Construction Phase Plan up to date and complete (all appendices)	-	-
8	▪ Site Staff sufficiently qualified (5 day SMSTS, etc)	-	-
9	▪ Signing-in Book	-	-
10	▪ PC Site Hazard Register	-	-
11	▪ Progress of H & S File Information	-	-
12	▪ Asbestos R&D Survey and or Clearance Certificates	-	-
13	▪ Site Waste Management Plan (or equivalent)	-	-
Accidents & Incidents			
14	▪ Non Reportable Events – procedure in place, any information is recorded and mitigated correctly (management investigation and implementation)	-	-
15	▪ RIDDOR Events – procedure in place, any information is recorded and mitigated correctly (HSE Notification Report)	-	-
16	▪ Near Misses – procedure in place, any information is recorded and mitigated correctly (management investigation and implementation)	-	-
Welfare			
17	▪ Site Offices – suitable for the size and duration of the project	-	-
18	▪ Toilets	-	-
19	▪ Cleaning Solutions and Hot Water	-	-
20	▪ Drinking Water	-	-
21	▪ Mess Room / Lockers / Dry Room	-	-
22	▪ Rest Room	-	-
23	▪ Canteen Facility	-	-
24	▪ Eye Stations	-	-
25	▪ First Aiders / Boxes (First Aider on site at time of audit)	-	-
Site Safety			
26	▪ Traffic Routes – clearly defined / reversing minimised or banksman used	-	-
27	▪ Pedestrian Routes – clearly identified and enforced	-	-
28	▪ Security	-	-
29	▪ Segregation	-	-
30	▪ Storage	-	-
31	▪ Tidiness	-	-
32	▪ PPE – used appropriately and enforced	-	-
33	▪ Construction H & S Signs / Notices	-	-
34	▪ Site Rules displayed and being enforced	-	-
Emergency Procedures			
35	▪ Fire / Emergency Plan	-	-
36	▪ Integration with Client Plan	-	-
37	▪ Plan Reviewed and Updated	-	-
38	▪ Site routing and signage	-	-
39	▪ Fire Marshall/Co-ordinator – named and at least 1 on site at time of audit	-	-
40	▪ Fire Fighting Equipment Register	-	-
41	▪ Fire / Emergency Drill	-	-
42	▪ Emergency Vehicle Access	-	-
Management Control			
Daily Inspections			
43	▪ Evidence / procedure in place that visual inspections take place	-	-
Weekly Inspections			
44	▪ Recorded evidence inspections took place in period	-	-
45	▪ Actions assigned	-	-
46	▪ Actions signed off / mitigation measures put in place	-	-

Site Audits (e.g. internal or external health and safety adviser/consultant)			
47	Recorded evidence audit took place – suitable frequency	-	-
48	Actions assigned	-	-
49	Actions signed off / mitigation measures put in place	-	-
Method Statements (only awarded if all MS reviewed comply)			
50	Method Statement produced for activity	-	-
51	Referenced and dated	-	-
52	Site Specific	-	-
53	Risk / COSHH Assessments	-	-
54	Principal Contractor Approved	-	-
55	Signed by PC / Sub-Contractor	-	-
Permits to Work (only awarded if all PTW reviewed comply)			
56	Permit produced for activity	-	-
57	Validation period included	-	-
58	Specified sub-contractor / operative named and signed	-	-
Registers			
59	Scaffolding, including erection certificate & Scafftag system or equivalent	-	-
60	Lifting Equipment	-	-
61	Crane Inspections	-	-
62	Plant	-	-
63	COSHH	-	-
64	Temporary Works	-	-
Inductions			
65	Evidence that inductions are taking place	-	-
66	Induction current and specific to project	-	-
67	CSCS Card Checked	-	-
68	Signed by operative	-	-
69	Visitors induction available or all visitors accompanied	-	-
Tool Box Talks			
70	Regular talks or procedure in place if audit early in contract	-	-
71	Site specific / relevant	-	-
End of Inspection			
		TOTAL SCORE	
		TOTAL ICs of A	

Action Plan

No	Observations	IC	Action Owner
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	

No	Observations	IC	Action Owner
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	
		-	

NOTIFIABLE PROJECTS

Contractor	Audit Date	ID	Site	Site Rep	CDMC *	Good	Sat.	Poor
	21.10.09				DB/CS	66		
	08.12.09				DB/CS	66		
	10.12.09				DB	63		
	10.02.10				DB/CS	68		
	16.11.09				DB	61		
	13.11.09				GH		53	
	10.12.09				DB			43
	17.12.09				DB		52	
	11.12.09				DB		57	
	11.12.09				DB	63		
	15.12.09				BB		54	
	09.03.10				DB			0
	09.03.10				BD	68		
	09.03.10				DB	68		
	05.10.10				PS	66		
	31.07.2010				DB	70		
	03.09.2010				GH	66		
	03.09.2010				GH		50	
	01.09.2010				GH		58	
	25.08.2010				GH	68		

CDM COMPLIANCE AUDIT SUMMARY

24/03/2015

	17.08.2010				GH	66		
	18.08.2010				GH			40
	21.03.2011				DB	69		
	10/11/2010				DB	69		
2011 / 2012 NOTIFIABLE AUDITS (DCC financial year 1st April - 31st March) 22no.								
	21/04/2011				DB	70		
	21/04/2011				DB	61		
	27/04/2011				DB	70		
	02/02/2011				GH	69		
	11/11/2010				GH		50	
	02/11/2010				GH		57	
	08/06/2011				GH	68		
	16/06/2011				GH	71		
	24/06/2011				GH		54	
	15/08/2011				GH		53	
	2/9/1011				RE	70		
	02/09/2011				RE	62		
	15/09/2011				GH		56	
	11/11/2011				DB	69		
	14/11/2011				DB	70		
	01/12/2011				RE	63		
	13/12/2011				RE	64		
	10/01/2012				RE	66		
	10/01/2012				RE	67		
	01/02/2012				DB	64		
	12/01/2012				GH	69		
	12/01/2012				GH	66		
2012 / 2013 NOTIFIABLE AUDITS (DCC financial year 1st April - 31st March)								
	30/05/2012	M101065	Riford Road Community Home, Exeter - Upgrading	Dave Henderson	RE	66		
	20/07/2012				RE	66		
	05/07/2012				GH	64		
	04/07/2012				GH	71		
	21/08/2012				GH	65		
	04/10/2012				GH	66		
	04/10/2012				GH	70		
	04/10/2012				GH	68		
	18/01/2013				DB	71		
	06/02/2013				RE	67		
	26/02/2013				DB	70		

CDM COMPLIANCE AUDIT SUMMARY

24/03/2015

	28/02/2013				RE	70		
2013 / 2014 NOTIFIABLE AUDITS (DCC financial year 1st April - 31st March)								
	16/04/2013				DB	71		
	03/05/2013				DB	N/A		
	13/05/2013				DB	69		
	05/06/2013				DB	71		
	05/06/2013				DB	69		
	04/07/2013				DB	70		
	05/07/2013				AS	70		
	01/08/2013				RE			42
	15/08/2013				RE	67		
	01/08/2013				RE	69		
	12/09/2013				DB	69		
	12/09/2013				DB	N/A		
	16/10/2013				RE	69		
	25/10/2013				DB	68		
	12/11/2013				RE	70		
	16/01/2014				DB	71		
	22/01/2014				RE		64	
	07/02/2014				RE			61 + 2 A's
	18/02/2014				DB	69		
	08.04.2014				DB	71		
	14/05/2014				RE	70		
	20/05/2014				RE	70		
	04.06.2014				DB	70		
	04.06.2104				DB	70		
	14.5.2014				DB	71		
	11.6.2014				DB	71		
	19.6.2014				DB	67		
	11.7.2014				DB	67		
	17.7.2014				RE	70		
	28.7.2104				DB	71		
	07.08.2014				DB	70		
	09.09.2014				RE	Good		
	15.10.2014				RE	70		
	16.10.2014				DB	71		
	16.10.2014				DB	70		
	12.12.14				DB	70		

CDM COMPLIANCE AUDIT SUMMARY

24/03/2015

	12.12.14				DB	70		
	27.2.14				RE	68		
	30/01/2015				AS	71		
	30/01/2015				AS	70		
	11.3.2015				RE	71		

Bench Marks (Total 71 points)	Score Range
Good	60+
Satisfactory	50-60
Poor	-50

* CDMC or CDMC / person undertaking

NON NOTIFIABLE PROJECTS

Contractor	Audit Date	ID	Site	Site Rep	NPS Auditor	Good	Sat.	Poor
2012 / 2013 NON NOTIFIABLE AUDITS (DCC financial year 1st April - 31st March)								
	11/09/2012				A Shaw			48
	13/09/2012				A Shaw	64		
	25/02/2013				DB	71		
	08/01/2013				DB	70		
	18/03/2013				DB	N/a		
24 REQ FOR - 2013 / 2014 NON NOTIFIABLE AUDITS (DCC financial year 1st April - 31st March)								
	18/07/2013				DB		54	
	31/10/2013				DB	69		
	12/11/2013				RE	67		
	20/05/2104				AS	66		
	25/06/2014				RE			55 (2xA)
	18/08/2014				DB	71		
	18/08/2014				DB	71		
	28/08/2014				RE			58(2xA)
	02/09/2014				RE	65		
	29/08/2104				DB	70		
	29/08/2104				DB	70		
	27/10/2014				DB	71		
	07/11/2014				DB	71		
	31/10/2014				DB	65		
	23/02/2015				DB	70		

CDM COMPLIANCE AUDIT SUMMARY

24/03/2015

	23/02/2015				DB	70		
	26/02/2015				DB	70		
	26/02/2015				DB	68		
	27/02/2015				RE	68		
	02/03/015				DB	68		
	02/03/2015				DB	70		
	02/03/2015				DB	69		
	06/03/2015				DB	69		

Bench Marks (Total)	Score Range
Good	60+
Satisfactory	50-60
Poor	-50

Devon County Council Compliance Monitoring Report



January 2015

NPS report to Devon County Council's Property Maintenance & Compliance Manager – January 2015

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 5th January 2015 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 95% of 5447 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 5 th January 2015								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	154	123	80%	13	8%	18	12%
Automatic Doors	14	155	141	91%	0	0%	14	9%
Electrical Testing	14	591	543	92%	4	1%	44	7%
Emergency Lighting	14	481	456	95%	16	3%	9	2%
Extract Fans	30	340	333	98%	2	1%	5	1%
Fire Alarm	14	471	443	94%	16	3%	12	3%
Gas Tightness	14	492	475	97%	1	0%	16	3%
Heating Plant	14	1571	1416	90%	34	2%	121	8%
Legionella	14	446	434	97%	3	1%	9	2%
Lifts	14	162	87	54%	54	33%	21	13%
Lightning Protection	30	73	73	100%	0	0%	0	0%
Display Energy Certs (Corporate Sites)	30	63	46	73%	0	0%	17	27%
Asbestos Inspections	0	448	447	100%	0	0%	1	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	448	446	100%	2	0%	0	0%
Asbestos ASB3 Updates in C2	7	72	72	100%	0	0%	0	0%

Devon County Council Compliance Monitoring Report



February 2015

NPS report to Devon County Council's Property Maintenance & Compliance Manager – February 2015

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 2nd February 2015 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5411 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 2 nd February 2015								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	147	135	92%	0	0%	12	8%
Automatic Doors	14	154	153	99%	0	0%	1	1%
Electrical Testing	14	595	571	96%	0	0%	24	4%
Emergency Lighting	14	477	467	98%	4	1%	6	1%
Extract Fans	30	337	325	96%	8	2%	4	1%
Fire Alarm	14	469	459	98%	1	0%	9	2%
Gas Tightness	14	490	470	96%	8	2%	12	2%
Heating Plant	14	1565	1440	92%	28	2%	97	6%
Legionella	14	439	423	96%	6	1%	10	2%
Lifts	14	161	143	89%	14	9%	4	2%
Lightning Protection	30	72	71	99%	1	1%	0	0%
Display Energy Certs (Corporate Sites)	30	60	39	65%	11	18%	10	17%
Asbestos Inspections	0	445	444	100%	0	0%	1	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	445	436	98%	9	2%	0	0%
Asbestos ASB3 Updates in C2	7	65	64	98%	1	2%	0	0%

Devon County Council Compliance Monitoring Report



March 2015

NPS report to Devon County Council's Property Maintenance & Compliance Manager – March 2015

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 2nd March 2015 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5404 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 2 nd March 2015								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	148	138	93%	0	0%	10	7%
Automatic Doors	14	154	154	100%	0	0%	0	0%
Electrical Testing	14	595	569	96%	5	1%	21	4%
Emergency Lighting	14	479	464	97%	11	2%	4	1%
Extract Fans	30	336	325	97%	5	1%	6	2%
Fire Alarm	14	471	454	96%	11	2%	6	1%
Gas Tightness	14	490	466	95%	4	1%	20	4%
Heating Plant	14	1571	1436	91%	17	1%	118	8%
Legionella	14	439	406	92%	9	2%	24	5%
Lifts	14	161	138	86%	17	11%	6	4%
Lightning Protection	30	73	72	99%	0	0%	1	1%
Display Energy Certs (Corporate Sites)	30	60	42	70%	0	0%	18	30%
Asbestos Inspections	0	427	425	100%	0	0%	2	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	427	427	100%	0	0%	0	0%
Asbestos ASB3 Updates in C2	7	59	59	100%	0	0%	0	0%

Devon County Council Compliance Monitoring Report



April 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – April 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 2nd April 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5572 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 2 nd April 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	128	118	92%	3	2%	7	5%
Automatic Doors	14	153	149	97%	0	0%	4	3%
Electrical Testing	14	599	565	94%	3	1%	31	5%
Emergency Lighting	30	493	463	94%	6	1%	24	5%
Extract Fans	30	342	335	98%	6	2%	1	0%
Fire Alarm	30	487	458	94%	5	1%	24	5%
Gas Tightness	14	472	461	98%	2	0%	9	2%
Heating Plant	14	1643	1532	93%	6	0%	105	6%
Legionella	14	489	488	100%	0	0%	1	0%
Lifts	14	163	126	77%	3	2%	34	21%
Lightning Protection	30	65	65	100%	0	0%	0	0%
Display Energy Certs (Corporate Sites)	30	62	61	98%	0	0%	1	2%
Asbestos Inspections	0	476	473	99%	0	0%	3	1%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	476	474	100%	2	0%	0	0%
Asbestos ASB3 Updates in C2	7	89	88	99%	1	1%	0	0%

Devon County Council Compliance Monitoring Report



May 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – May 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 1st May 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 97% of 5521 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 1 st May 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	128	118	92%	0	0%	10	8%
Automatic Doors	14	154	148	96%	0	0%	6	4%
Electrical Testing	14	594	571	96%	5	1%	18	3%
Emergency Lighting	30	485	471	97%	3	1%	11	2%
Extract Fans	30	341	309	91%	26	8%	6	2%
Fire Alarm	30	477	464	97%	4	1%	9	2%
Gas Tightness	14	472	442	94%	15	3%	15	3%
Heating Plant	14	1622	1482	91%	38	2%	102	6%
Legionella	14	487	486	100%	0	0%	1	0%
Lifts	14	164	164	100%	0	0%	0	0%
Lightning Protection	30	68	68	100%	0	0%	0	0%
Display Energy Certs (Corporate Sites)	30	62	61	98%	0	0%	1	2%
Asbestos Inspections	0	467	464	99%	0	0%	3	1%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	467	467	100%	0	0%	0	0%
Asbestos ASB3 Updates in C2	7	84	83	99%	1	1%	0	0%

Devon County Council Compliance Monitoring Report



June 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – June 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 2nd June 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 95% of 5534 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 2 nd June 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	128	106	83%	12	9%	10	8%
Automatic Doors	14	154	134	87%	16	10%	4	3%
Electrical Testing	14	589	566	96%	2	0%	21	4%
Emergency Lighting	30	484	452	93%	22	5%	10	2%
Extract Fans	30	342	336	98%	4	1%	2	1%
Fire Alarm	30	476	446	94%	21	4%	9	2%
Gas Tightness	14	476	429	90%	17	4%	30	6%
Heating Plant	14	1628	1421	87%	58	4%	149	9%
Legionella	14	486	459	94%	23	5%	4	1%
Lifts	14	164	139	85%	14	9%	11	7%
Lightning Protection	30	76	76	100%	0	0%	0	0%
Display Energy Certs (Corporate Sites)	30	62	60	97%	0	0%	2	3%
Asbestos Inspections	0	469	465	99%	0	0%	4	1%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	469	462	99%	7	1%	0	0%
Asbestos ASB3 Updates in C2	7	81	81	100%	0	0%	0	0%

Devon County Council Compliance Monitoring Report



July 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – July 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 1st July 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5554 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 1 st July 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	133	122	92%	0	0%	11	8%
Automatic Doors	14	154	134	87%	0	0%	20	13%
Electrical Testing	14	578	559	97%	0	0%	19	3%
Emergency Lighting	30	490	474	97%	3	1%	13	3%
Extract Fans	30	343	339	99%	0	0%	4	1%
Fire Alarm	30	480	467	97%	3	1%	10	2%
Gas Tightness	14	475	438	92%	11	2%	26	5%
Heating Plant	14	1612	1424	88%	63	4%	125	8%
Legionella	14	482	473	98%	1	0%	8	2%
Lifts	14	165	164	99%	1	1%	0	0%
Lightning Protection	30	75	74	99%	0	0%	1	1%
Display Energy Certs (Corporate Sites)	30	62	59	95%	0	0%	3	5%
Asbestos Inspections	0	505	503	100%	0	0%	2	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	505	504	100%	1	0%	0	0%
Asbestos ASB3 Updates in C2	7	83	83	100%	0	0%	0	0%

Devon County Council Compliance Monitoring Report



August 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – August 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 1st August 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5530 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 1 st August 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	137	127	93%	0	0%	10	7%
Automatic Doors	14	156	138	88%	8	5%	10	6%
Electrical Testing	14	572	560	98%	0	0%	12	2%
Emergency Lighting	30	490	473	97%	8	2%	9	2%
Extract Fans	30	343	329	96%	12	3%	2	1%
Fire Alarm	30	481	464	96%	9	2%	8	2%
Gas Tightness	14	476	452	95%	5	1%	19	4%
Heating Plant	14	1590	1440	91%	28	2%	122	8%
Legionella	14	480	445	93%	20	4%	15	3%
Lifts	14	164	163	99%	1	1%	0	0%
Lightning Protection	30	75	74	99%	0	0%	1	1%
Display Energy Certs (Corporate Sites)	30	63	59	94%	0	0%	4	6%
Asbestos Inspections	0	503	501	100%	0	0%	2	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	503	503	100%	0	0%	0	0%
Asbestos ASB3 Updates in C2	7	76	74	97%	2	3%	0	0%

Devon County Council Compliance Monitoring Report



September 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – September 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 2nd September 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 94% of 5517 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 2 nd September 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	142	125	88%	2	1%	15	11%
Automatic Doors	14	158	143	91%	0	0%	15	9%
Electrical Testing	14	569	556	98%	0	0%	13	2%
Emergency Lighting	30	490	459	94%	20	4%	11	2%
Extract Fans	30	340	333	98%	5	1%	2	1%
Fire Alarm	30	482	449	93%	20	4%	13	3%
Gas Tightness	14	477	450	94%	5	1%	22	5%
Heating Plant	14	1592	1426	90%	12	1%	154	10%
Legionella	14	480	408	85%	9	2%	63	13%
Lifts	14	165	106	64%	30	18%	29	18%
Lightning Protection	30	75	74	99%	0	0%	1	1%
Display Energy Certs (Corporate Sites)	30	62	59	95%	0	0%	3	5%
Asbestos Inspections	0	485	483	100%	0	0%	2	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	503	503	100%	0	0%	0	0%
Asbestos ASB3 Updates in C2	7	76	74	97%	2	3%	0	0%

Devon County Council Compliance Monitoring Report



October 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – October 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 1st October 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 95% of 5524 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 1 st October 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	151	107	71%	26	17%	18	12%
Automatic Doors	14	160	94	59%	32	20%	34	21%
Electrical Testing	14	595	585	98%	0	0%	10	2%
Emergency Lighting	30	491	441	90%	26	5%	24	5%
Extract Fans	30	343	326	95%	12	3%	5	1%
Fire Alarm	30	482	429	89%	29	6%	24	5%
Gas Tightness	14	485	463	95%	2	0%	20	4%
Heating Plant	14	1575	1455	92%	11	1%	109	7%
Legionella	14	456	446	98%	0	0%	10	2%
Lifts	14	167	136	81%	27	16%	4	2%
Lightning Protection	30	76	75	99%	0	0%	1	1%
Display Energy Certs (Corporate Sites)	30	62	59	95%	0	0%	3	5%
Asbestos Inspections	0	481	479	100%	0	0%	2	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	481	481	100%	0	0%	0	0%
Asbestos ASB3 Updates in C2	7	77	77	100%	0	0%	0	0%

Devon County Council Compliance Monitoring Report



November 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – November 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 3rd November 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5474 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 3 rd November 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	152	134	88%	0	0%	18	12%
Automatic Doors	14	159	136	86%	2	1%	21	13%
Electrical Testing	14	594	576	97%	7	1%	11	2%
Emergency Lighting	30	486	453	93%	21	4%	12	2%
Extract Fans	30	342	326	95%	9	3%	7	2%
Fire Alarm	30	477	441	92%	22	5%	14	3%
Gas Tightness	14	488	468	96%	4	1%	16	3%
Heating Plant	14	1566	1445	92%	27	2%	94	6%
Legionella	14	448	444	99%	1	0%	3	1%
Lifts	14	164	161	98%	0	0%	3	2%
Lightning Protection	30	76	68	89%	7	9%	1	1%
Display Energy Certs (Corporate Sites)	30	63	46	73%	1	2%	16	25%
Asbestos Inspections	0	459	457	100%	0	0%	2	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	459	458	100%	1	0%	0	0%
Asbestos ASB3 Updates in C2	7	74	73	99%	1	1%	0	0%

Devon County Council Compliance Monitoring Report



December 2014

NPS report to Devon County Council's Property Maintenance & Compliance Manager – December 2014

This Report provides a monthly update on the currency of the compliance data against agreed tolerances for the key compliance areas. As at 1st December 2014 the overall position is as follows:

Total % of equipment within date and acceptable tolerance: 96% of 5467 Items/installations

Summary in respect of position of key compliance areas:

The table below gives an overall summary of the currency of the compliance data held in C2 against key compliance areas. The stated figures include DCC's Corporate Estate, subscribing members to the Devon Maintenance Partnership, VA Promise Mk 5 and the Children Centre Maintenance Partnership.

Summary in respect of position of key compliance areas as at 1 st December 2014								
			Within date		Between 0 days and tolerance		Out of tolerance	
Compliance Area	Tolerance (days)	Total Items	Number	%	Number	%	Number	%
Air Conditioning and Cooling Systems	14	153	133	87%	1	1%	19	12%
Automatic Doors	14	155	141	91%	9	6%	5	3%
Electrical Testing	14	593	557	94%	15	3%	21	4%
Emergency Lighting	30	483	465	96%	8	2%	10	2%
Extract Fans	30	342	333	97%	2	1%	7	2%
Fire Alarm	30	474	452	95%	8	2%	14	3%
Gas Tightness	14	491	476	97%	1	0%	14	3%
Heating Plant	14	1569	1474	94%	4	0%	91	6%
Legionella	14	446	442	99%	0	0%	4	1%
Lifts	14	163	108	66%	47	29%	8	5%
Lightning Protection	30	75	74	99%	0	0%	1	1%
Display Energy Certs (Corporate Sites)	30	63	46	73%	1	2%	16	25%
Asbestos Inspections	0	460	459	100%	0	0%	1	0%
		During Past Year	0-7 Days		8-21 Days		Over 21 Days	
			Number	%	Number	%	Number	%
Asbestos Annual Updates in C2	21	460	460	100%	0	0%	0	0%
Asbestos ASB3 Updates in C2	7	77	77	100%	0	0%	0	0%