

## Part 4: Rules of Procedure

### 4.1 Procedural Standing Orders

#### Introduction

These Standing Orders regulate the proceedings of the Council Meetings and a range of Committee meetings. All the Standing Orders apply to meetings of the Council. Rules 4 to 26 (except where clearly inappropriate – for example Standing Order 18.1) shall apply to meetings of Committees. The word “Committee” includes the Cabinet, the Overview and Scrutiny Committees and all the bodies referred to in Article 8 of this Constitution. In addition, where a Panel or a Forum that includes Council Members in its membership has been established then Rules 4 to 27 shall be deemed to apply.

The word “he” is deemed to include references to “she” or the feminine form of address where appropriate. If a Member requires any advice on the operation of these Standing Orders; any advice on the statutory provisions that affect Council and Committee meetings; or any advice on the declaration of interests at meetings, then he/she should contact the Chief Executive, the Monitoring Officer / Director of Governance and Licensing or the Democratic Services Manager before the meeting and they will be pleased to assist.

### **1. Annual meeting of the Council**

#### **1.1. Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May. The annual meeting will:

- a) elect a person to preside if the Chair of Council or the Vice Chair of Council is not present;
- b) elect the Chair of Council;
- c) elect the Vice Chair of Council;
- d) approve the minutes of the last meeting;
- e) receive any announcements from the Chair;
- f) elect the Leader of the Council (at the first Annual Meeting following elections);
- g) note the appointment of the Deputy Leader and the Cabinet by the Leader;
- h) confirm the largest opposition party as the formal opposition (or in the event of equal numbers determine which group should fulfil the role);
- i) appoint the three Overview and Scrutiny Committees, a Standards Committee and such other committees (except the Cabinet) as the Council considers appropriate to deal with matters that are neither reserved to the Council nor are executive

functions (as set out in Part 3, Table 1 of this Constitution) (Note: as from May 2011 the Leader appoints the Cabinet);

- j) agree the scheme of delegation as set out in Part 3 of this Constitution;
- k) approve a programme of ordinary meetings of the Council for the year; and
- l) consider any business set out in the notice convening the meeting.

## 1.2. **Selection of Councillors on Committees and Outside Bodies.**

1.2.1. At the annual meeting, the Council meeting will:

- a. decide which committees to establish for the municipal year;
- b. decide the size and terms of reference for those committees;
- c. decide the allocation of seats to political groups in accordance with the political balance rules (although this shall not apply to the Cabinet);
- d. receive nominations of Councillors to serve on each committee and outside body; and
- e. appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2. **Ordinary meetings**

2.1. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- a) elect a person to preside if the Chair and Vice Chair are not present;
- b) deal with any business required by statute to be done before any other business;
- c) approve the minutes of the last meeting;
- d) deal with business expressly required by statute to be done;
- e) receive any communications or announcements from the Chair, the Leader; or a Portfolio Holder;
- f) the Leader or a Portfolio Holder shall answer any questions asked by Members of the Council by virtue of Rule 9;
- g) deal with any business from the last Council meeting;
- h) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- i) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- j) consider motions; and
- k) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.

2.2. The Council may vary the order of business so as to give precedence to any business which, in the opinion of the Chair, is of a special urgency, but such a variation shall not displace business falling under items (a) and (b) in this rule.

### **3. Extraordinary meetings**

#### **3.1. Calling extraordinary meetings**

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- a. the Council by resolution;
- b. the Chair of the Council;
- c. the Monitoring Officer having first notified the Chair of the Council; and
- d. any five Members of the Council if they have signed a requisition containing the motion to be considered presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **3.2. Business**

At an extraordinary meeting the business to be conducted shall be limited to a single item of business or motion full details of which shall be set out on the summons calling the meeting.

### **4. Time and place of meetings**

- 4.1. The time and place of meetings will be determined by the Chief Executive and notified in the summons.

### **5. Notice of and summons to meetings**

- 5.1. The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. Normally at least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **6. Chairing of meeting**

- 6.1. The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chair of committees and sub-committees.
- 6.2. Specifically in respect of the Planning Committee where the Committee is considering a matter in the Chair's ward, then for that matter only the Vice Chair shall take on the role of Chair of the meeting. Once the matter has been considered then the Chair and Vice Chair shall continue in their normal roles.

## **7. Quorum**

- 7.1. The quorum of a meeting will be one quarter of the whole number of Members or such other number as may be specified in the Terms of Reference relevant to that committee (as set out in Section 2 of Part 3). During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. Questions and statements by the public**

- 8.1. Subject to 8.2, there shall be a fifteen minute period at the commencement of Council and Committee meetings for members of the public to ask questions or make statements, with the exception of the Licensing and Enforcement Sub Committee, the Standards Hearings Sub Committee, Interviewing (Chief Officer) Sub Committee, Employment Appeals Sub Committee, Investigating and Disciplinary Sub Committee, Grievance Sub Committee and the Planning Committee. Each individual questioner exercising a right during the public question time to be restricted to speaking for a total of 3 minutes; where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group. The public speaking arrangements for Planning Committee are as approved by Council in July 2014. Public speaking arrangements for the Strategic Planning Committee will generally be as stated above however alternative arrangements appropriate to the content of the meeting will put in place at the discretion of the Chair in consultation with Democratic Services, Legal Services and the Assistant Director Planning Strategy & Development Management.
- 8.2. Where a question does not relate to an agenda item, and a response is required from a member or an officer, the question must be submitted to Democratic Services two working days before the meeting to give time for a response to be prepared. Where such advance notice is given, the questioner may ask a supplementary question at the meeting, if it is relevant to the original question.
- 8.3. At all meetings of the Cabinet, the Overview and Scrutiny Committees and Audit and Governance Committees, members of the public have the general right to make statements and/or ask questions in respect of all agenda items that are not to be considered in Part B [the part of the meeting to which the public is not admitted]. The normal procedure to be that after a report has been introduced by the relevant Portfolio holder and/or officer the Chair will enquire of any member of the public whether they wish to speak in respect of the matter and/or ask questions. In each case, contributions from members of the public will be limited to 3 minutes.

- 8.4. The Chair of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.

## **9. Questions by Members**

### **9.1. On reports of the Cabinet or the Overview and Scrutiny Committees**

A Member of the Council may ask the Leader, a Portfolio Holder or the Chair of the Overview and Scrutiny Committees any question without notice upon an item of the report of the Cabinet or relevant Committee when that item is being received or under consideration by the Council.

Where the 15 minute public question period at Rule 8 is not exhausted by the public, councillors may ask questions without notice of the Leader and/or Portfolio holders.

### **9.2. Questions on notice at full Council**

Subject to Rule 9.3, a Member of the Council may ask: the Chair; the Leader or a Portfolio Holder Member of the Cabinet; or the Chair of any Committee or Sub-Committee a question on any matter in relation to which the Council has powers or duties or which affects the district.

### **9.3. Notice of questions**

A Member may only ask a question under Rule 9.2 if either: (a) they have given at least 3 working days' notice in writing of the question to the Chief Executive; or (b) the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the Chief Executive by noon on the day of the meeting.

### **9.4. Response**

An answer may take the form of: (a) a direct oral answer; (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

### **9.5. Supplementary question**

A Member asking a question under Rule 9.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## **10. Motions on notice**

### **10.1. Notice**

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least 5 Members, must be delivered to the Chief Executive not later than 10 clear days before the date of the meeting. These will be entered in a book open to public inspection.

Notwithstanding the above, where a notice of motion would have the effect of removing the Leader from office this must be signed by at least 15 Councillors.

**10.2. Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

**10.3. Clarification of motion on notice**

Where a motion on notice has been submitted in accordance with this standing order, and prior to the despatch of the agenda, the Chief Executive may seek to clarify the purpose and/or wording of such a motion (such action may include recommending its rewording) so as to ensure that any such motion, if approved, is compliant with the Council's legal and administrative powers.

**10.4. Referral of motion to relevant committee**

Where the wording of the motion is not immediately relevant to the business of the Council, the presumption is that it will be referred to the relevant committee or the relevant committee of the three Overview and Scrutiny Committees in the first instance to enable research to be properly carried out into the issue to facilitate a relevant and informed debate.

**10.5. Portfolio holder response to motion**

The Leader, at his discretion, may invite a Portfolio Holder to respond to a motion or a question (under Procedural Rule 9.2).

**10.6. Scope**

Motions must be about matters for which the Council has a responsibility or which affect the district.

**11. Motions without notice**

**11.1.** The following motions may be moved without notice:

- a) to appoint a Chair of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;
- e) to appoint a committee or Member arising from an item on the summons for the meeting;
- f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion;
- i) to proceed to the next business;

- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) to suspend a particular Council procedure rule;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- p) to give the consent of the Council where its consent is required by this Constitution.

## **12. Rules of debate**

### **12.1. No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **12.2. Right to require motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

### **12.3. Secunder's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

### **12.4. Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair.

### **12.5. When a Member may speak again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- a) to speak once on an amendment moved by another Member;
- b) to move a further amendment if the motion has been amended since he/she last spoke;
- c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d) in exercise of a right of reply;
- e) on a point of order; and
- f) by way of personal explanation.

### **12.6. Amendments to Motions**

(a) An amendment to a motion must be relevant to the motion and will either be: (i) to refer the matter to an appropriate body or individual for consideration or reconsideration; (ii) to leave out words; (iii) to leave out words and insert or add

others; or (iv) to insert or add words; as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

**12.7. Alteration of motion**

- a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A Member may alter a motion that he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations that could be made as an amendment may be made.

**12.8. Withdrawal of motion**

A Member may withdraw a motion that he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

**12.9. Right of reply**

- a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. The proposer of the amendment shall also be entitled to reply.
- c) A Member exercising a right of reply shall not introduce new matter.

**12.10. Motions that may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- a) to withdraw a motion;
- b) to amend a motion;



- c) to proceed to the next business;
- d) that the question be now put;
- e) to adjourn a debate;
- f) to adjourn a meeting;
- g) to exclude the public and press in accordance with the Access to Information Rules;  
and
- h) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

**12.11. Closure motions**

a) A Member may move, without comment, the following motions at the end of a speech of another Member:

- (i) to proceed to the next business;
- (ii) that the question be now put;
- (iii) to adjourn a debate;
- or (iv) to adjourn a meeting.

b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

d) If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Chair thinks the item has not been sufficiently discussed or cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

**12.12. Point of order**

A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final.

**12.13. Personal explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member that may appear

to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

### **13. Previous decisions and motions**

#### **13.1. Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 Members.

#### **13.2. Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **14. Voting**

**(Note: Under S.106 of the Local Government Finance Act 1992, any Member who is two months or more in arrears with Council Tax payments must declare the fact and not vote at any meeting at which budget or Council Tax matters are being discussed).**

#### **14.1. Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

#### **14.2. Chair's casting vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### **14.3. Show of hands**

Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### **14.4. Ballots**

The vote will take place by ballot if 15 Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### **14.5. Recorded vote**

If the meeting so decides (prior to a vote being taken) the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

**14.6. Budget decisions – mandatory recorded vote**

Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. 'Budget decision' is defined in Regulation 12 of the Local Authorities (Standing Orders) England) Regulations 2001.

**14.7. Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. (This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations).

**14.8. Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

**14.9. Removal of Leader**

If Council passes a resolution to remove the Leader from office, an election shall be held for a new Leader either at that meeting or at a subsequent Council meeting.

**15. Minutes****15.1. Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

**15.2. No requirement to sign minutes of previous meeting at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations.

**16. Record of attendance**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

**17. Exclusion of public**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public).

**18. Members' conduct**

**18.1. Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

**18.2. Chair standing**

When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

**18.3. Member not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

**18.4. Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**18.5. Disclosable pecuniary interest**

Unless a dispensation has been granted, a Member shall not participate in any discussion of, or vote on, any matter in which they have a disclosable pecuniary interest and having first declared to the meeting the existence and nature of that interest shall withdraw from the room where the meeting is being held at the commencement of the consideration of that business, or (if later) the time at which the interest becomes apparent. Where the disclosable pecuniary interest is sensitive (as defined on the Member Code of Conduct) the Member need not disclose the nature of that interest but must still state there is a disclosable pecuniary interest and otherwise follow the requirements of the previous paragraph.

**18.6. General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

## **19. Disturbance by public**

### **19.1. Removal of member of the public**

If a member of the public interrupts proceedings or is found to be recording the proceedings of the meeting in contravention of the appropriate Regulations, the Chair will warn the person concerned. If they continue to interrupt or record the meeting in contravention of the appropriate Regulations, the Chair will order their removal from the meeting room and the forfeiture of the unauthorised recording.

### **19.2. Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## **20. Suspension and amendment of Council Procedure Rules**

### **20.1. Suspension**

All of these Council Rules of Procedure except Rule 14.6 and 15.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

### **20.2. Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **21. Motions affecting persons employed by the Council**

If any question arises at a meeting of the Council to which the Local Government Act 1972 applies by virtue of Section 100(A)(4) concerning the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under Section 100(A)(4) of the Local Government Act 1972 shall be exercised.

## **22. Sealing of documents**

The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council, or of a Committee, or authority of a Portfolio Holder or officer to which the Council [or, where appropriate, the Leader] have delegated their powers in this behalf. A resolution of the Council, a Committee or the decision of a Portfolio Holder or of an officer acting pursuant to the powers delegated to him shall be a sufficient authority for sealing any document necessary to give effect to the resolution or decision. The seal shall be attested by the Chief Executive or Director of Governance and Licensing or the Principal Solicitor. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for

the purpose and shall be signed by the person or by persons who shall have attested the seal. Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Executive or the Director of Governance and Licensing.

**23. Inspection of documents**

A Member of the Council may for the purposes of his duty as a Member but not otherwise inspect any document that contains material relating to any business to be transacted, or which has been considered, at a meeting of the Council. If copies are available they shall be supplied on request. A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested; or has a personal and prejudicial interest within the meaning of the Code of Conduct for Members as set out in this Constitution. This standing order shall not preclude the Chief Executive or Director of Governance and Licensing from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client or where it appears to the Chief Executive that a document discloses exempt information of a description set out in Section 100F(2) of the Local Government Act 1972. All minutes of the Council or of any Committee shall be open for the inspection of any Member of the Council during office hours.

**24. Inspection of land, premises etc.**

A Member of the Council unless authorised to do so by the Council or a Committee, shall not have the right to inspect any lands or premises which the Council have the right or duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the Council.

**25. Proceedings at meetings**

No person shall disclose "confidential information" or "exempt information" in any circumstances without the prior permission of the Council. This Standing Order shall not however forbid disclosure of the resolution or any recommendation which has been made or other contents of the relevant minute. In the event of any Member of the Council disclosing such information, he shall be liable to investigation by the Monitoring Officer and report to the Standards Committee.

**26. Reports of Committees**

All Standing Committees shall submit a report to the Council on matters dealt with by that Committee. Such report shall be sent to each Member of the Council prior to the meeting at which the report will be considered. The minutes of the proceedings of a Committee shall not be the subject of discussion or debate at any Council meeting

unless either a notice of Motion has been given in accordance with Standing Order No.10, or a Member has submitted to the Chief Executive before the meeting a "called minute" slip or the Chair, at his discretion so allows.

**27. Attendance when not a Committee Member**

- 27.1.** A Member of the Council who has proposed a motion which has been referred to any Committee shall have notice of the meeting of the Committee at which it is proposed to consider the motion, and if he attends, shall have an opportunity of explaining it.
- 27.2.** A Member of the Council may attend all proceedings of any Committee of the Council.
- 27.3.** A Member of the Council who wishes to raise any matter appropriate to a Committee of which he is not a Member, may do so by giving notice in writing to the Chief Executive at least two clear days before the next ordinary meeting of the appropriate Committee. The Member may also attend a special meeting if the matter in which he is interested is to be discussed by that special meeting. Such notice shall contain particulars of the matter that he wishes to raise. He shall then have the right to explain and discuss the matter.
- 27.4.** Any Member of the Council attending a meeting of which he is not a Member shall not be able to propose or second any motion nor to vote at that meeting. Except as otherwise provided in this Standing Order he shall not be entitled to speak at that meeting (except with the consent of the meeting).

## 4.2 Access to Information Procedure Rules

### 1. Scope

These rules apply to all public meeting of the Council, the Cabinet, and all Committees and Sub Committees.

### 2. Additional rights to information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. These rules do not limit or diminish or limit the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

### 3. Rights to attend meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

### 4. Notices of meeting

The Council will normally give at least five clear days' notice of any meeting by posting details of the meeting at the Council Offices, Blackdown House, Heathpark Industrial Estate, Border Road, Honiton, Devon, EX14 1EJ (the designated office), such other place where the meeting may be held, and on its web site ([www.eastdevon.gov.uk](http://www.eastdevon.gov.uk))

### 5. Access to agenda and reports before the meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting or when notice of the meeting is given. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

### 6. Supply of copies

The Council will supply copies of: (a) any agenda and reports which are open to public inspection; (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

### 7. Access to minutes etc. after the meeting

The Council will make available copies of the following for six years after a meeting: (a) the minutes of the meeting or records of decisions taken, together with reasons, for all



meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information; (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record; (c) the agenda for the meeting; and (d) reports relating to items when the meeting was open to the public.

## **8. Background papers**

### **8.1. List of background papers**

The officer submitting a report will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion: (a) disclose any facts or matters on which the report or an important part of the report is based; and (b) which have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information (as defined in Rule 2.10).

### **8.2. Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. Background papers relating to executive decisions will normally also be available on the Council's website.

## **9. Summary of public's rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the Council's main offices and on the Council's web site.

## **10. Exclusion of access by the public to meetings**

### **10.1. Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **10.2. Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6. (Article 6 refers to "the interests of morals, public order or national security in a

democratic society, where the interest of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary... in special circumstances where publicity would prejudice the interests of justice”).

**10.3. Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

**10.4. Meaning of exempt information**

Exempt information means information falling within the following categories, if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

<b>Category</b>	<b>Relevant Definitions</b>
1 Information relating to any individual	
2 Information which is likely to reveal the identity of an individual	
3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)	“financial or business affairs” includes contemplated, as well as past or current, activities
4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	“labour relations matter” means a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act) or; b) any dispute about a matter falling within paragraph a) about “employee” means a person employed under a contract of service “office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority
5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6 Information which reveals that the authority proposes: a) to give under any enactment a notice under or by virtue of which requirements are imposed in person; or b) to make an order or direction under any enactment	
7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993

## **11. Exclusion of access by the public to reports**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. Application of rules to the Cabinet**

Rules 13-24 apply to the Cabinet and its committees (if any). If the Cabinet meets to take a key decision it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12 of this Constitution. Rules 1-11 do not apply to meetings of the Cabinet whose sole purpose is for officers to brief the Cabinet and at which no key decision shall actually be taken.

## **13. Procedure before taking key decisions**

### **13.1. Notice of Key Decision**

Subject to Rules 15 (general exception) and 16 (urgency) below, no key decision may be taken unless:

- 13.1.1. a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
- 13.1.2. at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and
- 13.1.3. where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **13.2. Contents of Notice of Key Decision**

The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees

or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

- 13.2.1. the matter in respect of which the decision is to be made;
- 13.2.2. where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;
- 13.2.3. the date on which, or the period within which, the decision is to be made;
- 13.2.4. a list of the documents submitted to the decision maker for consideration in relation to the matter;
- 13.2.5. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- 13.2.6. that other documents relevant to those matters may be submitted to the decision maker; and
- 13.2.7. the procedure for requesting details of those documents (if any) as they become available.

### **13.3. Publication of the Notice of Key Decision**

The Notice of Key Decision must be made available for inspection by the public at Blackdown House, Heathpark Industrial Estate, Border Road, Honiton, Devon, EX14 1EJ and on the council website. Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## **14. The Forward Plan**

The Council is not required by law to publish a Forward Plan. However, the Notice of Key Decision and a Notice of Private Meeting of Cabinet published by the Council set out not just details of specific key decisions, but also details of key decisions over a four month period. In this Constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

## **15. General Exception**

- 15.1.** If a Notice of Key Decision has not been published, then subject to Rule 16 (special urgency), the decision may still be taken if:
  - 15.1.1. the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
  - 15.1.2. Chief Executive has informed the Chair of the Overview Committee, or in his absence the Vice-Chair, in writing, or if there is no such person, each Member of that committee in writing, by notice, of the matter about which the decision is to be made;
  - 15.1.3. the Chief Executive has made copies of that notice available to the public at the offices of the Council and at [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk); and
  - 15.1.4. at least 5 clear days have elapsed since the Chief Executive complied with 15.1.2 and 15.1.3.
- 15.2.** As soon as reasonably practicable after the Chief Executive has complied with Rule 15.1, he must make available at Blackdown House, Heathpark Industrial Estate, Border Road,

Honiton, Devon, EX14 1EJ and publish on the council website (if any) the reasons why compliance with Rule 13 is impractical.

## **16. Special Urgency**

**16.1.** If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chair of the Overview Committee and the Monitoring Officer that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview Committee, or if the Chair of the Overview Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice Chair will suffice.

**16.2.** As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 he must make available at Blackdown House, Heathpark Industrial Estate, Border Road, Honiton, Devon, EX14 1EJ and publish on the council website (if any) a notice setting out the reasons why the meeting is urgent and taking the decision cannot reasonably be deferred.

## **17. Report to Council**

**17.1.** When the Overview Committee or the Scrutiny Committee thinks that a key decision has been taken which was not:

17.1.1. the subject of a Notice of Key Decision; or

17.1.2. the subject of the general exception procedure; or

17.1.3. the subject of an agreement with the Chair of the Overview Committee, or the Chair or Vice Chair and the Monitoring Officer under Rule 16;

it may require the Cabinet to submit a report to the Council within such reasonable time as the Overview Committee or the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Cabinet believing that the decision was a key decision. The power to require a report shall be raised by resolution passed at a meeting of the Committee following receipt and consideration of any relevant explanation by a Member of the Cabinet.

## **17.2. Cabinet's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual Member or body making the decision, and if the Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

**17.3. Annual reports on special urgency decisions**

In any event the Leader of the Council will submit annual reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding twelve months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

**18. Record of Decisions**

After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Chief Executive or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

- 18.1. a record of the decision including the date it was made;
- 18.2. a record of the reason for the decision;
- 18.3. details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;
- 18.4. a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- 18.5. in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

All decisions shall be treated as made but not implemented (unless they are the subject of Rule 16 and their implementation cannot wait) for the purposes of the "call-in" procedure in Rule 15 of the Overview and Scrutiny Procedure Rules.

**19. Meetings of the Cabinet to be held in public**

- 19.1. Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

**20. Notice of Private Meetings of the Executive**

- 20.1. Members of the Cabinet or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.
- 20.2. At least 28 clear days before a private meeting, the decision-making body must:
  - 20.2.1. make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and
  - 20.2.2. publish that notice on the Council's website.
- 20.3. At least five clear days before a private meeting, the decision-making body must:

- 20.3.1. make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
- 20.3.2. publish that notice on the Council’s website.
  
- 20.4. Notice under paragraph 20.3 must include:
  - 20.4.1. a statement of the reasons for the meeting to be held in private;
  - 20.4.2. details of any representations received by the decision-making body about why the meeting should be open to the public; and
  - 20.4.3. a statement of its response to any such representations.
  
- 20.5. Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:
  - 20.5.1. the Chair of the Overview Committee; or
  - 20.5.2. if there is no such person, or if the Chair of the Overview Committee is unable to act, the Chair of the Council; or
  - 20.5.3. where there is no chair of either the Overview Committee or of the Council, the Vice Chair of the Council, that the meeting is urgent and cannot reasonably be deferred.
  
- 20.6. As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must:
  - 20.6.1. make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
  - 20.6.2. publish that notice on the Council’s website.

## **21. Key Decisions by Portfolio Holder Members of the Cabinet**

### **21.1. Reports intended to be taken into account**

Where a Portfolio Holder Member of the Cabinet receives a report which he intends to take into account in making any key decision, then he will not make the decision until at least 5 clear working days after receipt of that report.

### **21.2. Provision of copies of reports to the Overview Committee and Scrutiny Committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give notice by means of an email to Members, and a copy of it shall be given (where appropriate) to the local Ward Members.

### **21.3. Record of individual decision**

As soon as reasonably practicable after a Cabinet decision has been taken by a Portfolio Holder Member of the Cabinet or a key decision has been taken by an officer, he will prepare, or instruct the Chief Executive to prepare, a report containing:

- 21.3.1. a record of the decision including the date it was made;
- 21.3.2. record of the reasons for the decision;



- 21.3.3. details of any alternative options considered and rejected by the Member when making the decision;
- 21.3.4. a record of any conflict of interest declared by any executive Member who is consulted by the Member which relates to the decision; and
- 21.3.5. in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by Portfolio Holder Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant. The decision shall be treated as made but not implemented for the purposes of the "call-in" procedure in Rule 15 of the Overview and Scrutiny Procedure Rules.

#### **21.4. Inspection of documents following executive decisions**

- 21.4.1. Subject to Rule 21.4.2, after a meeting of a decision-making body at which an executive decision has been made, or after a Portfolio Holder Member or an officer has made an executive decision the Chief Executive must ensure that a copy of
  - (a) any records prepared in accordance with Rules 18 or 21; and
  - (b) any report considered at the meeting or, as the case may be, considered by the Portfolio Holder Member or officer and relevant to a decision recorded in accordance with Rules 18 or 21 or, where only part of the report is relevant to such a decision, that part, must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council, and on the Council's website.
- 21.4.2. Nothing in these rules is taken to authorise or require the disclosure of confidential or exempt information.
- 21.4.3. Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule 21.4.1, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

## **22. Joint Committees**

These Rules apply to the Council's Joint Committees as follows:

- 22.1. If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.
- 22.2. If the joint committee contains members who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the full Council and its committees will apply.

## **23. The Overview and Scrutiny Committees and Sub-Committees - Access to Documents**

### **23.1. Rights to copies**

Subject to 23.2 below, any of the three Overview and Scrutiny Committees and their Sub-Committees will be entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its Committees;
- (b) any decision taken by a Portfolio Holder Member of the Cabinet; or
- (c) any decision taken by an Officer of the Council in accordance with executive arrangements.

The Cabinet must provide the document no later than 10 clear days after receipt of the request.

### **23.2. Limit on rights**

None of the Overview and Scrutiny Committees nor their Sub-Committees will be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Committee are reviewing or scrutinising or intend to scrutinise;
- (c) the advice of a political or mayoral assistant.

## **24. Additional rights of access for Members**

### **24.1. Material relating to key decisions**

All Members of the Council will be entitled to inspect any document 5 clear days before the meeting (except those available only in draft form) which are in the possession or under the control of the Cabinet and which contain material relating to any business to be transacted at a public meeting. Any document that is in the possession of the Cabinet and contains material relating to business transacted at a private meeting, or contains material relating to an executive decision made by an officer must be made available when the meeting concludes or immediately after the officer has taken the decision. A document is not required to be made available for inspection if it appears to the proper officer that it discloses exempt information other than paragraphs 3 and 6. All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet that relates to any key or other decision or any business to be transacted at a public meeting.

### **24.2.** A Member shall not knowingly inspect or request a copy of any document relating to a matter in which he:

- (a) is professionally interested; or
- (b) has a disclosable pecuniary interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

**24.3.** This shall not preclude the Director of Governance and Licensing from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

**24.4. Nature of rights**

These rights of a Member are additional to any other right he/she may have including the rights referred to in Standing Order 24 and applicable pursuant to the common law rights based on a “need to know”.

NOTE: These rules reflect The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

## 4.3 Budget and Policy Framework Procedure Rules

### 1. The framework for executive decisions

The Council will be responsible for the adoption of the budget and policy framework as set out in Article 4. Once a budget or an element of the policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### 2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- 2.1. After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget that forms part of the Council's budget and policy framework. Once drawn up the Chief Executive will serve copies of them on the chairs of the Overview and Scrutiny Committees together with dates when the Cabinet will consider them further.
- 2.2. The Overview and Scrutiny Committees will be convened to consider the draft proposals and whether any further consultation is appropriate. If so the Overview and Scrutiny Committees will carry out any necessary consultation and will reflect any representations made to it in its response to the Cabinet within the time scale set for decision by the Cabinet.
- 2.3. The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committees. The report to Council will show the Cabinet's response to those comments.
- 2.4. The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.
- 2.5. The Council's decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposal without amendment) or (if the Cabinet's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.
- 2.6. If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

- 2.7.** The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- 2.8.** The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in and shall be implemented immediately.
- 2.9.** In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework that may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

NOTE: Rule 2 is a summary of Part II to Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 to which detailed reference should be made if required.

### **3. Decisions outside the budget or policy framework**

- 3.1.** Subject to the provisions of paragraph 5 (virement) the Cabinet, individual Portfolio Holder Members of the Cabinet and any officers discharging executive functions may only take decisions that are in line with the budget and policy framework. If it is proposed to make a decision that is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- 3.2.** Where there is doubt as to the vires of a proposed decision advice shall be sought from the from the Monitoring Officer and the Chief Financial Officer as to whether the decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.

### **4. Urgent decisions outside the budget or policy framework**

- 4.1.** The Cabinet, a Portfolio Holder Member of the Cabinet or an officer may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency and: i) it is not practical to convene a quorate meeting of the full Council; and ii) the Chair of the Overview Committee agrees that the decision is a matter of urgency. The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Overview Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the

Overview Committee the consent of the Chair of the Council, and in the absence of both the Vice-Chair, will be sufficient.

- 4.2.** Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency

**5. Virement**

Virement can be authorised by the Cabinet or a Chief Officer within the limits set by Council. Details are set out in the Financial Regulations in Part 4.6 of this Constitution, which supplement Rule 2.9 of these Rules.

**6. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Portfolio Holder Member of the Cabinet or an officer must be in line with it. No changes to any policy and strategy that make up the policy framework may be made by those bodies or individuals except those changes: (a) that will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; (b) necessary to ensure compliance with the law, ministerial direction or government guidance; (c) in relation to the policy framework in respect of a policy that would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **7. Call-in of decisions outside the budget or policy framework**

- 7.1.** Where Scrutiny Committee is of the opinion that a decision of the Cabinet is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and Chief Financial Officer.
- 7.2.** In respect of functions that are the responsibility of the Cabinet, the Monitoring Officer's report or the Chief Financial Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 7.3.** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
- 7.3.1.** endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- 7.3.2.** amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- 7.3.3.** where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer.

## 4.4 Executive Procedure Rules

### 1. Operation of the Cabinet

#### 1.1. Who may make executive decisions?

Executive decisions may be made by: (i) the Cabinet as a whole; (ii) an individual Portfolio Holder Member of the Cabinet; (iii) an officer.

#### 1.2. The Council's scheme of delegation and executive functions

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council except for the scheme of delegations for executive functions which is determined by the Leader. The scheme of delegations is set out in Part 3 of this Constitution.

#### 1.3. Conflicts of Interest

1.3.1. Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.3.2. If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.3.3. If the exercise of an executive function has been delegated to an individual Portfolio Holder Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the Cabinet or otherwise as set out in the Council's Codes of Conduct in Part 5 of this Constitution.

#### 1.4. Cabinet meetings

The Cabinet will meet at least 11 times per year at times to be agreed by the Council. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Cabinet.

#### 1.5. Public meetings of the Cabinet

All meetings of the Cabinet will be held in public. Items will be considered in private session only if they qualify under the grounds to exclude the public set out in the Access to Information Procedure Rules.

#### 1.6. Quorum

The quorum for a meeting of the Cabinet shall be three.

#### 1.7. Executive Decisions

Executive decisions to be taken by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.



## **2. Conduct of Executive Meetings**

### **2.1. Who presides?**

If the Leader is present he/she will preside. In his absence, then the Deputy Leader shall preside. If both are absent the Cabinet will elect a Chair for the meeting.

### **2.2. Who may attend?**

Councillors who are not members of the Cabinet may attend and observe the proceedings of the Cabinet. They may speak at the meetings if the Leader (or other person presiding) consents to it. The Senior Officers are entitled to attend and to participate in all meetings of the Cabinet. The public and press can observe any proceedings of the Cabinet held in public session.

### **2.3. What business will be conducted at the Cabinet's meetings?**

At each meeting of the Cabinet the following business will be conducted:

2.3.1. consideration of the minutes of the last meeting;

2.3.2. matters referred to the Cabinet (whether by the Overview and Scrutiny Committees or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

2.3.3. consideration of reports from the Overview and Scrutiny Committees; and

2.3.4. matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### **2.4. Consultation**

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the budget and policy framework shall contain details of the nature and extent of consultation with stakeholders and the relevant Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.5. Who can put items on the Cabinet's agenda?**

The following may require an item to be considered at the next available meeting of the Cabinet: The Leader or any other Member of the Cabinet; The Council, or any Committee of the Council; any Senior Officer. In addition any Member of the Council (not on the Cabinet) may request the Leader that an item be considered by the Cabinet and it will be considered only at the discretion of the Leader.

### **2.6. Requirement for Written Report when making a decision**

All reports to the Cabinet, or to an individual Portfolio Holder Member of the Cabinet, recommending the making of a key decision or any other decision in respect of an

executive function shall be in writing. The report shall contain a summary of the purpose of the report together with other required information. In addition the report shall contain an assessment of the legal and financial implications (if any) arising from the report.

## 4.5 Overview and Scrutiny Procedure Rules

### 1. Arrangements for Overview and Scrutiny Committees

The Council shall have an Overview Committee, a Scrutiny Committee and a Housing Review Board as set out in Article 7 ('the Overview and Scrutiny Committees').

### 2. Who may sit on an Overview and Scrutiny Committee?

All Councillors except members of the Cabinet may be members of the Overview and Scrutiny Committees. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

### 3. Co-optees

The Overview Committee and the Scrutiny Committee shall be entitled to recommend to Council the appointment of up to 2 people as non-voting co-optees. The Housing Review Board may recommend to Council up to 7 co-optees (five tenant and leaseholder representatives and two independent community representatives who may vote).

### 4. Meetings of the Overview and Scrutiny Committees

There shall be at least 6 ordinary meetings of the Overview Committee, 10 ordinary meetings of the Scrutiny Committee and 5 of the Housing Review Board in each civic term. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview Committee and Scrutiny Committee meeting may be called by the Chair of the relevant Committee, by any 5 Members of the Committee or by the Chief Executive if he considers it necessary or appropriate.

### 5. Quorum

The quorum for each Committee shall be as follows: Overview Committee 5 Councillors; Scrutiny Committee 5 Councillors; Housing Review Board 4 Committee Members.

### 6. Who Chairs the Overview and Scrutiny Committees meetings?

The Chair for each meeting shall be the Chair of the relevant Committee appointed by Council at the Council's Annual Meeting; or in the absence of the Chair, the Vice Chair of the relevant Committee appointed by Council at the Council's Annual Meeting; or failing that, a Member elected by the meeting in the absence of both the Chair and Vice Chair. The Chair and Vice Chair shall work together to ensure the proper conduct of the Overview and Scrutiny Committees.

### 7. Work Programme

The Overview and Scrutiny Committees/sub-committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of

Members on that Committee who are not members of the largest political group on the Council.

## **8. Agenda items**

- 8.1.** Without prejudice to paragraph 15 below, any Member (whether a member of the Overview and Scrutiny Committees or not) may request an item be considered by one of the committees by completing a proposal form. The relevant committee shall then decide whether to progress matter to scoping and inclusion on the Forward Plan.
- 8.2.** The Chair of the relevant Overview and Scrutiny Committee shall retain the discretion to permit inclusion of an item on the agenda for the next available meeting of the Committee following a request by a Member of that Committee.

## **9. Policy review and development**

- 9.1.** The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 9.2.** In addition the Overview and Scrutiny Committees may make proposals to the Cabinet for the development of other matters in so far as they relate to matters within their terms of reference.
- 9.3.** The Overview and Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may, subject to budgetary provision, appoint advisers and assessors to assist them in this process. Overview and Scrutiny Committees will invite the relevant Members of the Cabinet to any such inquiries and investigations.

## **10. Reports from Overview and Scrutiny Committees**

The views of an Overview and Scrutiny Committee may be reported to the Cabinet and/or the Council, and the Chair of the respective Committee shall be entitled to address the meeting on that Committee's views.

## **11. Making sure that Overview and Scrutiny Committees' reports are considered by the Cabinet**

- 11.1.** The agenda for the Cabinet meetings shall include an item for the consideration of reports from the Overview and Scrutiny Committees.
  - 11.1.1.** Where an individual Member of the Cabinet has been delegated a decision making power;
    - 11.1.1.1.** the Overview and Scrutiny Committees may submit a report of their views on the matter to be decided to the Cabinet and to the individual Member; and
    - 11.1.1.2.** the individual Member shall not make the decision if he/she disagrees with the views of the Committee until the matter has been considered by the Cabinet.
- 11.2.** Overview and Scrutiny Committees will in any event have access to the Forward Plan. Where an item is not the subject of detailed proposals from the Overview and Scrutiny

Committees following a consideration of possible policy/service developments, the Committee will normally be able to respond to the Cabinet's consultation process in relation to any key decision.

## **12. Rights of the Overview and Scrutiny Committees' members to documents**

**12.1.** In addition to their rights as Councillors, members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

**12.2.** Nothing in this paragraph prevents more detailed liaison between the Cabinet and any of the Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

## **13. Members and officers giving account**

**13.1.** Each of the Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions relevant to the terms of reference of that Committee. As well as reviewing documentation it may require any Member of the Cabinet, the Chief Executive, any Chief Officer, Director and/or any Manager to attend before it to explain in relation to matters within their remit:

13.1.1. any particular decision or series of decisions;

13.1.2. the extent to which the actions taken implement Council policy; and/or

13.1.3. their performance.

And, subject to there being no reasonable reason to the contrary, it is the duty of those persons to attend if so required.

**13.2.** Where any Member or officer is required to attend any of the Overview and Scrutiny Committees under this provision, the Chair of that Committee will inform the Chief Executive. The Chief Executive will inform the Member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

**13.3.** Where the Member or officer is unable to attend on the required date, then that Committee shall in consultation with the Member or officer arrange an alternative date for attendance.

**13.4.** Notwithstanding the generality of the paragraphs above, all the Portfolio Holders shall, at least once in each civic year, provide a written report to Scrutiny on the activities they have undertaken within the remit of their Portfolio and shall, if requested by the Scrutiny Committee, attend a meeting of the Scrutiny Committee to answer questions

on the content of the report.

#### **14. Attendance by others**

Any of the Overview and Scrutiny Committees may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend. Attendance is of course entirely optional.

#### **15. Call-in**

**15.1.** Call-in may be exercised by the Scrutiny Committee. A “call-in” is where the Scrutiny Committee reviews a decision made by the Cabinet or one of its Members before the decision is implemented. Call-in should only be used in exceptional circumstances and in the interests of good administration. A decision cannot be called in more than once.

#### **15.2. Procedure for Call-In:**

- 15.2.1. A decision is made by the Cabinet or a Portfolio Holder but the decision does not come into effect until a Call-In period has elapsed.
- 15.2.2. Within two working days of the decision being made, the Chief Executive will notify all Council Members of the decision. The notice will include the date of the notification, and the date the decision will come into effect if there is no Call- In on it. The “effective date” of the decision which will be 09.00 am on the day after the expiry of three clear working days from the notification to Members. (Saturdays, Sundays and Bank Holidays are excluded). (For example, in respect of a decision made by the Cabinet on a Wednesday, notification will be given to all Members by Friday of the same week, and the effective date of the decision will be 09.00 am on the following Thursday).
- 15.2.3. A request for a Call-In of the decision must be received by the Chief Executive between the date of notification to Members and the effective date of the decision.
- 15.2.4. For the call-in to be valid, the request must satisfy all of the following provisions:
- 15.2.4.1. Be in writing (on paper or e-mail);
- 15.2.4.2. Specify the relevant decision that is to be the subject of the call-in and state the reasons for the call-in;
- 15.2.4.3. Be supported by at least five Councillors, one of whom shall be the Chair or Vice Chair of the Scrutiny Committee.
- 15.2.5. Once the Chief Executive is satisfied that the request is a valid request, he shall arrange for a Scrutiny Committee to meet as soon as possible on a date which is acceptable to the Chair of the Committee and a Chief Officer.

- 15.2.6. If having considered the decision, the Scrutiny Committee is still concerned about it, the Committee may refer it back to the decision-maker for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council.
- 15.2.7. If referred to the decision-maker, they shall consider the concerns, amending the decision or not, before adopting a final decision.
- 15.2.8. If within one calendar month from the date of the request for the call-in, a Scrutiny Committee does not meet, or does meet but does not refer the matter back to the decision-maker, or to full Council, the decision shall take effect on the date of the Scrutiny Committee meeting, or on the expiry of the one-month period, whichever is the earlier.
- 15.2.9. If the matter was referred to full Council, and the Council does not object to the decision, the decision will be effective immediately thereafter.
- 15.2.10. However, if the Council does object to the decision, it may:
  - 15.2.10.1. overrule the decision if it is contrary to the Policy Framework or the Budget, or
  - 15.2.10.2. refer it back to the decision-maker with the views of the Council in this case the decision-maker shall, within 14 working days, consider the Council's views and make a final decision, and the decision shall then be implemented.

### **15.3. Exceptions to Call-in:**

In order to ensure that call-in is not abused, nor causes unreasonable delay certain limitations are placed on its use. These are:

- 15.3.1. only decisions involving expenditure or reductions in service over a value of £10,000 may be called in;
- 15.3.2. If in the opinion of the Chief Executive the power of call-in is being abused with the apparent intention of unreasonably disrupting the Council's decision making process he may refuse to accept any or all requests.

## **16. Urgent Decisions**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent whether under Rule 16 of the Access to Information Procedure Rules or otherwise.

## **17. The Party Whip**

When considering any matter in respect of which a Member of any of the Overview and Scrutiny Committees is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **18. Procedure at Overview and Scrutiny Committee Meetings**

- 18.1.** The Overview and Scrutiny Committees shall consider the following business:
- 18.1.1. minutes of the last meeting;
  - 18.1.2. consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - 18.1.3. responses of the Cabinet to reports of the Overview and Scrutiny Committees; and
  - 18.1.4. the business otherwise set out on the agenda for the meeting.
- 18.2.** Where any of the Overview and Scrutiny Committees conducts investigations (for example, with a view to policy development), that Committee may also ask people to attend to give evidence at committee meetings that are to be conducted in accordance with the following principles:
- 18.2.1. that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - 18.2.2. that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - 18.2.3. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 18.3.** Following any investigation or review, that Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.
- 18.4.** NOTE: References in this Part to 'Members of the Cabinet' does not include the Assistant Portfolio Holders.



## 4.6 Financial Regulations

Within these Regulations Director of Finance means the officer with the statutory responsibility for the proper administration of the Council's financial affairs in accordance with S151 of the Local Government Act 1972, i.e. Chief Finance Officer.

### 1. Status of financial regulations

#### 1.1. Purpose

1.1.1. These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs.

#### 1.2. Status

1.2.1. The Local Government Act 1972 (Section 151) makes the Chief Finance Officer (Director of Finance) responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities.

#### 1.3. Scope

1.3.1. The regulations set out the Council's requirements in respect of:

- financial management roles and responsibilities
- financial planning and budgeting
- financial monitoring and control
- internal control and audit
- financial systems and procedures
- external arrangements

1.3.2. The regulations apply to the control of both the General Fund finances and the Housing Revenue Account.

1.3.3. Appendix 1 to the Regulations comprises the 'Schedule of Financial Authority to Officers' which sets out the approved financial limits within which officers may conduct the Council's business.

#### 1.4. Compliance

1.4.1. These Regulations apply to every member and officer of the Council and to anyone acting on its behalf. Failure to comply may constitute misconduct and lead to formal disciplinary action.

1.4.2. All Council members and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, and achieves value for money. In doing so, proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.

#### 1.5. Maintaining the regulations

1.5.1. The Director of Finance is responsible for:

- 1.5.1.1. Maintaining and updating these Regulations and the Schedule of Financial Authority to Officers.
- 1.5.1.2. Ensuring that any revisions affecting the powers of members are approved by the Council.
- 1.5.1.3. Reviewing and reissuing Financial procedures/instructions as necessary to support the effective operation of these Regulations.

## **2. Financial management roles and responsibilities**

### **2.1. Principles**

- 2.1.1. A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.
- 2.1.2. All members and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public monies.

### **2.2. Members**

- 2.2.1. Members responsibilities' for the overall management of the Council's financial affairs are exercised through:
  - 2.2.1.1. Full Council, which is responsible for approving the Council's overall policy framework and the budget within which the Cabinet operates, setting Prudential Indicators for capital finance and treasury management, setting limits for virements and approving the Council's treasury management and investment strategies;
  - 2.2.1.2. The Cabinet, which is responsible for proposing the policy framework and budget to the Council and for discharging executive functions in accordance with December 2020 157 it. Executive decisions can be delegated to a committee of the Cabinet, or by the Leader to an individual Cabinet member or an officer;
  - 2.2.1.3. Audit and Governance Committee, which is responsible approving the Annual Statement of Accounts for publication, oversight of the Council's governance arrangements and audit and anti-fraud activity;
  - 2.2.1.4. Overview and Scrutiny Committees, which oversee the budget process including its implementation.

### **2.3. The Director of Finance**

- 2.3.1. The Director of Finance has statutory and delegated duties in relation to the financial administration and stewardship of the Council. The statutory responsibilities cannot be overridden and arise from:
  - Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 2015
  - The Local Authorities Goods and Services Acts 1970
  - The Local Government Acts 2000 and 2003
  - The Localism Act 2011

- 2.3.2. Responsibilities of the Director of Finance include:
- 2.3.2.1. The proper administration of the Council’s financial affairs including all arrangements concerning financial planning, financial control, accounting, taxation, income, debt management, insurance, investments, banking, loans, leasing, borrowing and the payment of creditors, salaries and wages.
  - 2.3.2.2. Preparing the Revenue Budget and reporting to the Council on the robustness of the estimates and the adequacy of reserves.
  - 2.3.2.3. Preparing the Capital Programme, ensuring effective forward planning and sound financial management in its compilation.
  - 2.3.2.4. Ensuring that accurate and timely financial information is available to enable effective budget monitoring and reporting and taking action if overspends or shortfalls in income emerge.
  - 2.3.2.5. Reporting to full Council if it is likely that any proposed action or decision will lead to unbudgeted or unlawful expenditure or activity.
  - 2.3.2.6. Advising on the systems of internal control necessary for sound financial management and decision making and to ensure that public funds are properly safeguarded and used economically, efficiently, and effectively.
  - 2.3.2.7. Maintaining an adequate and effective internal audit function and an effective Anti-Fraud and Corruption strategy.
  - 2.3.2.8. Preparing the Council’s Risk Management Strategy and advising on the management of strategic, financial and operational risks.
  - 2.3.2.9. Determining the accounting procedures and records for the Council and ensuring that they are applied consistently.
  - 2.3.2.10. Preparing the Council’s Annual Statement of Accounts and Governance Statement in accordance with all applicable codes of practice on local authority accounting.
  - 2.3.2.11. Preparing and implementing an effective Treasury Management Strategy and effecting all investments and borrowings within the limits imposed by the Council.
  - 2.3.2.12. Advising on, monitoring and reporting on performance in relation to Prudential Indicators set by the Council for capital expenditure, external debt and treasury management.
  - 2.3.2.13. Ensuring that effective asset management arrangements are in place.
  - 2.3.2.14. Advising on the risks and financial implications associated with joint working, external funding and trading opportunities.
  - 2.3.3. The Director of Finance may allocate his/her day-to-day responsibilities to an appropriate representative in accordance with the Scheme of Delegated Authority to Officers and the Schedule of Financial Authority to Officers.

## **2.4. Budget Managers**

- 2.4.1. Whilst the Director of Finance has overall responsibility for the finances of the Council, budget managers are responsible for the day-to-day management of their respective budget areas. Their responsibilities in relation to financial management include:

- 2.4.1.1. Promoting and ensuring compliance with these Regulations and associated financial instructions/procedures and taking corrective action in the event of any non-compliance.
- 2.4.1.2. Preparing annual Revenue Budget estimates and Capital Programme estimates in accordance with the guidance issued by Cabinet and the Director of Finance.
- 2.4.1.3. Ensuring that the financial implications of all proposals are properly reflected within all decision making reports and that these have been agreed with the Director of Finance or his/her nominated representative.
- 2.4.1.4. Managing service delivery and containing expenditure within the agreed revenue and capital budgets.
- 2.4.1.5. Maintaining sound systems of internal control and implementing agreed internal and external audit recommendations.
- 2.4.1.6. Complying with the Council's Anti-Fraud and Corruption Strategy and reporting suspected fraud and financial irregularities to the Director of Finance for possible investigation.
- 2.4.1.7. Complying with the Council's Risk Management Strategy and notifying the Director of Finance immediately of significant risks to the Council's financial position.
- 2.4.1.8. Ensuring that all financial transactions are recorded through the main accounting system.
- 2.4.1.9. Assisting cash flow through timely billing of income due, monitoring income received and taking appropriate action in the event of non-payment.
- 2.4.1.10. Assisting cash flow through minimising advance payments wherever possible.
- 2.4.1.11. Ensuring that all expenditure incurred complies with the requirements of Contract Standing Orders and procurement rules and has the necessary budgetary approval.
- 2.4.1.12. Controlling resources and containing staff numbers within approved establishment and budget levels and ensuring that all employee appointments and payments are properly authorised in compliance with the Council's policies.
- 2.4.1.13. Ensuring the proper security and safe custody of all assets under their control.
- 2.4.1.14. Ensuring that the risks and financial implications associated with joint working, external funding and trading opportunities are properly evaluated and that no such arrangements are entered into without the necessary approvals.
- 2.4.1.15. Ensuring that financial authorities are operated in accordance with the limits contained within the Schedule of Financial Authority to Officers and that a written record of authorised officers is maintained.

## **2.5. All Officers**

- 2.5.1. In addition to the specific responsibilities set out above the Council expects all officers to:
  - 2.5.1.1. Act in good faith, impartially and in accordance with their positions of trust.
  - 2.5.1.2. Exercise due care in relation to all resources, assets, income and expenditure within their care or control.
  - 2.5.1.3. Ensure that proper records and documentation are maintained of the Council's assets and financial transactions

- 2.5.1.4. Comply with these Regulations, the associated Financial Instructions/Procedures and any additional guidance issued to ensure the effective control of the Council's resources.
- 2.5.1.5. Co-operate in audits of the Council's financial systems.
- 2.5.1.6. Report any suspected financial irregularities for investigation.

### **3. Financial planning and budgeting**

#### **3.1. Principles**

- 3.1.1. The purpose of financial planning is to set out and communicate the Council's objectives, resource allocations and related performance targets and to provide an agreed basis for subsequent management control, accountability and reporting.
- 3.1.2. Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for the Council to budget for a deficit.
- 3.1.3. The Council's budget sets agreed parameters around the annual activities and functions of service areas and is constructed within the context of the Financial Plan (which includes the Medium Term Financial Plan). It reflects the priorities of the Council.
- 3.1.4. The Capital Programme sets out the resource allocations to be made to capital schemes that have the approval of Council. Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the organisation, such as land, buildings, major items of plant, equipment and vehicles.
- 3.1.5. To enable members to make informed decisions, all Cabinet and Committee reports must incorporate a separate section on 'financial implications', which will be prepared by the Finance Team. Reports must show the costs or savings of proposals together with any approved budget provision, future commitments, potential risks, tax implications and any other financial consequences which may arise from the options and recommendations.

#### **3.2. Revenue Budget**

- 3.2.1. The Director of Finance is responsible for:
  - 3.2.1.1. Ensuring that an annual Revenue Budget and Council Tax Report is prepared in the context of a Medium Term Financial Plan for consideration by Cabinet and approval by Council.
  - 3.2.1.2. Maintaining a financial planning and resource allocation process that properly reflects the Council's policy framework and strategic objectives.
  - 3.2.1.3. Advising the Cabinet on the format of the budget and its responsibility for issuing guidance on budget preparation taking due account of:
    - legal requirements
    - medium-term planning prospects
    - the Council Plan and priorities
    - available resources
    - spending pressures
    - government initiatives and public policy requirements

- internal policy directives

- 3.2.1.4. Advising the Council on the budget proposals in accordance with his/her responsibilities under S151 of the Local Government Act 1972.
- 3.2.1.5. Advising the Cabinet and Council on a prudent level of reserves for budget purposes and ensuring any appropriate contingency provisions are maintained.
- 3.2.1.6. Considering and approving or rejecting requests for the creation of earmarked reserves.
- 3.2.1.7. Approving or rejecting transfers to or from reserves, or the re-designation of existing reserves.
- 3.2.1.8. Undertaking the statutory consultation with Non-Domestic Rates (NDR) payers.
- 3.2.1.9. Issuing detailed procedures on the preparation of Revenue Budget estimates.
- 3.2.2. Budget managers are responsible for:
  - 3.2.2.1. Preparing annual Revenue Budget estimates in accordance with the guidance issued by Cabinet and the detailed procedures issued by the Director of Finance, ensuring that these reflect agreed priorities and advising Cabinet Members on service implications.
  - 3.2.2.2. Establishing detailed budgets for each service area in advance of the financial year and requiring such budgets to be managed by responsible named budget managers.
  - 3.2.2.3. Integrating financial and budget plans with service planning.
  - 3.2.2.4. Ensuring that any approved withdrawals from reserves are applied for their intended purposes.

### **3.3. Capital Programme**

- 3.3.1. No expenditure may be incurred on a capital project unless it has been approved by Council. The formulation and monitoring of capital projects for recommendation to Cabinet is through the Budget Setting and Capital Allocation Panel which is chaired by the Portfolio Holder for Finance. This Group meets quarterly and is responsible for:
  - 3.3.1.1. The strategic development of the Council's capital programme and capital strategy in accordance with the Council Plan.
  - 3.3.1.2. To consider any proposal for the use of capital against Council's priorities.
  - 3.3.1.3. To review potential risk and Value for Money issues on any proposal for the use of capital.
  - 3.3.1.4. To recommend a programme of capital spend within the confines of financing available.
  - 3.3.1.5. To provide a forum for establishing and providing robust challenge and debate around the capital programme.
  - 3.3.1.6. To monitor the performance of projects in accordance with the Council's Project Management Guidelines and programmes within the Council's capital programme.
  - 3.3.1.7. To ensure that investments in projects are backed up with a business case in accordance with the Project Management Guidelines.
- 3.3.2. The Director of Finance is responsible for:
  - 3.3.2.1. Ensuring that a five year rolling Capital Programme is prepared on an annual basis for consideration by the Budget Setting and Capital Allocation Panel and approved by Cabinet and Council.

- 3.3.2.2. Issuing strategic guidance on budget preparation and issuing detailed guidelines which take account of legal, regulatory and code of practice requirements, medium-term planning prospects, affordability and whole life costing.
- 3.3.2.3. Ensuring that the revenue implications of the programme are contained within the Revenue Budget and Medium Term Financial Plan.
- 3.3.2.4. Ensuring that all schemes relying on the use of prudential borrowing powers are properly appraised and provide value for money.
- 3.3.2.5. Reporting to Cabinet on the overall position and the availability of resources to support the Capital Programme.
- 3.3.2.6. Issuing procedures on the preparation of capital budget estimates.
- 3.3.2.7. Ensuring that sources of funding (general fund, HRA, capital grants, self-financing etc.) are identified for the entire programme.
- 3.3.2.8. Ensuring that any schemes requiring in year approval (outside of the annual capital programme) are reviewed by the Budget Setting and Capital Allocation Panel and approved by Cabinet and Council
- 3.3.2.9. Maintaining a record of the current capital budget and expenditure on the Council's financial systems and ensuring compliance with financial reporting standards.
- 3.3.2.10. Reporting to Cabinet and the Capital Strategy and Allocation Group on the performance against the capital programme and budget.
- 3.3.3. Budget managers are responsible for:
  - 3.3.3.1. Complying with the guidance issued by the Director of Finance regarding preparation of the capital programme.
  - 3.3.3.2. Ensuring all General Fund capital schemes and schemes included in the Housing Revenue Account are properly appraised with rigorous business cases documented in line with the Council's Project Management Guidelines.
  - 3.3.3.3. Undertaking robust financial management of schemes on a day to day basis and ensuring the scheme remains value for money.
  - 3.3.3.4. Undertaking an annual review of their schemes within the Capital Programme and consequential revenue expenditure, for inclusion in the Medium Term Financial Plan.
  - 3.3.3.5. Monitoring and reporting on a monthly basis on capital expenditure and receipts against approved capital budgets, on project slippage and variations, on additions/deletions and on any changes in projected expenditure in line with the monitoring process set down by the Director of Finance.
  - 3.3.3.6. Ensuring that adequate records and audit trails are maintained in respect of all capital contracts.
  - 3.3.3.7. Complying with the requirements of the Project Management Guidelines for business case sign off, progress updates and providing specific information in relation to a scheme when requested.

#### **3.4. Financial Implications of Decisions**

- 3.4.1. The Director of Finance is responsible for:
  - 3.4.1.1. Issuing guidance in relation to the presentation of financial implications within the Council's decision making processes.

- 3.4.1.2. Ensuring the adequacy of the financial implications information presented within individual decision making reports and appropriate sign-off.
- 3.4.2. Managers are responsible for:
  - 3.4.2.1. Ensuring that all decision making reports properly set out the financial implications of the proposed actions, through the provision of adequate information to finance to allow this section to be prepared.
  - 3.4.2.2. Ensuring they act in accordance with guidance issued by the Director of Finance.
  - 3.4.2.3. Arranging for all financial implications to be validated and formally signed-off by the Director of Finance, or his/her nominated representative, prior to their progression through the approval process.

## **4. Financial monitoring and control**

### **4.1. Principles**

- 4.1.1. To ensure the Council does not exceed its overall budget, each service area is required to manage its own income and expenditure within the cash limited budgets allocated to them to be spent on agreed service activities and functions. The Council's approval of the revenue estimates constitutes authority to incur expenditure, subject to compliance with the approved policies and regulations of the Council and any other limitation that may be imposed.
- 4.1.2. Any forecasted revenue overspends or income shortfalls should be mitigated through a compensating underspend or overachievement of income elsewhere. Any underspend cannot be carried forward from one year to the next without the approval of the Director of Finance and should generally be restricted to specific items of a 'one off' nature where monies will be spent for an identified purpose in the following financial year.
- 4.1.3. The term virement refers to transfers of budgets between or within cost centres. Virements may only be used in the very specific circumstances set out in the Regulations and the Schedule of Financial Authority to Officers.

### **4.2. Control of revenue budgets**

- 4.2.1. The Director of Finance is responsible for:
  - 4.2.1.1. Maintaining a robust framework of budget management and control that ensures that:
    - Budget management is exercised within annual cash limits and the Medium Term Financial Plan
    - Revenue expenditure is recorded on the Council's financial systems in accordance with legal, regulatory and code of practice requirements
    - Accurate and timely information is available to managers and budget holders that enables budgets to be monitored and controlled effectively
    - All officers responsible for committing expenditure comply with these Regulations
    - Each cost centre is allocated to a named budget manager determined by the relevant service manager



- Significant variances from budget are investigated and reported by budget managers on a regular basis.

4.2.1.2. Monitoring and controlling income and expenditure against budget allocations at a Council-wide level.

4.2.1.3. Reporting regularly to the Cabinet on performance against budget, delivery of savings programmes and available reserves.

4.2.2. Budget managers are responsible for:

4.2.2.1. Ensuring that effective budgetary control arrangements exist and are observed within their respective services in compliance with these Regulations.

4.2.2.2. Ensuring spending remains within the relevant cash limits by controlling income and expenditure, monitoring performance and taking corrective action where variations from budget are forecast.

4.2.2.3. Ensuring that expenditure is coded correctly and committed only against approved budget lines.

4.2.2.4. Forecasting accurately on a monthly basis throughout the financial year; regularly reporting performance, variances and forecasts to the Director of Finance, Cabinet and as required to the Scrutiny Committee and Audit and Governance Committee.

4.2.2.5. Ensuring any risks or issues relating to over- or under-spends within their areas are escalated to finance on a timely basis.

### **4.3. Virements**

4.3.1. The Director of Finance is responsible for:

4.3.1.1. Controlling and administering the virement mechanism in accordance with guidance and limits set by Council. As a general rule revenue virement is only permissible in the following circumstances:

- to correct any errors made in the initial loading of the budget onto the main accounting system to reflect a structural reorganisation
- to distribute centrally held budgets, e.g. savings targets and inflation provisions to reflect major changes in policy, subject to appropriate approval
- to reflect receipt of additional grant or other funding
- to reflect technical adjustments at the discretion of the Director of Finance
- to reflect any changes in corporate priorities

4.3.1.2. Recording approved virements in the Council's financial systems and reflecting the impact of these in regular monitoring reports to Cabinet.

4.3.2. Budget Managers are responsible for:

4.3.2.1. Ensuring all proposed virements comply with the limits and approval requirements set out in the Schedule of Financial Authority to Officers.

4.3.2.2. Notifying all proposed virements in writing to the Director of Finance or his/her representative.

## **5. Internal control and audit**

### **5.1. Principles**

- 5.1.1. Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives and the safeguarding of public funds.
- 5.1.2. Legislation requires that the Council provides for both internal and external audit. External Audit provides an independent assessment of the Council's financial statements and the adequacy of its arrangements for securing value for money. Internal audit evaluates and reports on the adequacy of the Council's control systems in securing the proper, economic, efficient and effective use of resources. Internal Audit is provided through South West Audit Partnership (SWAP).
- 5.1.3. There is a basic expectation that members and all officers will act with integrity and with due regard to matters of probity and propriety and comply with all relevant rules, regulations, procedures and codes of conduct, including those in relation to receipt of gifts and hospitality and declaration of conflicts of interest.
- 5.1.4. The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by members, officers, customers of its services, third party organisations contracting with it, or other agencies or individuals with which it has any business dealings.
- 5.1.5. Risk management is an integral part of effective management and planning. It is concerned with identifying and managing key obstacles to the achievement of objectives.

### **5.2. Internal Control**

- 5.2.1. The Director of Finance is responsible for:
  - 5.2.1.1. Advising on effective systems of internal control to ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with statutory and other authorities that govern their use.
  - 5.2.1.2. Conducting an annual review of the effectiveness of the system of internal control and publishing the results of this within the Council's Annual Governance Statement.
- 5.2.2. Budget Managers are responsible for:
  - 5.2.2.1. Complying with the controls set down in these Regulations and Financial Instructions/Procedures issued.
  - 5.2.2.2. Taking corrective action in respect of any non-compliance by staff with relevant rules, regulations, procedures and codes of conduct.
  - 5.2.2.3. Implementing effective systems of internal control including adequate separation of duties, clear authorisation levels and appropriate arrangements for supervision and performance monitoring.
  - 5.2.2.4. Planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their objectives, standards and targets.

### **5.3. Internal and External Audit**

5.3.1. The Director of Finance is responsible for:

5.3.1.1. Maintaining an adequate and effective Internal Audit service in accordance with the Accounts and Audit Regulations.

5.3.1.2. Ensuring that the statutory requirements for External Audit are complied with and that the External Auditor is able to effectively scrutinise the Council's records.

5.3.1.3. Ensuring that audit plans and results are reported to the Audit and Governance Committee.

5.3.2. All Officers are responsible for:

5.3.2.1. Ensuring that the appointed auditors have access to all documents and records for the purposes of the audit and are afforded all facilities, co-operation and explanation deemed necessary.

5.3.2.2. Cooperating in the production of annual audit plans by highlighting any areas of risk that may benefit from audit review.

5.3.2.3. Implementing audit recommendations within agreed timescales.

### **5.4. Preventing Fraud and Corruption**

5.4.1. The Director of Finance is responsible for:

5.4.1.1. Developing and maintaining an anti-fraud and corruption strategy that stipulates the arrangements to be followed for preventing, detecting, reporting and investigating suspected fraud and irregularity.

5.4.1.2. Advising on the controls required for fraud prevention and detection.

5.4.1.3. Appointing a Money Laundering Reporting Officer to ensure that systems are in place to counter opportunities for money laundering and that appropriate reports are made.

5.4.2. All Officers are responsible for:

5.4.2.1. Complying with the Council's Anti-Fraud and Corruption Strategy.

5.4.2.2. Ensuring that there are sound systems of internal control within their service areas for fraud prevention and detection.

5.4.2.3. Reporting cases of suspected fraud or irregularity to internal audit for investigation and complying with the Council's whistleblowing policy.

5.4.2.4. Implementing audit recommendations within agreed timescales.

5.4.2.5. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.

### **5.5. Risk Management**

5.5.1. The Director of Finance is responsible for preparing the Council's risk management strategy and advising on the management of strategic, financial and operational risks.

5.5.2. Managers are responsible for:

5.5.2.1. Implementing the Council's risk management strategy.

5.5.2.2. Integrating risk management within business planning and performance management arrangements.

5.5.2.3. Mitigating, monitoring and reporting on risks.

5.5.2.4. Maintaining and testing business continuity plans.

## **6. Financial systems and procedures**

### **6.1. Principles**

- 6.1.1. Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. This includes:
- 6.1.1.1. Accounting: The main accounting system provides the prime source of financial data for management accounts, statutory accounts and government returns. It is essential that this system complies with legislation and proper accounting practice and that all information is recorded accurately, completely and in a timely manner and that any errors detected promptly and rectified.
- 6.1.1.2. Income: Effective systems are necessary to ensure that all income due is collected, receipted, recorded and banked properly. Where possible income should be collected in advance to improve cash flow and avoid costs of debt collection. Debts should only be written off once all reasonable avenues have been exhausted or where it would prove uneconomical to pursue.
- 6.1.1.3. Expenditure: Expenditure may only be incurred where budgetary provision is available and must comply with the Council's Contract Standing Orders, procurement guidance and approved payment processes. Purchase orders must be raised to ensure that the expenditure is recorded as a commitment in the Council's main accounting system.
- 6.1.1.4. Banking: All transactions through the Council's bank accounts must be properly processed, recorded and reconciled.
- 6.1.1.5. Treasury management: Effective strategies must be maintained for the investment of cash balances and for borrowing to fund the Capital Programme.
- 6.1.1.6. Taxation: Effective systems must be in place to ensure that all tax liabilities and obligations are properly reported and accounted for and that losses, fines and penalties avoided.
- 6.1.1.7. Asset management: The Council's assets must be properly recorded, safeguarded from loss/harm and utilised effectively, and any disposals undertaken in a controlled manner.
- 6.1.1.8. Insurance: Appropriate insurance cover is necessary to protect the Council from financial claims arising from unforeseen events such as damage to property or injury to employees or to the public.
- 6.1.1.9. Recharges and internal trading accounts: The Council is required to allocate all of its back-office costs to service areas in compliance with accounting codes of practice.

### **6.2. Responsibilities**

- 6.2.1. The Director of Finance is responsible for:
- 6.2.1.1. Determining the Council's main accounting system for the preparation of the Council's accounts and for monitoring all income and expenditure.
- 6.2.1.2. Determining any financial systems which may sit outside of the main accounting system and ensuring that these are sound and properly integrated and interfaced.
- 6.2.1.3. Issuing guidance on the use and maintenance of the main accounting system and related financial systems and ensuring that supporting records and documents are retained.

- 6.2.1.4. Ensuring that regular balance sheet and holding account reconciliations are undertaken.
- 6.2.1.5. Preparing the Council's consolidated accounts, balance sheet and governance statement for audit and publication and issuing guidance (including a detailed timetable and plan) to ensure achievement of statutory deadline.
- 6.2.2. Budget Managers are responsible for:
  - 6.2.2.1. Ensuring that the main accounting system is used to accurately record financial transactions in accordance with guidance issued by the Director of Finance.
  - 6.2.2.2. Ensuring an adequate audit trail of financial information and compliance with the Council's policies in respect of the retention of documents.
  - 6.2.2.3. Ensuring that the implementation of any service financial system has the express approval of the Director of Finance and is adequately documented, tested and interfaced with the main accounting system.
  - 6.2.2.4. Complying with the timetables required by the Director of Finance to enable the production of consolidated accounts, budgets and statutory information.

### **6.3. Income**

- 6.3.1. The Director of Finance is responsible for:
  - 6.3.1.1. Administering all invoicing, credit notes, income collection and debt recovery or, where local arrangements for such have been agreed, approving all procedures, systems and documentation used.
  - 6.3.1.2. Ensuring that claims for Government grants and other monies are made properly and promptly.
  - 6.3.1.3. Ensuring that all monies received are properly receipted and recorded and banked promptly.
  - 6.3.1.4. Administering the process for writing off irrecoverable debts, and monitoring and reporting on write off levels.
  - 6.3.1.5. Recommending and implementing the Council's debt management policy
- 6.3.2. Budget Managers are responsible for:
  - 6.3.2.1. Ensuring that fees and charges for services are reviewed at least annually, consulting with the Director of Finance and Cabinet Members on the financial effect of the review, and obtaining Cabinet Member approval to any proposal to introduce new charges.
  - 6.3.2.2. Collecting payment at point of sale wherever possible to improve cash flow.
  - 6.3.2.3. Timely initiation of 'sales orders/sundry debts' in respect of all fees and charges due.
  - 6.3.2.4. Administering any local systems for invoicing, income collection and debt recovery as directed by the Director of Finance.
  - 6.3.2.5. Providing operational data and information to ensure that claims for Government grants and other monies are made properly and promptly.
  - 6.3.2.6. Authorising the write off of irrecoverable debts on the recommendation of the Director of Finance and subject to the requirements set out in the Schedule of Financial Authority to Officers.

**6.4. Expenditure – Procurement**

6.4.1. The Director of Finance is responsible for:

6.4.1.1. Issuing guidance on the ordering, certification and payment for all works, goods and services, subject to the provisions of the procurement code.

6.4.1.2. Processing all payments due on receipt of a valid invoice or contract certificate which satisfies VAT regulations, and confirmation that works, goods and services have been received.

6.4.1.3. Agreeing any exceptions to the requirement to raise purchase orders for all works, goods and services.

6.4.1.4. Administering procurement cards and credit cards and processing payments.

6.4.1.5. Agreeing the use of any pre-loaded payment cards.

6.4.1.6. Ensuring that effective procurement guidance is in place.

6.4.2. Budget Managers are responsible for:

6.4.2.1. Ensuring that all purchase orders are raised using the Council's financial system, for all works, goods and services other than: a) purchases appropriately made through petty cash, procurement card or credit card; b) continuous charges for utilities supplies, or periodic payments such as rents or rates and treasury management payments; c) expenditure incurred on exceptions agreed with the Director of Finance.

6.4.2.2. Ensuring that no purchase orders are placed without the proper approvals and financial authorities set out in the Schedule of Financial Authority to Officers, Contract Standing Orders and issued procurement guidance.

6.4.2.3. Receipting all works, goods and services on the financial system.

6.4.2.4. Where still relevant, ensuring the proper completion and authorisation of payment certification vouchers, including confirming that the invoice has not previously been paid.

6.4.2.5. Ensuring that payments are made only where works, goods and services have been received to the correct price, quantity and quality standards.

6.4.2.6. Complying with the requirements of the Council's procurement guidance.

6.4.2.7. Ensuring that all procurement cards are appropriately controlled and that all expenses and other transactions are reviewed and authorised by the relevant line manager, are for proper business purposes, are supported by VAT receipts and are compliant with any other restrictions in force.

6.4.2.8. Complying with approval limits set out in the Schedule of Financial Authority to Officers and Contract standing Orders and any further limitations set out within the procurement guidance.

6.4.3. Other responsibilities:

6.4.3.1. Senior Management Team (SMT) Officers are empowered to expend from within their allocated service budget expenditure up to the amount set out in the Schedule of Financial Authority to Officers in any single case where the SMT Officer is of the view

that a finding of maladministration with injustice is likely to be found by the Local Government Ombudsman.

6.4.3.2. In circumstances where compensation above the amount set out in the Schedule of Financial Authority to Officers the authority of Cabinet is required.

## **6.5. Expenditure – Payroll**

6.5.1. The Director of Finance is responsible for making emergency payments to staff in extremis and where practicable, such as in the case of payroll failure.

6.5.2. The Director of Finance is responsible for:

6.5.2.1. Operating sound arrangements for the payment of salaries and expenses to officers and members in accordance with the Members Allowances Scheme administered by Director of Governance and Licensing.

6.5.2.2. Providing a corporate payroll system for recording all payroll data and generating payments to employees and members, including payment of expenses.

6.5.2.3. The proper calculation of all pay and allowances, National Insurance and pension contributions, income tax and other deductions.

6.5.2.4. Completing all HMRC returns regarding PAYE and providing advice and guidance on employment related taxation.

6.5.2.5. Maintaining an accurate and up to date record of the Council's establishment.

6.5.3. Budget Managers are responsible for:

6.5.3.1. Controlling resources and containing staff numbers within approved establishment and budget levels.

6.5.3.2. Ensuring that all employee appointments, including temporary staff, are made in compliance with the Council's policies and procedures.

6.5.3.3. Ensuring that the Organisational Development Team are notified promptly of starters and leavers, and all information relating to employees' pay and expenses.

6.5.3.4. Ensuring that all payments made to employees are properly authorised in compliance with the requirements set out by Organisation Development policies and procedures.

6.5.3.5. Ensuring that all expenses claims (electronic or manual) are reviewed and authorised by the relevant line manager prior to payment.

6.5.3.6. Ensuring that all persons employed by the Council are paid through the Council's payroll, other than where the Head of Paid Service has agreed that the individual is bona fide self-employed or employed by a recognised agency.

## **6.6. Expenditure – Banking**

6.6.1. The Director of Finance is responsible for:

6.6.1.1. Managing and operating all the Council's bank accounts and ensuring that all payment methods, whether physical (e.g. cheques) or electronic have the appropriate authorisations, approvals and signatures.

6.6.1.2. Ensuring that adequate controls are in place for the control of payment methods (including cheques) covering access, ordering, custody, preparation, signing and despatch as appropriate.

- 6.6.1.3. Ensuring regular reconciliations are carried out between all bank accounts and the financial records of the Council
- 6.6.1.4. Approving the operation of any local cash or bank imprest accounts.
- 6.6.2. Budget Managers are responsible for:
  - 6.6.2.1. Ensuring that no bank accounts are opened in the name of the Council other than with the express written authority of the Director of Finance.
  - 6.6.2.2. Reporting to the Director of Finance on the nature and state of any bank accounts for which they are responsible.
  - 6.6.2.3. The proper administration of any local cash or bank imprest accounts including record keeping, document retention, paying in income, reconciliation and control of cheques including ordering, custody, preparation, signing and despatch.

## **6.7. Treasury Management**

- 6.7.1. The Director of Finance is responsible for:
  - 6.7.1.1. Preparing and presenting an annual Treasury Management Strategy to Cabinet prior to submission to the Council for approval.
  - 6.7.1.2. Implementing, reviewing and reporting on the progress and performance of the strategy and recommending any changes.
  - 6.7.1.3. Preparing and maintaining a Treasury Management Policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
  - 6.7.1.4. Preparing and maintaining suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities. The content of the policy statement and TMPs will follow the recommendations contained in the CIPFA Treasury Management in the Public Services Code of Practice (the Code), amended where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
  - 6.7.1.5. Ensuring that the organisation (i.e. Full Council) receives reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
  - 6.7.1.6. Effecting all investments and arranging borrowings within the limits imposed by the Council and reporting on the funding methods used.
  - 6.7.1.7. Approving the use of any finance leases.
  - 6.7.1.8. Ensuring that the use of any financial derivatives is intra vires and properly risk assessed and monitored.
  - 6.7.1.9. Ensuring compliance with all applicable laws, regulations and codes of practice relating to treasury management and capital finance.
  - 6.7.1.10. Ensuring that cash flow forecasting and monitoring systems are in place.
- 6.7.2. Budget Managers are responsible for:



- 6.7.2.1. Assisting cash flow through timely billing of income due, due consideration of contracts payment terms and minimising advance payments wherever possible.
- 6.7.2.2. Supporting cash flow forecasting and notifying the treasury team in advance of any high value receipts or payments that may impact on investments and borrowings.
- 6.7.2.3. Ensuring that no finance leases or borrowings are entered into without the approval of the Director of Finance.

6.7.3. Other responsibilities:

- 6.7.3.1. This organisation delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Director of Finance, who will act in accordance with the organisation's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

**6.8. Taxation**

6.8.1. The Director of Finance is responsible for:

- 6.8.1.1. Ensuring that transactions comply with relevant statutory requirements and authorities.
- 6.8.1.2. Completing a monthly return of VAT inputs and outputs to HMRC, ensuring prompt recovery of sums due, and reconciliation of tax records to the main accounting system.
- 6.8.1.3. Making monthly Construction Industry Scheme returns to HMRC.
- 6.8.1.4. Managing the Council's partial exemption position.
- 6.8.1.5. Preparing and submitting Voluntary Disclosure Notices to HMRC and recovery of any revenues due.
- 6.8.1.6. Providing advice and guidance on taxation issues.

6.8.2. Budget Managers are responsible for:

- 6.8.2.1. Ensuring that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- 6.8.2.2. Seeking advice on the potential tax implication of any new initiatives for the delivery of Council activity and services.
- 6.8.2.3. Ensuring that the taxation implications of proposed land and building acquisitions and sales are properly identified and considered at the planning stage.
- 6.8.2.4. Where construction and maintenance works are undertaken, ensuring that the contractor fulfils the necessary construction industry scheme deduction requirements.

**6.9. Asset Management**

6.9.1. The Director of Finance is responsible for:

- 6.9.1.1. Ensuring that asset registers are maintained in the appropriate format for accounting purposes for all fixed assets valued in excess of the limit set out in the Schedule of Financial Authority to Officers and that valuations are made in accordance with the local authority accounting code of practice.

- 6.9.1.2. Ensuring that all asset acquisitions and disposals are properly recorded and comply with the disposal policy and investment strategy.
- 6.9.1.3. Prescribing the records to be maintained for any stocks and stores and for inventories of moveable assets.
- 6.9.1.4. Approving the write off of deficiencies in any stocks, stores and inventory items subject to the limits set out in the Schedule of Financial Authority to Officers.
- 6.9.2. The Assistant Director Place, Assets & Commercialisation is responsible for:
  - 6.9.2.1. Maintaining up to date records of all land and buildings, including values, for inclusion in the corporate fixed asset register in the format prescribed by the Director of Finance.
  - 6.9.2.2. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the Director of Finance.
  - 6.9.2.3. Establishing an asset management plan that details short, medium and long term use of assets, and monitoring and reporting on performance.
  - 6.9.2.4. Arranging the disposal of surplus assets in compliance with the disposal policy and subject to the necessary approvals.
  - 6.9.2.5. The acquisition of land and buildings on behalf of the Council in accordance with the asset management plan, Capital Programme and Medium Term Financial Plan and subject to the necessary approvals.
  - 6.9.2.6. Notifying the Director of Finance of acquisitions and disposals so that the accounting records can be updated.
- 6.9.3. The Director of Housing, Health and Environment is responsible for:
  - 6.9.3.1. Maintaining up to date records of all HRA land and buildings, including values, for inclusion in the corporate fixed asset register in the format prescribed by the Director of Finance.
  - 6.9.3.2. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the Director of Finance.
  - 6.9.3.3. Establishing an HRA asset management plan that details short, medium and long term use of assets, and monitoring and reporting on performance.
  - 6.9.3.4. Arranging the disposal of HRA surplus assets in compliance with the disposal policy and subject to the necessary approvals.
  - 6.9.3.5. The acquisition of HRA land and buildings on behalf of the Council in accordance with the HRA Business Plan, Housing Company Development Plan, Capital Programme and Medium Term Financial Plan and subject to the necessary approvals.
  - 6.9.3.6. Notifying the Director of Finance of HRA and Housing Company acquisitions and disposals so that the accounting records can be updated.
- 6.9.4. Budget Managers are responsible for:
  - 6.9.4.1. Providing the Assistant Director Place, Assets & Commercialisation and Director of Housing and Environment with all relevant information and documentation for the purposes of maintaining an up to date and complete fixed asset register.
  - 6.9.4.2. Maintaining local inventories of moveable assets as directed by the Director of Finance.
  - 6.9.4.3. Ensuring that any stocks and stores are properly recorded and that unnecessarily high levels do not accumulate.

- 6.9.4.4. Ensuring that any cash holdings are kept to a minimum, within insurance limits and held securely.
- 6.9.4.5. Ensuring the proper security and safe custody of assets and reporting any assets that are lost, stolen or destroyed to the insurance team, facilities management and the Director of Finance as appropriate.
- 6.9.4.6. Complying with guidance issued by the Director of Finance on disposal of assets.
- 6.9.4.7. Seeking approval to write off deficiencies in any stocks, stores, or inventory items, subject to the limits set out in the Schedule of Financial Authority to Officers.
- 6.9.4.8. Ensuring that assets are used only in the course of the Council's business unless specific permission has been given otherwise.

## **6.10. Insurance**

- 6.10.1. The Director of Finance is responsible for:
  - 6.10.1.1. Determining the nature and level of insurance cover to be effected.
  - 6.10.1.2. Effecting insurance cover and processing and settlement of all claims.
- 6.10.2. Budget Managers are responsible for:
  - 6.10.2.1. All new risks, properties or vehicles for which insurance is required.
  - 6.10.2.2. Alterations affecting insurance arrangements.
  - 6.10.2.3. Any loss, damage or claim.
- 6.11. Recharges**
  - 6.11.1. The Director of Finance is responsible for:
    - 6.11.1.1. Maintaining an appropriate system of internal recharges which ensures that the full cost of each service is identified.
    - 6.11.1.2. Processing all charges and recharges on a regular and timely basis.
    - 6.11.1.3. Advising on the operation of internal trading accounts.
  - 6.11.2. Budget Managers are responsible for:
    - 6.11.2.1. Agreeing the basis of internal charges/recharges in advance of the financial year as part of the budget setting process.
    - 6.11.2.2. Maintaining appropriate systems to calculate recharges or justify their apportionment.
    - 6.11.2.3. Providing data to enable recharges to be processed on a regular and timely basis and responding in the event of any disputed charges.
    - 6.11.2.4. Complying with guidance issued by the Director of Finance in relation to the operation of trading accounts.

## **7. External arrangements**

### **7.1. Principles**

- 7.1.1. All partnerships and joint working arrangements with outside bodies must be properly evaluated for risk before they are entered into and be supported by clear governance, accounting and audit arrangements. Cabinet approval is required in order to set-up a new entity, such as a joint venture.

7.1.2. External funding can prove an important source of income but funding conditions must be carefully examined before any agreement is entered into to ensure they are compatible with the aims and objectives of Council.

7.1.3. Legislation enables the Council to trade and provide services to third parties. All such work must be intra vires and the respective risks and financial benefits associated with such work must be properly considered and a business case approved before any trading activities take place.

## **7.2. Partnerships and Joint Working**

7.2.1. The Director of Finance is responsible for advising on the financing, accounting and control of partnership arrangements including:

7.2.1.1. Financial viability in current and future years.

7.2.1.2. Risk appraisal and risk management arrangements.

7.2.1.3. Resourcing and taxation.

7.2.1.4. Audit, security and control requirements.

7.2.2. Budget Managers are responsible for:

7.2.2.1. Ensuring that any arrangements do not impact adversely upon Council services, that risk assessments have been carried, and that appropriate approvals have been obtained before entering into any agreements.

7.2.2.2. Ensuring that agreements and arrangements are properly documented.

7.2.2.3. Ensuring the Partnership register is up to date with partnerships entered into.

7.2.2.4. Providing appropriate information to the Director of Finance to enable relevant entries to be made in the Council's accounts.

7.2.2.5. Ensuring that appropriate mechanisms are in place to monitor and report on performance.

## **7.3. External Funding**

7.3.1. The Director of Finance is responsible for:

7.3.1.1. Ensuring that any match funding requirements are considered prior to entering into any agreement, that future revenue budgets reflect these requirements and that any longer term sustainability costs have been properly assessed.

7.3.1.2. Ensuring that all external funding is received and properly recorded in the Council's accounts and in the name of the Council.

7.3.1.3. Ensuring that all audit requirements are met.

7.3.2. Budget Managers are responsible for:

7.3.2.1. The sustainability of funding is assessed for risk, any agreements entered into are consistent with and support the Council's service priorities and necessary approvals have been obtained.

7.3.2.2. All claims for funds are made by the due date.

7.3.2.3. Work is progressed in accordance with the project plan and all expenditure is properly incurred and recorded.

7.3.2.4. Ensure Finance is notified of all External Funding arrangements.

## 8. Appendix 1 – Schedule of Financial Authority to Officers

- 8.1.** The Scheme of Delegated Authority to Officers sets out the powers and duties delegated to members of the Senior Management Team (SMT). SMT members may appoint appropriate “authorised officers” to act on their behalf.
- 8.2.** This Schedule sets out the approved financial limits within which SMT members and authorised officers, may conduct the Council’s business. Changes to the limits/values contained within this Schedule may only be made with the recommendation of the Director of Finance and approved by Council.
- 8.3.** For those items marked the relevant SMT member has discretion to appoint appropriate authorised officers to act on his/her behalf. In all cases the member remains accountable for the effective operation of the financial authorities and must:
- 8.3.1. Maintain a written record of authorised officers.
- 8.3.2. Ensure that an appropriate segregation of duties is in operation, e.g. between ordering and paying for goods, between claiming and approving expenses.
- 8.3.3. Ensure compliance with the financial limits in this Schedule and any additional financial restrictions and limitations imposed by Contract standing Orders and issued Procurement Guidance and HR policies.

REF	Description	Limit/Value	Approver
<b>Virements</b>			
	Individual Revenue & Capital Virements:		
	Re-allocation of approved budgets; system errors, technical corrections, coding changes within overall spending limits	Unlimited	Director of Finance
	Virement with budget and policy change	Up to £50k	SMT member with agreement of Director of Finance
		£50k to £100k	Relevant Portfolio Holder in consultation with Finance Portfolio Holder

REF	Description	Limit/Value	Approver
<b>Income</b>			
	Individual Sundry Debtor write offs	Up to £10k	SMT member or Assistant Director
		£10k to £50k	SMT member or Assistant Director with agreement of Director of Finance
		Over £50k	Director of Finance in consultation with Portfolio Holder Finance
	Individual Council Tax, NNDR, housing benefits overpayments and housing rent arrears write offs	Up to £10k (Service may have delegated authorities within these limits)	SMT member or Assistant Director
		10k to £50k	SMT member with agreement of Director of Finance
		Over £50k	Director of Finance in consultation with Portfolio Holder Finance
	Irrecoverable Debts – defined and evidenced of bankruptcy, liquidation, company insolvent, Court remittance, time bar etc.	Unlimited	SMT member or Assistant Director
	Fees and Charges – Existing Policy	Increase/Decrease	SMT member or Assistant Director in consultation with Director of Finance in relation to budget implications
	Fees and Charges – New Policy/New Charges	New Charge	Cabinet & Council
<b>Expenditure</b>			
	Where budget approval is in place	As defined by Contract Standing Orders	As defined by Contract Standing Orders
	Unforeseeable emergencies expenditure with no budget	As defined by Scheme of Officer Delegation in the Constitution	As defined by Scheme of Officer Delegation in the Constitution
<b>Treasury Management</b>			
	Expenditure relating to treasury management and investments	As defined in Treasury Management Strategy	As defined in Treasury Management Strategy

REF	Description	Limit/Value	Approver
<b>Asset Management</b>			
	Writing off deficiencies in stocks, stores and inventories	Up to £50K	SMT member or Assistant Director
		£10k to £50k	SMT member with agreement of Director of Finance
		Above £50k	Director of Finance in consultation with Portfolio Holder Finance
	Disposal of freehold and leasehold land and property. Purchase, surrender, renewal, variation and re-gearing of property leases	As defined by Scheme of Officer Delegation in the Constitution	As defined by Scheme of Officer Delegation in the Constitution
	Value for including items in fixed assets register	£20k and over	
<b>Insurance</b>			
	Agreeing settlement of insurance claims	Up to £30k	SMT member or Assistant Director
		Over £30k	SMT member or Assistant Director in consultation with Director of Finance or Director of Governance and Licensing

## 4.7 Contract standing orders

### 1. A brief guide to Contract Standing Orders

- 1.1. These Contract Standing Orders, or Rules, are intended to promote good procurement practice, public accountability, commercial enterprise and deter corruption. Following the Rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.
- 1.2. They are issued in accordance with section 135 of the 1972 Local Government Act; s123 of the Local Government Act 1972; the Public Procurement Regulations 2015 and in the case of commercial enterprise the Localism Act 2011.
- 1.3. Officers responsible for purchasing or disposal must comply with these procedures. These procedures lay down **minimum requirements** for the purchase and disposal of goods and services.
- 1.4. Officers must;
  - Follow these Rules whenever they purchase goods, services, or building works.
  - Take Legal, Financial and professional advice from the respective departments.
  - Declare any personal financial interest in a contract.
  - Be minded that Bribery has a very wide interpretation and is a criminal offence.
  - Conduct a Most Economic Advantageous Tender (“MEAT”) review and appraise the purchasing/disposal need in accordance with the legislative provisions and obtain Value for Money for the public finance.
  - Consider whether there is an existing corporate contract or framework agreement that would satisfy MEAT requirements which you can make use of, before undergoing a competitive process.
  - Identify a contract manager with responsibility for ensuring the contract delivers as intended.
  - Ensure there is authority to enter into a contract and ensure you complete a written contract or Council order before supply or works begin.
  - Keep records of dealings with suppliers.
  - Assess and monitor each contract after completion to understand how well it met the purchasing need and quality of delivery requirements, including Value for Money
- 1.5. Failure to comply with these Contract Standing Orders may lead to disciplinary action.
- 1.6. The Section 151 Officer may propose amendments from time to time to these Contract Standing Orders after consultation with Legal Services. Proposed amendments will then be submitted to the Audit and Governance Committee, with a recommendation from that Committee to Council for approval, if appropriate.



1.7. Contract Standing Orders should be read in full, however to aid quick reference key aspects have been drawn out by way of summary below.

1.8. **Summary of Requirements for the Competitive Process and Contract Completion**

Where the Total Value for a contract is within the values in the first column below, the competition and awarding requirements are then as specified. The Cabinet has the power to authorise exemptions from the requirement to seek quotations or invite tenders for specific projects where they are below Public Procurement Threshold. All ICT system developments and purchases of computer equipment or software must be approved and purchased through Strata Services Solutions Ltd.

Total Value (excluding VAT)	Competition Requirements (see Rule 4.1.1)	Short listing (see Rule 4.1.1)	Method of completion (see Rule 5.1.2)	Completion Authorised by (see Rule 5.1.2)
Up to £5,000	Quotation to be obtained in writing from a minimum of one supplier	Authorised Officer		Authorised Officer / Budget Manager
£5001 - £50,000	Quotations to be obtained in writing from a minimum of three suppliers 1 who have responded to a written tender specification by a defined deadline. Quotations to be formally evaluated. <b>Electronic procurement portal to be used for all quotations above £10,000.</b>	Authorised Officer and Budget Manager	Electronic order or by signature	Budget Manager
£50,001 - £100,000			Electronic order, by signature or under seal (as advised by Legal Services)	
£100,001 – Public Procurement Threshold	Formal tenders to be obtained from a minimum of four suppliers, <sup>1</sup> who have responded to a written tender specification by a defined deadline. Tenders to be formally evaluated. <b>Electronic procurement portal to be used for all tendering at this level</b>	Budget Manager and Director / Assistant Director in consultation with Procurement Support	By signature or under seal (as advised by Legal Services)	Budget Manager (in consultation with Director / Assistant Director)
Above Public Procurement Threshold	The Public Procurement (EU) tender procedures to be used, <b>electronic portal to be used for all Public Procurement (EU) tendering.</b>	Budget Manager in consultation with Procurement Support and Legal Services	Legal Services to advise on form of contract and whether by signature or under seal	Director / Assistant Director

Total Value (excluding VAT)	Competition Requirements (see Rule 4.1.1)	Short listing (see Rule 4.1.1)	Method of completion (see Rule 5.1.2)	Completion Authorised by (see Rule 5.1.2)
Use of collaborative contracting arrangements <sup>2</sup>	Purchases using such arrangements are deemed to comply with these Standing Orders <sup>3</sup>	Budget Manager / Director / Assistant Director in consultation with Procurement Support and Legal Services	Legal Services to advise on form of contract and whether by signature or under seal	Director / Assistant Director

<sup>1</sup> Officers to use reasonable endeavours to ensure minimum responses achieved

<sup>2</sup> e.g. Crown Commercial Services, Devon and Cornwall Procurement Partnership

<sup>3</sup> Officers must ensure any arrangements to be used for purchases above Public Procurement threshold, have been properly established and follow the Public Contract Regulations 2015.

## 2. Scope of Contract Standing Orders

### 2.1. Basic principles

2.1.1. All purchasing procedures must:

2.1.1.1. Look to find the Most Economic Advantageous Tender for public money spent in order to achieve Value for Money;

2.1.1.2. Be consistent with the highest standards of integrity of Members and Officers, having regard to the Council's Anti Fraud, Theft and Corruption Policy, the Anti Bribery Policy, and the Office of Fair Trading guidance on Anti-Competitive Behaviour;

2.1.1.3. Ensure Open, Transparent and Fair procedures are followed in allocating public contracts;

2.1.1.4. Comply with all legal and financial requirements;

2.1.1.5. Ensure that only commercial considerations influence any contracting decision in matters pursuant to the Localism Act 2011;

2.1.1.6. Support and comply with the Council's Plan, Priorities, and Policies.

### 2.2. Responsibilities

#### 2.2.1. Officers

2.2.1.1. Officers responsible for purchasing or disposal must comply with these Contract Standing Orders, Financial Regulations, the Employee Code of Conduct and with all UK legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.2.1.2. Officers must:

- Have regard to the Council's purchasing and contract guidance – details held on the intranet (Procurement pages);
- Ensure that the appropriate approved budgetary provision is in place;
- Ensure appropriate authority is in place prior to purchase being completed;

- Check whether a suitable corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to – discuss with Procurement Support if unclear;
- Keep the records required by Rule 3.3;
- Take all necessary procurement, legal, financial and other professional advice as appropriate.

2.2.1.3. When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) Regulations 2006 are considered and obtain advice from HR and Legal Services before proceeding with inviting tenders or quotations.

## 2.2.2. **Members**

2.2.2.1. Members considering purchasing or disposal must comply with these Contract Standing Orders, Financial Regulations, the Member Code of Conduct and with all legal binding requirements. Members must promote and maintain high standards of conduct as a representative of the local constituency.

2.2.2.2. Members must;

- pursue to the best of their ability the seven Nolan principles of; Selflessness, Integrity, Objectivity, Accountability, openness, honesty and leadership.
- Register their pecuniary interests and disclose the same when appropriate.
- disclose any personal interests when appropriate.
- act in accordance with the Members Code of Conduct.

2.2.2.3. If it comes to the knowledge of an elected Member or an employee of the authority that a contract in which he or she has a pecuniary interest (whether directly or indirectly) has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer.

## 2.3. **Exemptions from seeking quotations or tenders**

2.3.1. The Council and its Cabinet have the power to authorise exemptions from the requirement to seek quotations or invite tenders for specific projects if the Public Procurement Threshold has not been reached.

2.3.2. Where an exemption is necessary because of an unforeseeable emergency or appropriate business reasons (e.g. Life or Death, Increased Costs/Loss of Income, Limited Markets or Reputation) the procuring Officer, with the approval of their Assistant Director or Director, the S151 officer and the Director of Governance and Licensing, may jointly approve the exemption and record as such on the Contract Standing Orders Exemption Form. Where the Contract sum is £20,001 or above then the use of the exemption must be reported by the Officer, to the next meeting of the Cabinet for them to note their support for the action taken.

*NOTE: If prior approval is being sought from Cabinet then a Contract Exemption Form is not required.*

Terms are defined as:

**Life or Death** – Is there a significant chance that the life or health of officers, members or the public will be put at real risk?

**Increased Costs/Loss of Income** – Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?

**Limited Markets** – Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or few businesses (or an approved list if it is recommended by Central Government which evidences that the market has been tested)?

**Reputation** – Would the Council be criticised for failing to act promptly or for acting in a certain way?

2.3.3. **No exemption can be used if the Public Procurement Threshold is exceeded.**

2.3.4. No exemption is necessary for any purchase below the Public Procurement Threshold where;

- a local authority purchasing consortium is used e.g. Devon Procurement Services or Eastern Shires Purchasing Organisation (ESPO), or
- any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Standing Orders of the leading organisation.

2.3.5. The Contract Standing Orders Exemption form is available on the Council's intranet. All exemptions, and the reasons for them, must be recorded. Exemptions shall be completed as above and a register maintained by S151 Officer.

## 2.4. **Relevant contracts**

2.4.1. These Contract Standing Orders apply to any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services (a 'Relevant Contract'). These include arrangements for:

- The supply or disposal of goods (see also Financial Regulations);
- The hire, rental or lease of goods or equipment;
- The delivery of services, including (but not limited to) those related to: the recruitment of staff; financial and consultancy services.

2.4.2. Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the authority; or
- Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations and other legal duties shall apply); or
- Section 151 Officer dealing in the money market or obtaining finance for the Council.
- Urgent legal advice or support.

### **3. Requirements for all contracts**

#### **3.1. Steps prior to purchase**

3.1.1. Prior to expenditure the Officer must confirm that there is an approved budget and authority for the purchase.

3.1.2. The Officer must appraise the purchase, or seek suitable advice in a manner commensurate with its complexity, value and associated risk profile, taking into account any purchasing guidance, by:

- Appraising the need for the expenditure and its priority.
- Defining the objectives of the purchase, and the required product specification.
- Assessing and documenting the risks associated with the purchase and how to manage them, including use of a procurement risk register for all contracts over £100,000.
- A business case must be prepared for all procurements with a potential value over the Public Procurement Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring.
- Consider (and where appropriate draft) the terms and conditions that are to apply to the proposed contract.
- For Service contracts above the Public Procurement Threshold, the Officer must consider the requirements of the Social Value Act 2012. Here, the Officer must consider:
  - a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
  - b) how, in conducting the process of procurement, the Officer may act with a view to securing that improvement. ([www.legislation.gov.uk/ukpga/2012/3/enacted](http://www.legislation.gov.uk/ukpga/2012/3/enacted)).

#### **3.2. Advertising and framework agreements**

##### **3.2.1. Identifying and Assessing Potential Suppliers:**

3.2.1.1. For all contracts above the Public Procurement Threshold, a Find a Tender Service advertisement must be published via the electronic procurement portal and the Public Procurement Procedure followed.

3.2.1.2. For contracts below the Public Procurement Threshold, Officers shall consider the most appropriate advertising strategy. Officers should consider whether proposed contracts might be of interest to potential suppliers located in other GPA member states, and take this into account in the advertising strategy for the contract. Examples of where advertisements for procurements may be placed include:

- The Council's e-tendering website: 'Supplying the South West Procurement Portal'
- Domestic websites, newspapers or journals
- Government Contracts Finder (automatically populated via the SW Procurement Portal for contracts above £100,000)
- Find a Tender Service

3.2.1.3. Officers are responsible for ensuring that all suppliers for a relevant contract are suitably assessed. The assessment process shall establish that the potential suppliers have the requisite:

- Technical ability to deliver the contract
- Capacity to deliver the contract
- Economic and financial standing
- And meet all relevant qualifying criteria

in order to fulfil the requirements of the authority.

3.2.1.4. It is acceptable to use purchasing consortiums / collaborative arrangements or a Framework Agreement in lieu of conducting an above the public procurement threshold exercise where the Authority has been named and the Public Contracts Regulations 2015 were followed in establishing the consortium or framework. Similarly such arrangements can be used in lieu of the requirements of these Rules for below public procurement threshold contracts provided competitive arrangements were used in establishing them. It is the Officers responsibility to check whether this requirement is satisfied.

### 3.2.2. **Approved Lists**

3.2.2.1. Approved Lists will not be maintained by EDDC due to the administration involved and the need to ensure that competition is maximised.

3.2.2.2. Suppliers interested in doing business with the Council must register online as a prospective EDDC supplier via the Supplying the South West Procurement Portal.

3.2.2.3. A register of pre-qualified contractors and consultants maintained by or on behalf of central government or other parties (e.g. Constructionline, Exor, Quidos, Achilles) will not normally be deemed to be an Approved List for the purpose of these Contract Standing Orders.

### 3.2.3. **Framework Agreements**

3.2.3.1. The duration of a Framework Agreement must not exceed four years, as per the Public Contracts Regulations 2015.

3.2.3.2. Contracts may be awarded under Framework Agreements by either:

(i) Applying the terms laid down in the Framework Agreement without reopening competition (where such terms are sufficiently precise to cover the particular call-off), or:

(ii) where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call off, by holding a mini competition in accordance with the following procedure:

- Inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written Tenders (via mini competition)
- Fixing a time limit of a sufficient period to enable Tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject matter of the contract.
- Awarding each contract to the tenderer which has submitted the best Tender on the basis of the award criteria set out in the specifications of the underlying Framework Agreement.

### **3.3. Record keeping**

3.3.1. Where the Total Value is less than £100,000 the following records must be kept:

- Invitations to quote and quotations received (where e-tendering is used, the Archive record of the e-tendering system will suffice).
- Written records of communications with the successful contractor or an electronic record if a written record of the transaction would not normally be produced.
- Any exemption obtained under Rule 2.3 and the reasons for it.
- If the lowest price is not accepted, the reasons why
- The contract documentation.

3.3.2. Where the Total Value exceeds £100,000 the following records must be kept:

- The method for obtaining bids (see Rule 4.1.1).
- Any exemption obtained under Rule 2.3 together with the reasons for it.
- The award criteria in descending order of importance.
- Tender documents sent to and received from suppliers.
- Pre-tender market research.
- Clarification and post-tender negotiation (to include minutes of meetings).
- Legal advice.
- Any Contracting Decision and the reasons for it.
- The contract documentation
- Post-contract evaluation and monitoring.
- Communications with suppliers and with the successful contractor throughout the period of the contract.
- Where relevant, all documentation relating to above public procurement threshold not covered above (e.g. the FTS notice)

3.3.3. Records must be kept for six years (12 years if completed under Seal) after the end of the contract. However, written documents which relate to unsuccessful suppliers may be electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

3.3.4. Legal Services must be provided with the original of all contracts completed by signature or under seal for secure storage if they do not already hold them.

## 4. Conducting purchase and disposal

### 4.1. Competition requirements for purchase, disposal, partnership arrangements

The Officer must calculate the Total Value (excluding VAT) for the period of the contract. This should include the total lifetime value where possible.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with Government. If in doubt, Officers must seek the advice of Procurement Support or Legal Services.

#### 4.1.1. Requirements for the Competitive Process

4.1.1.1. Where the Total Value for a contract is within the values in the first column below, the competition requirements in the second column must be followed. Short listing shall be done as per the roles specified in the third column.

Total Value (excluding VAT)	Competition Requirements	Short listing
Up to £5,000	Quotation to be obtained in writing from a minimum of one supplier	Authorised Officer
£5,001 - £100,000	Quotations to be obtained in writing from a minimum of three suppliers <sup>4</sup> who have responded to a written tender specification by a defined deadline. Quotations to be formally evaluated. <b>Electronic procurement portal to be used for all contracts above £10,000.</b>	Authorised Officer and Budget Manager
£100,001 – Public Procurement Threshold	Formal tenders to be obtained from a minimum of four suppliers <sup>4</sup> , who have responded to a written tender specification by a defined deadline. Tenders to be formally evaluated. <b>Electronic procurement portal to be used for all tendering at this level.</b>	Budget Manager and Director / Assistant Director in consultation with Procurement Support
Above Public Procurement Threshold	Public Procurement (EU) Procedures to be used, electronic portal to be used for all tendering.	Director / Assistant Director in consultation with Procurement Support and Legal Services



Total Value (excluding VAT)	Competition Requirements	Short listing
<b>Use of collaborative contracting arrangements See Rule 3.2.1.4</b>	Purchases made via collaborative contracting arrangements (e.g. Crown Commercial Services, Devon and Cornwall Procurement Partnership) are deemed to comply with these Standing Orders. Officers must ensure any arrangements to be used for purchases above Public Procurement (EU) threshold, have been properly established. Procurement Support <i>should be consulted prior to commencing any procurement process using collaborative contracts</i> . The terms and conditions of contract applicable to any collaborative contract, including the requirement to undertake competition between providers, must be fully complied with.	Director / Assistant Director in consultation with Procurement Support and Legal Services

<sup>4</sup> Officers to use reasonable endeavours to ensure minimum responses achieved

All ICT system developments and purchases of computer equipment or software must be approved and purchased through Strata Services Solutions Ltd for legislation pertinent to contracts see link to Public Contract Regulations 2015:

[http://www.legislation.gov.uk/ukxi/2015/102/pdfs/ukxi\\_20150102\\_en.pdf](http://www.legislation.gov.uk/ukxi/2015/102/pdfs/ukxi_20150102_en.pdf)

- 4.1.1.2. Where it can be demonstrated that there are insufficient suitably qualified suppliers to meet the competition requirement, all suitably qualified suppliers must be invited.
- 4.1.1.3. There must be no attempt to artificially disaggregate any contract requirement to avoid the EU requirements or these Contract Standing Orders. However within the procurement process, officers should consider assigning the component parts of a properly advertised contract into smaller Lots, to support accessibility for SME's.
- 4.1.1.4. Where an above Public Procurement Threshold procedure is required, the Officer shall also consult Procurement Support as appropriate, to agree the method of conducting the purchase.
- 4.1.2. **Assets for Disposal**
- 4.1.2.1. Assets for disposal must be sent to public auction except where better overall Value for Money (including staff administrative costs) is likely to be obtained by inviting quotations and tenders. (These may be invited by advertising on the Council's internet site). In the latter event, the method of disposal of surplus or obsolete stocks / stores or assets (other than land) must be formally agreed as required by Financial Regulations and the Scheme of Delegation.

#### **4.1.3. Contracts to Provide Services to External Purchasers**

- 4.1.3.1. Legal Services must be consulted where contracts to work for organisations other than the authority are contemplated.

#### **4.1.4. Collaborative and Partnership Arrangements**

- 4.1.4.1. Collaborative and partnership arrangements are subject to UK procurement legislation and must follow these Contract Standing Orders (although see Rule 3.2.1.4). If in doubt, officers must seek the advice of Legal Services and / or Procurement Support. However, arrangements to share staff with other public bodies may not require a formal procurement process and Legal Services should be consulted.

#### **4.1.5. The Appointment of Consultants to Provide Services**

- 4.1.5.1. The appointment of Consultants (such as architects, engineers, surveyors and other professionals) who are directly providing services to East Devon District Council as the client shall be selected and commissions awarded in accordance with the procedures detailed within these contract standing orders and as outlined at Rule 4.1.1.1 and 5.1.
- 4.1.5.2. The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment to be in a form agreed by Legal Services.
- 4.1.5.3. Records of Consultants appointments shall be maintained in accordance with Rule 3.3, and be readily accessible by Procurement and Audit.
- 4.1.5.4. Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policy for the duration of the respective agreement unless the Director of Finance is prepared to accept the uninsured risk as being “Low” but in any event indemnity must be held for the duration of the respective agreement and for a minimum term of 3 years thereafter where the Councils Legal Services team deem the risk to be “Medium” or higher.

### **4.2. Pre-tender market research and consultation**

- 4.2.1. The Officer responsible for the purchase may, prior to the issue of the Invitation to Tender or Quote, consult potential suppliers in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Supplier. The Officer must not seek or accept technical advice on the preparation of an Invitation to Tender or Quote from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Suppliers or distort competition. If in any doubt, the Officer should seek advice from Legal Services.

### **4.3. Standards and award criteria**

4.3.1. The Officer must ascertain what are the relevant European, British or international standards which apply to the subject matter of the contract. The Officer must include those standards which are necessary to properly describe the required quality, and invite open to equal or equivalents. This includes sustainability standards. Legal Services and Procurement Support must be consulted if it is proposed to use standards other than European standards.

4.3.2. The Officer must define and document award criteria that are appropriate for the purchase and relevant to the matter at hand. Award criteria should be designed to secure an outcome giving 'Value for Money' for the authority, before quotations and tenders are sought. The basic criteria shall be:

- 'Most economically advantageous', where considerations of overall value apply, or :
- 'Lowest price to specification' where payment is to be made by the authority when the award criteria is price alone and the specifications are clear, or:
- 'Highest price' if payment is to be received

If the first criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service quality, product quality, running costs, technical merit, delivery, cost effectiveness, relevant environmental considerations, implementation planning, decommissioning considerations, aesthetic and functional characteristics (including security and control features), safety (which is likely to be a pass / fail criteria), after-sales services, technical assistance and any other relevant project specific considerations.

4.3.3. Award criteria must not include:

- Non-commercial considerations
- Matters which discriminate against suppliers, irrespective of size, from the European Economic Area or signatories to the Government Procurement Agreement

#### **4.4. Invitations to Tender/quotations**

4.4.1. All Invitations to Tender or Quote must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (Rule 5.1).

4.4.2. The Invitation to Tender or Quote must state;

4.4.2.1. that the Council is not bound to accept any Quotation or Tender, either as a whole or in part,

4.4.2.2. that Tenders / Quotes are submitted to the Council on the basis that they are compiled at the tenderer or quoter's expense.

4.4.2.3. that no Tender or Quote will be considered unless it is received by the date, time and manner stipulated in the Invitation to Tender or Quote. No Tender or Quote delivered in contravention of this clause shall be considered.

- 4.4.3. In addition all Invitations to Tender shall include the following:
- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive and comparable offers.
  - (b) A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
  - (c) A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and noncollusion.
  - (d) A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and ideally in descending order of importance.
  - (e) All contracts above £10,000 must be undertaken using the Council's e-tendering system. If by exception, hard copy Tenders are used, there must be notification that no Tender will be considered unless it is enclosed in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates.
  - (f) The method by which any arithmetical errors discovered in the submitted Tenders is to be dealt with. In particular, whether the overall price prevails over the rates in the Tender or vice versa.

- 4.4.4. All Suppliers invited to Tender or Quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis, and any pre-tender questions and answers must be shared (anonymously) with all tenderers.

#### **4.5. Shortlisting**

- 4.5.1. Any Shortlisting must be in line with the financial and technical standards relevant to the contract and the shortlisting criteria. Special rules apply in respect of the above public procurement threshold procedure Legal / or Procurement Services should be consulted.
- 4.5.2. Evaluation criteria (which may include a scoring system for larger value or complex tenders) must be transparent and any sub-criteria specified. Shortlisting records must be kept and held for the period specified in the Council's Document Retention Policy.
- 4.5.3. The officers responsible for shortlisting are specified in Rule 4.1.1.1.

#### **4.6. Submission, receipt and opening of tenders/quotations**

- 4.6.1. Suppliers must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The Public Contracts Regulations lays down specific time periods, please consult Procurement Support.

- 4.6.2. All Tenders and Quotations above £10,000 must be submitted electronically, through the Council's approved and secure electronic tendering system, with controlled opening and independent registration. Staff will have the relevant training to use Procurement Portal.
- 4.6.3. Where Electronic Tenders are not used:
- 4.6.3.1. The Officer must not disclose the names of potential Suppliers to any staff involved in the receipt, custody or opening of Tenders. Democratic Services shall be responsible for the safekeeping custody of Quotations / Tenders until the appointed time of opening. Each Tender must be:
- Suitably recorded so as to subsequently verify the date and precise time it was received
  - Adequately protected immediately on receipt to guard against amendment of its contents
  - Recorded immediately on opening the Tender Register.
- 4.6.3.2. The Democratic Services team must ensure that all Tenders are opened at the same time when the period for their submission has ended. An Officer representing the Director or Assistant Director in question must be present.
- 4.6.3.3. Upon opening, a summary of the main terms of each Tender (i.e. significant issues that are unique to each Tender submission and were not stated in the Invitation to Tender documents such as tender sum) must be recorded in the Tender Register. The summary must be signed by all present.

#### **4.7. Clarification Procedures**

- 4.7.1. Clarification of an Invitation to Quote / Tender with potential or actual Suppliers or seeking clarification of a Tender should be in writing, email or if using the Supplying the South West Procurement Portal via the question function. In doing so, Officers must be mindful to maintain equal treatment of all tenderers in the clarification process. Discussions with tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post Tender negotiations) is not permitted.

#### **4.8. Evaluation, award of contract, and debriefing of suppliers**

- 4.8.1. Subject to the disclosures required under law, and apart from the debriefing required or permitted by these Contract Standing Orders, the confidentiality of Quotations, Tenders and the identity of Suppliers must be preserved at all times and information about one Supplier's response must not be given to another Supplier. Formal debriefing must be provided to the extent required in law, particularly in relation to contracts above the relevant public procurement threshold. A standstill procedure must be observed prior to award of contract as stated in the Public Contracts Regulations 2015, and is discretionary for below public procurement threshold contracts.

- 4.8.2. Contracts must be evaluated and awarded in accordance with the published award criteria. During this process, Officers shall ensure that submitted Tender prices are compared with any pre-tender estimates and that any discrepancies are examined and satisfactorily resolved.
- 4.8.3. The arithmetic in compliant Tenders must be checked. If arithmetical errors are found those may need to be clarified and advice should be sought from Procurement Support in respect of how this should be done.
- 4.8.4. Officers may accept Quotations and Tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Standing Orders. Awarding of contracts that are expected to exceed the approved budget sum shall be referred back to Cabinet subject to consultation with Director of Finance.
- 4.8.5. Where the Total Value is over £100,000, the Officer must notify all Suppliers simultaneously and as soon as possible of the intention to award the contract to the successful Supplier and include the reasons why for unsuccessful bidders. The Officer must provide unsuccessful Suppliers with a period of at least ten days in which to review / or challenge the decision if they wish to before the Officer awards the contract. If the decision is challenged by an unsuccessful Supplier then the Officer shall not award the contract without first seeking the advice of Legal Services. The Officer shall debrief in writing all those Suppliers which submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of Legal Services:
- How the award criteria were applied.
  - The prices or range of prices submitted, in either case not correlated to suppliers' names.
  - The name of the successful tenderer(s)
  - The scores of the successful tenderer(s), and the reasons for those scores.
  - The scores of the unsuccessful tenderer being debriefed, and the reasons for those scores
  - The relative advantages of the successful Tender, above the unsuccessful tenderer being debriefed
- The debriefing process should only be carried out in writing.

## **5. Contract and other formalities**

### **5.1. Contract Documents**

#### **5.1.1. Relevant Contracts**

5.1.1.1. The formal advice of Legal Services must be sought for all Relevant Contracts where any of the following apply:

- Appointment of Consultants (see Rule 4.1.5); or
- Where the total contract value exceeds £50,000; or
- Those involving leasing arrangements; or
- Where it is proposed to use a supplier's own terms; or
- Contracts to carry out work for other organisations; or
- Those that are complex, High Profile or High Risk in any other way.

5.1.1.2. The Council's order form or standard terms and conditions must be used wherever possible. Notwithstanding, all Relevant Contracts above £50,000 shall be in writing in a form approved by Legal Services. If any doubt exists, refer to the advice of Legal Services.

5.1.1.3. All Relevant Contracts, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done).
- The provisions for payment (i.e. the price to be paid and when).
- The time, or times, within which the contract is to be performed.
- The provisions for the Council to terminate the contract.
- Anti bribery / corruption clauses
- Data protection requirements (where relevant)

5.1.1.4. In addition, every Relevant Contract above £50,000 should consider inclusion of the following (as advised by Legal Services):

- That the contractor may not assign or sub-contract without prior written consent.
- Any insurance requirements.
- Health and safety requirements.
- Ombudsman requirements.
- That charter standards are to be met if relevant.
- The Council's requirements concerning Equality, detailed in EDDC's Equality Policy
- Freedom of Information Act requirements.
- Where agents are used to let contracts, the agents must comply with the Council's Contract Standing Orders.
- A right of access to relevant documentation and records of the contractor.
- The use of penalty clauses for non or unacceptable performance e.g. quality issues, late delivery. This will be aided by the inclusion of Key Performance Indicators within

the contract.

### 5.1.2. **Contract Formalities**

5.1.2.1. Agreements shall be completed as follows:

<b>Contract Value</b>	<b>Method of Completion</b>	<b>Completion by</b>
Up to £5,000	Electronic order or by signature	Authorised Officer / Budget Manager
Between £5,001 to £50,000	Electronic order or by signature	Budget Manager
Between £50,001 to £100,000	Electronic order, by signature or under seal (as advised by Legal Services)	Budget Manager
Above £100,001 or if any of para 5.1.1.1 applies	By signature or under seal (as advised by Legal Services)	Director / Assistant Director if by signature and by Authorised Signatory if under seal

5.1.2.2. The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

### 5.1.3. **Sealing**

5.1.3.1. Where appropriate, contracts are completed by each side adding their formal seal. The fixing of the Council's seal must be witnessed by an Authorised Signatory – Legal Services can advise on this process.

5.1.3.2. Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed except in accordance with the Council's Constitution.

5.1.3.3. A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services, or
- There is any doubt about the authority of the person signing for the other contracting party.

### 5.1.4. **Records**

5.1.4.1. All contracts that are completed by way of signature, irrespective of the contract sum, the Officer responsible for securing a signature must provide Legal Services with the original copy for secure storage. An electronic copy must be held on file.

5.1.4.2. All contracts completed under seal must be kept by Legal Services for secure storage. An electronic copy must be held on file.



## 5.2. Bonds and Parent Company Guarantees

- 5.2.1. The Officer must consult the Director of Finance about whether a Parent Company Guarantee is necessary when a supplier is a subsidiary of a parent company and:
- The total value exceeds £100,000, or
  - Award is based on evaluation of the parent company, if there is some concern about the stability of the supplier.
- 5.2.2. The Officer must consult the Director of Finance whether a Bond is needed
- Where the total value exceeds £1,000,000, or
  - Where a Parent Company Guarantee is not available if there is no parent company
  - Where it is proposed to make stage or other payments in advance of receiving the whole of the contract and there is concern about the stability of the Supplier i.e. following a formal risk assessment

## 5.3. Prevention of Corruption and Anti-Competitive Behaviour

### 5.3.1. Prevention of corruption

- 5.3.1.1. The Officer needs to be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the new corporate offence of failing to prevent bribery. Officers should also be aware of the Council's Anti-Fraud, Theft and Corruption Policy and the Anti Bribery Policy.
- 5.3.1.2. The Officer must comply with these above requirements and the Employee Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the Bribery Act 2010.
- 5.3.1.3. Anti-Bribery Clauses must be written into every written Council contract except where doing so would conflict with the contract rules associated with a national or local framework.

### 5.3.2. Anti-Competitive Behaviour

- 5.3.2.1. In its guidance for public sector procurers, the Office of Fair Trading has highlighted practical steps to take to reduce the risks of anti-competitive behaviour, which should be followed where practical:
- (a) Use non-collusion clauses, certificates of independent bids and requests;
  - (b) Ensure sufficient credible bidders;
  - (c) Look for suspicious bidding patterns;
  - (d) Keep comprehensive notes of all discussions and potential bidders and systematically scrutinise them for suspicious patterns.
- 5.3.2.2. If there is any doubt concerning anti-competitive behaviour during a procurement exercise, or for further guidance, the Officer should contact Procurement Support or Legal Services.

## **6. Contract management**

### **6.1. Managing contracts**

- 6.1.1. Directors or Assistant Directors are to name contract managers ('the Contract Manager') for all new contracts and all contracts must have a named Council Contract Manager for the entirety of the contract.
- 6.1.2. Contract Managers must follow the procedures set out in the Council's Contract Standing Orders.
- 6.1.3. All variations to contracts are to be in writing in the form of an appropriately authorised variation order.
- 6.1.4. Payments to contractors will only be made on certification by the designated contract manager or nominated alternative officer(s), or, where engaged by the Council, the appropriate Consultant.
- 6.1.5. Liquidated and ascertained damages may need to be deducted for periods of delay in line with the terms of the contract. Any instance, where in the opinion of the Officer/Contract Manager, this does not apply, must be fully justified and authorised by the Council's Monitoring Officer and the Section 151 Officer.
- 6.1.6. The Officer/Contract Manager will consult with the Council's Monitoring Officer and the Section 151 Officer promptly on becoming aware of any significant dispute, claim for additional payment in connection with a contract.

### **6.2. Contingency Planning**

- 6.2.1. In entering into contract agreements or reviewing existing contracts, Officers must consider risk implications and ensure that the Council's Risk Register is updated with any identified risks and that mitigating controls are recorded appropriately and complete a contract risk register for all contracts with a value over £100,000.

### **6.3. Contract Monitoring, Evaluation and Review**

- 6.3.1. All contracts which have a value higher than the public procurement threshold limits, or **which are High Risk**, are to be subject to formal review(s) by the Contract Manager with the contractor. The review may be conducted at a frequency that is determined by the risk value and profile of the contract.
- 6.3.2. A contract review process must be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.

- 6.3.3. During the life of the contract, the Contract Manager must monitor and take any necessary corrective action in respect of:
- Performance
  - Compliance with specification and contract
  - Cost
  - Any Value for Money requirements
  - User satisfaction and risk management
  - Key performance indicators included within the contract.
- 6.3.4 Further support and advice on Contract Management including online training available can be found on the procurement page on the Council's intranet.

## 6.4. Definitions Appendix

Term	Definition
Authorised Officer	An officer with authority and responsibility for dealing with contracts within the course of their employment.
Authorised Signatory	An officer authorised by Rule 22 of Part 4 of the Constitution to attest the use of the Council's seal
Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Budget Manager	An officer in charge of or responsibility for overseeing the budget relating to the contract. Finance will allocate a budget manager to all budget areas and these are approved by the Director or Assistant Director.
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work (including architects, engineers, surveyors, lawyers and other professionals).
Contracting Decision	Any of the following decisions: withdrawal of Invitation to Tender; whom to invite to submit a Quotation or Tender; short listing; award of contract; any decision to terminate a contract.
Contract Manager	An officer with the responsibility of overseeing and monitoring delivery of a contract who may also be an Authorised Officer
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein.
Financial Regulations	The Financial Regulations outlining Officer responsibilities contained in the Constitution

<b>Term</b>	<b>Definition</b>
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these contract standing orders
Invitation to Quote	Invitation to quote in the form required by these contract standing orders.
Non-commercial Considerations	(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters'). (b) Whether the terms on which contractor's contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only. (c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. (d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes'). (e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors. (f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. (g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. (h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply

<b>Term</b>	<b>Definition</b>
Officer	The officer designated by the Service Manager to deal with the contract in question.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Procurement support	Refers to the Council's arrangements for specialist procurement assistance
Public Contracts Regulations 2015 Procedure	The procedure required by the UK law where the Total Value exceeds the Public Procurement Threshold.
Public Procurement Threshold	The contract value at which the Public Contract Regulations and procurement directives apply for Goods, Services and Works. Available at UK Procurement Legislation.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these contract standing orders apply (see Rule 2.4).
Section 151 Officer	The Director for Financial Services or such other officer as may be designated Section 151 Officer by the Council, including the appointed Deputy S.151 Officer.
Shortlisting	The process of selecting suppliers who are to be invited to quote or bid or to proceed to final evaluation.
Supplier	Any person who asks or is invited to submit a Quotation or Tender.
Tender	A supplier's proposal submitted in response to an Invitation to Tender.
Tender Register	The log kept by Democratic Services to record details of Tenders (see Rule 4.6.3).
Total Value	The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows: (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48 (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result (e) for Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.
Value for Money	'Value for money' does not necessarily mean the lowest possible price. It combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, at an appropriate price, from an effective supplier.

## 4.8 Officer Employment Procedure Rules

### 1. Recruitment and Employment

#### 1.1. Declarations

- 1.1.1. The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or employee of the Council; or of the partner of such persons.
- 1.1.2. No candidate so related to a councillor or an employee will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### 1.2. Seeking support for appointment

- 1.2.1. Any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council will be disqualified. The content of this paragraph will be included in any recruitment information.
- 1.2.2. Subject to paragraph 1.2.3, no Councillor will seek support for any person for any appointment with the Council.
- 1.2.3. Nothing in paragraphs 1.2.1 and 1.2.2 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### 2. Recruitment of Head of Paid Service and Chief Officers

- 2.1. Where the Council proposes to appoint the Head of Paid Service or a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- 2.1.1. draw up a statement specifying:
- 2.1.2. the duties of the officer concerned; and
- 2.1.3. any qualifications or qualities to be sought in the person to be appointed;
- 2.1.4. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 2.1.5. make arrangements for a copy of the statement mentioned in paragraph 8.2.1.1 to be sent to any person on request.

### 3. Appointment of Head of Paid Service and Chief Officers

- 3.1. The full Council will approve the appointment of the Head of Paid Service, or a Chief Officer following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.
- 3.2. The full Council may only make or approve the appointment of the Head of Paid Service, or a Chief Officer where no well-founded objection has been made by any Member of the Cabinet. Council shall have the final decision on whether or not an objection is well

founded.

#### **4. Other appointments**

- 4.1.** The appointment of officers below Chief Officer is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

#### **5. Disciplinary action**

- 5.1.** Disciplinary action against Chief Officers will be in accordance with the Council's Disciplinary Procedure for Statutory and Chief Officers, which reflect the model procedures and associated guidance of the Joint Negotiating Committee for Local Authority Chief Executives and Chief Officers..
- 5.2.** Councillors will not be involved in the disciplinary action against any officer other than a Chief Officer.

#### **6. Dismissal**

- 6.1.** Other than as specified in the Scheme of Delegations to officers Councillors will not be involved in the dismissal of any officer other than a Chief Officer.

#### **7. Redundancy of Chief Officers**

- 7.1.** In the event that the situation arises where any of the Chief Officers are recommended to be made redundant then only Full Council may approve the redundancy.