

# CONSTITUTION

## PART 4 - RULES OF PROCEDURE

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# Rules of Procedure

## Council Procedure Rules

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### **Definition**

For the avoidance of doubt, please find outlined below the definition for “clear days” and “clear working days.”

#### **Clear Days**

“Clear Days” are inclusive of weekends/bank holidays but exclude the day any notices are served and the day of the meeting.

#### **Clear Working Days**

“Clear Working Days” are exclusive of weekends and bank holidays, the day any notices are served and the day of the meeting.

## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and Business**

The Annual meeting is a very important event in the life of the Council and the District of Ashfield as a whole. At this meeting the Council:

1. Elects a person to preside if the Chairman of the Council is not present;
2. Elects the Chairman of the Council for the local government year (usually from May to May);
3. Elects the Vice Chairman of the Council;
4. Receives any declarations of disclosable pecuniary or personal interests and/or non-registerable interests;
5. Approves the minutes of the last meeting;
6. Receives any announcements from the Chairman and Head of Paid Service;
7. Elects the Leader of the Council for a four-year term of office;
8. Is informed by the Leader of the Council about the composition and constitution of the Executive (or Cabinet) for the coming year, and the names of Councillors he/she has chosen to be members of the Cabinet;
9. Is told by the Leader of the Council about the Scheme of Delegation for the discharge of Executive functions;
10. Approves a programme of Ordinary Meetings of the Council for the year;
11. Considers any business set out in the notice convening the meeting. (An item concerning notices of motion and written questions will not appear on the Summons.)

- 1.2** The Annual meeting normally takes place in May. But in those years when there has been an election for all Councillors (once every four years) the meeting will take place within 21 clear days of the retirement of the outgoing Councillors. In the circumstance of a disaster or an unplanned incident, the annual meeting can be postponed until the following year or until such time as is reasonable to resume normal Council activity.

### **1.3 Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council will also:

- a. Decide which committees to establish for the local government year.
- b. Decide the size and terms of reference for those committees;

- c. Decide the allocation of seats on committees to political groups in accordance with the political balance rules;
- d. Appoint Councillors to serve on each committee; and
- e. Appoint to outside bodies, except where appointment to those bodies has been delegated by the Council elsewhere.

## 2. ORDINARY MEETINGS

Ordinary Meetings of the Council are used to carry out the business which the Council is directly responsible for. The order of business for Ordinary Meetings of the Council is as follows:

1. Elect a person to preside if the Chairman and Vice Chairman are not present;
2. Receive any declarations of disclosable pecuniary or personal interests and/or non-registerable;
3. Approve the minutes of the last meeting;
4. Receive any announcements from the Chairman, Leader and Members of the Cabinet or the Head of Paid Service;
5. Presentation of awards and/or certificates by the Chairman;
6. Receive questions from, and provide answers to, the public in accordance with **Rule 11 (Questions by the Public)**;
7. Receive and consider petitions in accordance with **Rule 12 (Petitions)**;
8. Deal with any business from the last Council meeting;
9. Consider the business specified in the Summons to the meeting, including proposals from the Cabinet in relation to the Council's budget and policy framework, reports of the Principal Select Committee for debate and reports from Officers of the Council;
10. Receive recommendations from the Cabinet and the Council's Committees and discuss and resolve them in line with the Council's rules of debate;
11. Receive updates from members of the Cabinet on their portfolio activity, with a 3 minute maximum speech time per Executive Lead Member and a maximum collective time allocation of 30 minutes.
12. Receive reports, questions and answers on the business of joint arrangements and external organisations;

13. Consider motions of which notice has been submitted by Members of the Council in accordance with **Rule 14 (Motions on Notice)** in the order in which they are recorded as having been received;
14. Receive questions from, and provide answers to, Members under Council **Rule 13 (Questions by Members)**;
15. Receive a list of minutes and a web link to access Cabinet and Committee meeting minutes that have been published since the last Ordinary Meeting of the Council, so that Members can give notice of their intention to ask a question of a relevant Committee Chairman under **Rule 13.2 (Questions on Notice at Council)**.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling Extraordinary Meetings**

Sometimes additional or extraordinary meetings of the Council are required to deal with special or unexpected business. The Chief Executive can call these extraordinary meetings. He or she can also be asked to call Extraordinary Council Meetings by:

- a. The Council by resolution;
- b. The Chairman of the Council;
- c. The Monitoring officer and the Chief Finance Officer; and
- d. Any five Members of the Council if they have signed and presented a request to the Chairman of the Council to call a meeting and he or she has not done so within seven clear days of receiving this. A request for a meeting may be presented to the Chairman by being left for him or her with the Chief Executive.

#### **3.2** Where it is decided to call an extraordinary meeting of the Council under **3.1(b)** or **3.1(c)** above, the Members calling the meeting shall:

- (a) Tell the Chief Executive they have done so;
- (b) Specify the business to be transacted; and
- (c) The date and time for when they have called the meeting.

#### **3.3** The Chief Executive shall then ensure that the necessary notices and summonses are published and sent.

#### **3.4** Only those items of business specified on the Summons may be transacted at an extraordinary meeting of the Council.

### **3.5 Extraordinary Budget and Tax Setting**

1. Elect a person to preside if the Chairman and Vice Chairman are not present;
2. Receive any declarations of disclosable pecuniary or personal interests and/or non-registerable;
3. Consider the business specified in the Summons to the meeting, in relation to the formal setting of the Annual Budget and Council Tax;
4. Consider any additional business specified in the Summons.

To ensure the smooth flow of business the following provisions will operate for the Extraordinary Budget and Tax Setting meeting.

- a. The proposer of the Annual Budget and Council Tax Setting report will have a maximum 15 minutes to move the item.
- b. The proposer of the Annual Budget and Council Tax Setting report will have a maximum 5 minutes to summate following debate.
- c. The seconder of the Annual Budget and Council Tax Setting report will have a maximum of 10 minutes to second the item.
- d. Council Procedure Rule 16.4 will still apply for all other Members taking part in the debate on the Annual Budget and Council Tax Setting item.

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, any vote relating to Annual Budget and Council Tax Setting will be recorded in the minutes of the proceedings of the meeting with the names of the persons who cast a vote 'for' or 'against' or who abstained from voting.

## **4. ORDER OF BUSINESS**

**4.1** The order of business at meetings of the Council may be varied by:

- a. The Chairman with the consent of Members present; or
- b. A resolution of the Council, moved, seconded and put without comment.

## **5. URGENT ITEMS**

- 5.1** If the Chairman decides that an item of business not included in the agenda for the meeting sent with the Summons may be taken for reasons of urgency (which must be specified) that item shall usually be taken at the end of the other items of business unless the Chairman with the consent of Members decides otherwise.

## **6. TIME AND PLACE OF MEETINGS**

- 6.1** The time and place of meetings will be determined by the Chief Executive and notified in the Summons.

## **7. NOTICE OF AND SUMMONS TO MEETINGS**

- 7.1** 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. At least five clear working days before a meeting, the Chief Executive will send a Summons to every Member of the Council. The Summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by the reports specified on the agenda. Only in exceptional circumstances and with the agreement of the Monitoring Officer will it be permitted for reports to follow.

## **8. CHAIR OF MEETING**

- 8.1** The person presiding at a meeting of the Council or its Committees and Sub-Committees may exercise any power or duty of the Chairman. If present at a meeting of the Council, the Chairman shall preside. In the absence of the Chairman the Vice Chairman shall preside. If both the Chairman and Vice Chairman are absent from a meeting of the Council, such Member of the Council as shall be chosen by the Members of the Council shall preside.

## **9. QUORUM**

- 9.1** The quorum of a meeting will be one quarter of the whole number of Members (which shall in no case be less than **3**). The Chair shall seek to begin the meeting at the scheduled time. If there is not a quorum present either in one or more of the “places” identified in 6.1, the meeting will commence as soon as the quorum is present. If after **15 minutes** a quorum is still not present, then the meeting will be postponed. If during a meeting the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. If after 15 minutes there is still no quorum, then the remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.



## **10. DURATION OF MEETING MAJORITY VOTE TO CONTINUE**

**10.1** Unless the majority of Members present vote for the meeting to continue, any meeting which commenced at 7.00 pm on reaching 9.00 pm will adjourn immediately (unless a thirty minute extension in accordance with **Rule 23 (The Conclusion of Proceedings)** has been approved). The remaining business will then be considered at a time and date to be fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **11. QUESTIONS BY THE PUBLIC (within a maximum time allocation of thirty minutes)**

### **11.1 General**

Members of the public may ask questions of Members of the Cabinet, the Leader of the Council and a Chairman of any Committee or Sub-Committee at ordinary meetings of the Council.

### **11.2 Order of Questions**

Questions will be asked in the order in which notice of them was received in accordance with **Rule 11.3 (Notice of Questions)**, except that the Chairman may group together similar questions.

### **11.3 Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon **7** clear working days before the day of the meeting. Each question must give the name and address of the questioner and name of the Member of the Council to whom it has been put. If the name of the Member is not specified then the Chief Executive will nominate the most appropriate Member.

### **11.4 Number of Questions**

A maximum of **4** questions in any local government year may be submitted by any person or on behalf of an organisation or business. At any one meeting no person may submit more than 2 questions and no more than 2 such questions may be asked on behalf of an organisation or business.

### **11.5 Scope of Questions**

The Chief Executive may reject a question if it:

- Is not about a matter for which the Council has a responsibility or which does not affect the District;
- Is defamatory, frivolous or offensive;

- Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- Requires the disclosure of confidential or exempt information;
- Relates to judicial/quasi-judicial items, planning and licensing applications or appeals,
- Names Officers or Members by name, and/or alleged breaches of the Members' Code of Conduct which are subject to or may be subject to investigation; or
- Relates to an ongoing complaint to the Council, either at Stage 1 or 2, or a complaint that is currently subject to investigation by the Local Government Ombudsman or a complaint which has been concluded either at Stage 1 or 2 or via the Local Government Ombudsman.

## **11.6 Record of Questions**

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include the reasons for rejection. Copies of all questions will be circulated electronically to all Members and will be made available to those attending the meeting.

## **11.7 Asking the Question at the Meeting**

The Chairman will invite the questioner to put the question to the Member named in the notice. In the absence of the questioner, the question is to be relayed to the Council by the Chairman.

## **11.8 Supplementary Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in **Rule 11.5 (Scope of Questions)**.

## **11.9 Response**

A response may be given by the Member to whom it has been put, or by the relevant Executive Lead Member.

## **11.10 Written Answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

### **11.11 Reference of Question to the Cabinet or a Committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but a Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

## **12. PETITIONS**

- 12.1** Petitions may be presented to a meeting of the Council. The person wishing to present the petition shall give **10 clear working days'** notice of his/her intention to do so.
- 12.2** The person presenting the petition shall be allowed up to **5 minutes** to present the petition and make supporting remarks relevant to the petition.
- 12.3** The petition will then be received without discussion, and stand referred to be considered in accordance with the Council's Petition Scheme.
- 12.4** Petitions shall be presented in the order in which notice of them is received by the Chief Executive.
- 12.5** If the Council is presented with a petition which contains **more than 1,500 signatures** it will be debated by the Council and in accordance with the Council's Petition Scheme.
- 12.6** When a petition is debated by the Council the petition organiser will be given a maximum of **10 minutes** to present the petition and the petition will then be discussed by the Council for a maximum of **15 minutes**; 3 minutes maximum per Councillor. The Council will resolve how to respond to the petition.
- 12.7** If a petition submitted to the Council contains **more than 5,000 signatures**, the time allocated for discussion is **30 minutes**; 3 minutes maximum per Councillor.
- 12.8** Petitions which relate to Planning or Licensing applications are not covered by the Council's Petition Scheme. They will be referred to the relevant committee to consider.

## **13. QUESTIONS BY MEMBERS**

### **On Reports of the Cabinet or Committees**

- 13.1** A Member of the Council may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council. A Member is allowed to ask a follow up question which must arise out of the original question or reply.

## Questions on Notice at Council

**13.2** Subject to **Rule 13.4 (Notice of Questions)**, a Member of the Council may ask the Chairman of the Council, an Executive Lead Member or the Chairman of any Committee or Sub-Committee:

- (a) A question on any matter in relation to which the Council has powers or duties;
- (b) A question on any matter which affects the District;
- (c) A question in relation to the minutes of a Cabinet or Committee meeting, under **Rule 2.1(xiii)**.

For any one meeting, no Member may submit more than 2 questions in each category.

**13.3** The Chairman will invite the questioner to put the question to the Member named in the notice. If the questioner is not present the question shall not be put and shall be answered in writing. In the event that there is insufficient time to deal with Members' questions because of the provisions of **Rule 23 (Conclusion of Proceedings)**, any questions that have not been dealt with shall be answered in writing.

### **13.4 Notice of Questions**

A Member may only ask a question under **Rule 13.2 (Questions on Notice at Council)** if either:

- (a) He/she has given notice of the question either in writing or by electronic mail to the Chief Executive no later than **noon**, 7 clear working days before the day of the meeting.
- (b) The question relates to urgent matters, he/she has the consent of the Member to whom the question is to be put and the content of the question is given to the Chief Executive by **10am** on the day of the meeting.

**13.5** Questions must be about matters for which the Council has a responsibility or which affect the District.

**13.6** Any question which in the opinion of the Chief Executive is defamatory, frivolous or offensive shall be referred to the Chairman who may, after consideration, refer it back to the Member who submitted it indicating that it will not be put at the meeting.

### **13.7 Response**

An answer to questions asked under **Rule 13 (Questions by Members)** may take the form of:

- (a) A direct oral answer by the Leader of the Council, Cabinet Executive Lead Member or the Chairman of a Committee or by any other person who they nominate;
- (b) Reference to a Council or other publication which contains the necessary information;
- (c) A written answer where the reply cannot conveniently be given orally. The written answer needs to be provided within 10 clear working days of the meeting to the questioner and copied to all Members; or
- (d) A combination of all the above.

**13.8** There is no time limit on a Member orally responding to questions.

**13.9 Supplementary Question**

A Member asking a question under **Rule 13.2 (Questions on Notice at Council)** may ask one supplementary question without notice of the Member to whom the first question was asked. The question must arise directly out of the original question or the reply.

**14. MOTIONS ON NOTICE**

**14.1 Notice**

Except for motions which can be moved without notice under **Rule 15 (Motions without Notice)**, written notice of every motion, signed by the proposer and seconder must be delivered to the Chief Executive not later than noon, **7** clear working days before the date of the meeting. As soon as a valid notice of motion is received in accordance with **Rule 14.3 (Scope)** and approved as such by the Chief Executive, it will be entered in a book open to public inspection.

**14.2 Motion Set Out in the Summons**

Motions for which notice has been given will be listed on the Summons in the order in which the notices were received, unless the Members giving notice state, in writing, that they want to move it to a later meeting or withdraw it.

**14.3 Scope**

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

- a. The Chief Executive shall refer to the Chairman any motion which he/she considers:
  - i) Defamatory, frivolous or offensive; or
  - ii) Not a matter for which the Council has a responsibility or which affects the District; or

- iii) Substantially the same as a motion which has been put at a meeting of the Council in the last **6 months**; or
- iv) Requires the disclosure of confidential or exempt information.

**14.3** The Chairman may, after consideration, refer the motion back to the Member who submitted it, indicating that it will not be placed on the Summons.

**14.4** The following rules apply:

- a. Any motion which is the responsibility of the Cabinet or any Committee or Sub-Committees shall upon being moved and seconded, stand referred to the Cabinet or Committee or Sub-Committee without debate;
- b. No proposal shall allow a Member to move or second more than one written motion for inclusion on any Summons;
- c. A motion shall only be moved by the Member who has signed the notice, or by another Member authorised by that Member and notified to the Chief Executive not later than the commencement of the meeting;
- d. Where notice of motion has been accepted for any meeting of the Council, but is neither moved or seconded at the meeting, nor referred to any Committee or Sub Committee, the notice shall lapse and the motion shall not be moved without further notice.
- e. Valid motions must include appropriate and sufficient information to enable Councillors to make a lawful decision – for example legal, financial, statutory, and policy implications.
- f. A source must be provided for any figures and/or statistical data included in a motion.

**14.5** The Chief Executive shall not include on the Summons any motion which identifies by name any Member or Officer.

#### **14.6 Timings**

The proposer of a motion will have a maximum of 8 minutes to move the motion, with an additional 5 minutes to summate following the conclusion of debate. A maximum of 6 minutes is allocated to the seconder of a proposed motion.

It is not necessary for the motion to be read in full when moving the motion, providing the motion has been supplied in writing to Council.

#### **14.7 Urgent Motions**

The Chairman may accept a motion to be considered as a matter of urgency (in which case the reason for urgency has to be stated).

## **15. MOTIONS WITHOUT NOTICE**

**15.1** The following motions may be moved without notice:

- (a) To appoint a Chairman 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 on 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) That the meeting continue beyond 9.00 pm;
- (n) To suspend a particular Council Procedure Rule;
- (o) To exclude the public and press in accordance with the Access to Information Rules;
- (p) To not hear further a Member named under **Rule 25.3 (Not to be Heard Further)** or to exclude him/her from the meeting under **Rule 25.4 (Member to Leave the Meeting)**; and
- (q) To give the consent of the Council where its consent is required by this Constitution.

## **16. RULES OF DEBATE**

### **No Speeches until Motion Seconded**

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

## **16.2 Right to Require Motion in Writing**

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

## **16.3 Seconders' Speech**

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

## **16.4 Content and Length of Speeches**

No speech may exceed **5 minutes** without the consent of the Chairman. Members may be allowed an additional opportunity, at the Chairman's discretion, to speak during a debate for a maximum of a further **2 minutes** after the initial **5 minute** opportunity. Speeches must be directed to the question under discussion or to a personal explanation or point of order.

## **16.5 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/or
- (f) By way of personal explanation.

## **16.6 Amendments to Motions**

The following rules apply to the amendment of motions:

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) To refer or defer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) To leave out words (as long as the effect would not be to negate the motion);



- (iii) To leave out words and insert or add others (as long as the effect would not be to negate the motion); or
  - (iv) To insert or add words (as long as the effect would not be to negate the motion).
- (b) An amendment referring to Members or Officers should state the Office which they hold rather than referring to named individuals.
  - (c) 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 dealt with.
  - (d) If an amendment is not carried, other amendments to the original motion may be moved.
  - (e) 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.
  - (f) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## **16.7 Alteration of Motion**

The following rules apply to the alteration of motions:

- (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 which 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 which could be made as an amendment may be made.

## **16.8 Withdrawal of Motion**

A Member may withdraw a motion which 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.

## **16.9 Right of Reply**

The following rules apply in terms of the right of reply when a motion has been moved:

- (a) The mover of a motion has a right of 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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### **16.10 Motions which 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) That the meeting continue beyond 9.00 pm for a maximum of a further 30 minutes (under Rule 23);
- (h) To exclude the public and press in accordance with the Access to Information Rules; and
- (i) To not hear further a Member named under **Rule 25.3 (Member Not to Be Heard Further)** or to exclude him/her from the meeting under **Rule 25.4 (Member to Leave the Meeting)**.

#### **16.11 Closure Motions**

The following rules apply on the closure of 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 the next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/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 Chairman 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 Chairman thinks the item has not been sufficiently discussed and cannot reasonably be 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.

#### **16.12 Point of Order**

A Member may raise a point of order at any time. The Chairman 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 thinks it has been broken. The ruling of the Chairman on the matter will be final.

#### **16.13 Personal Explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

### **17. PREVIOUS DECISIONS AND MOTIONS**

#### **17.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least 9 Members.

#### **17.2 Motion Similar to One Previously Rejected**

- (a) A motion or amendment, which is in similar terms to one that has been rejected at a meeting of the Council in the past six months, cannot be moved unless the notice of motion or amendment is signed by at least 9 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

- (b) A decision making body (such as the Cabinet) can still recommend to Council the revision or reversal of a resolution made within the past 6 months.

## **18. VOTING**

### **18.1 Majority**

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.

### **18.2 Chairman's Casting Vote**

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

### **18.3 Show of Hands and Affirmation by the Meeting**

Unless a recorded vote is agreed in accordance with **Rule 18.4, (Recorded Vote)** the Chairman will take the vote either by show of hands or electronically by using the available technology, or if there is no dissent, by the affirmation or the general agreement of the meeting.

### **18.4 Recorded Vote**

At any meeting called under these Rules on a proposal moved and seconded for a recorded vote and supported by a majority of Members present and voting, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes.

### **18.5 The minutes of a budget decision meeting of the Council will:**

- (a) Record the result of the vote; and
- (b) Whether each individual Member voted in favour, against or abstained from voting on the proposal.

### **18.6 Right to Require Individual Vote to be Recorded (Prescribed by Law)**

Where any Member requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

### **18.7 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.

## **19. STATE OF ASHFIELD DEBATE**

### **19.1 Calling of Debate**

The Chairman of the Council may call a State of Ashfield debate annually on a date and in a form to be agreed with the Leader.

### **19.2 Form of Debate**

The Chairman of the Council may decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of Ashfield debate.

### **19.3 Chairing of Debate**

The State of Ashfield debate will be chaired by the Chairman of the Council.

### **19.4 Results of Debate**

The results of the debate will be:

- (i) Shared as widely as possible within the community and to agencies and organisations in the area; and
- (ii) Considered by the Leader of the Council in proposing the budget and policy framework to the Council for the coming year.

## **20. MINUTES**

### **20.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman 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. The minutes can also only be amended or rejected on the grounds of accuracy.

### **20.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting (Prescribed by Law)**

When the next meeting is going to be an extraordinary meeting (called under paragraph 3 of Schedule 12 to the Local Government Act 1972) then the minutes can be approved at the next scheduled or planned meeting.

## **21 RECORD OF ATTENDANCE**

- 21.1** 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.

## **22 EXCLUSION OF PUBLIC**

- 22.1** Members of the public and press may only be excluded either in accordance with the **Access to Information Rules (Part 4 of this Constitution) or Rule 26 (Disturbance by Public)**.

## **23 CONCLUSION OF PROCEEDINGS**

- 23.1** Any meeting called under these Rules which commences at 7.00 pm shall conclude no later than **9.00 pm**; save that the conclusion may be extended to **9.30 pm** if approved by a majority of Members present and voting prior to **8.55 pm**. Any items of business not dealt with will stand adjourned to the next ordinary meeting unless the Chairman agrees to convene an extraordinary meeting to deal with the outstanding business.

## **24 RIGHT OF MEMBERS TO ATTEND MEETINGS**

- 24.1** Any Member of the Council may attend any meeting of the Executive, Committees, and Sub-Committees called under these Rules of which he/she is not a Member. With the consent of the Chairman the Member may speak on any matter appearing on the agenda but may not move or vote on the subject. However, this rule does not apply to meetings of the Chief Officers' Employment Committee, its Sub-Committee, Standards & Personnel Appeals Committee when dealing with its appeals functions or Hearings Sub-Committee, Licensing Sub-Committees and Local Joint Consultative Committee.

## **25 MEMBERS' CONDUCT**

### **25.1 Speaking**

When a Member speaks at Council he/she must stand and address the meeting through the Chairman. If more than one Member intends to speak and stands, the Chairman will ask one to speak and the others must sit down. 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.

### **25.2 Chairman Speaking**

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

### **25.3 Member not to be Heard Further**

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

### **25.4 Member to Leave the Meeting**

If the Member continues to behave improperly after such a motion is carried, the Chairman 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.

## **25.5 General Disturbance**

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

## **26. DISTURBANCE BY PUBLIC**

### **26.1 Removal of Member of the Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order his/her removal from the meeting room.

### **26.2 Clearance of Part of Meeting Room**

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

## **27. MEETINGS OF COMMITTEES & SUB COMMITTEES**

### **27.1 Time and place of ordinary meetings**

The Council at the Annual Meeting shall fix the date and time and place of Ordinary Meetings of Committees and may fix the date and time and place of Ordinary Meetings of Sub Committees and other Sub Groups.

**27.2** If the Council does not fix the date, time or place of an Ordinary Meeting of a Committee, Sub Committee or other Sub Group then the relevant Committee may do so.

**27.3** The Chairman of a Committee or Sub Committee or the Chairman of the Council may call an Extraordinary Meeting of a Committee or Sub Committee at any time.

**27.4** The Chairman of a Committee or Sub Committee or the Chairman of the Council, may if he/she considers it necessary (after consultation so far as practicable with such persons as appear to him/her to be representative of the political groups to which seats on the Committee or Sub Committee have been allocated) cancel a meeting of the Committee or Sub Committee or may change any of the details of place, date or time already fixed for the meeting.

### **27.5 Substitution of Members at Meetings**

The Council's Committees and Sub-Committees shall have provision for substitute Members. The members of the Cabinet cannot have formal substitute or deputy Members who are not themselves members of the Cabinet. Members

of the Cabinet (other than the Leader of the Council) may not nominate or appoint substitutes for meetings of Committees of the Executive.

- 27.6** Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting. (For example, they will not automatically be entitled to chair the meeting if acting as substitute for the Chairman). Substitute Members shall be from the same political group as the Ordinary Member. If a Member is not part of a political group, they may be substituted by another ungrouped Member.
- 27.7** Substitute Members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are substituting and where the ordinary Member will be absent for the whole of the meeting.
- 27.8** It is Council policy that before sitting and taking part in meetings of the Planning Committee, the Licensing Committee and its Sub-Committees, the Standards and Personnel Appeals Committee and its Sub-Committees and the Chief Officers' Employment Committee the Member must have received appropriate training. For the avoidance of doubt, the substitute Member must have received appropriate training for the Committee or Sub Committee to which they are appointed as substitute.
- 27.9** It is the responsibility of the ordinary Member who cannot attend to make arrangements for a substitute to be present in his/her place and to notify the Chief Executive (or his/her nominee) of the proposed substitution in advance of the meeting concerned. Substitution must be for the whole of the meeting. The attendance of substitute Members shall be recorded in the minutes of the meeting.
- 27.10** Once the substitution has been made the substitute Member will assume all the powers and duties of the ordinary or substituted Member until after the close of the meeting for which the substitution has been made. The ordinary or substituted Member will not be able to resume their powers and duties until after the meeting has finished. A substitute Member speaks and votes in their own capacity and is subject to the same requirements in respect of any declarations of interest and must follow the usual rules set out in the Members' Code of Conduct.

## **28. FILMING, AUDIO RECORDING, 'BLOGGING' AND 'TWEETING' OF MEETINGS**

- 28.1** Members of the public are entitled to take photographs, film and audio-record live proceedings and report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.
- 28.2** The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chair of the meeting will facilitate this by ensuring that any such request not to be recorded is respected by those doing the recording.



**28.3** The rules which the Council will apply are set out below:

- (i) Anyone wishing to record must let the Chair of the meeting know prior to, or at the start of, the meeting and the recording must be overt (i.e. clearly visible to anyone at the meeting), but non-disruptive.
- (ii) All those visually recording a meeting are requested to only focus on recording Councillors, Officers and the public who are directly involved in the conduct of the meeting.
- (iii) Any Member of the public has the right not to be recorded. Any children present at the meeting are not to be filmed unless their parents/guardians have given their consent. The Council ensures that agendas for, and information supplied at, public meetings make it clear that recording can take place – if anyone speaking at the meeting does not wish to be recorded they must let the Chair of the meeting know.
- (iii) It is not permitted to carry out an oral commentary or report during the filming of any meeting as this may be disruptive to the good order of the meeting.
- (iv) The Chair of the meeting has absolute discretion to stop or suspend recording if in their opinion continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules. The circumstances in which this might occur include:
  - Recording is disrupting the proceedings of the meeting;
  - There is public disturbance or a suspension of the meeting;
  - The meeting has resolved to exclude the public for reasons which are permitted by law;
  - A member of the public participating in a meeting objects to being recorded.
- (v) No restrictions will be placed upon anyone at the meeting using social media such as Twitter, blogs, Facebook etc., provided that the Chair of the meeting does not consider their actions are disrupting the proceedings of the meeting.
- (vi) Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Council's values or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view. The Council will have no liability for material published by any other person unless it is itself undertaking the publication.

- (vii) If confidential or exempt information is being discussed and the public are excluded from the meeting, then all recording equipment will need to be removed immediately from the room.
- (viii) The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.

## **29. WITHDRAWAL FROM MEETING – DISCLOSABLE PECUNIARY INTEREST**

- 29.1** A Member must withdraw from the meeting room or Chamber during the whole consideration of any item of business in which he/she has a Disclosable Pecuniary Interest as defined by Regulations under the Localism Act 2011. The requirement to withdraw does not apply where the individual Member has sought and has been granted a dispensation.

## **30. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **30.1 Suspension**

All of these Council Rules of Procedure except **Rule 18.6 (The Right to Require Individual Vote to be Recorded)** and **Rule 20.2 (No Requirement to sign Minutes of the Previous Meeting at an Extraordinary Meeting)** 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.

### **30.2 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.

## **31. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

- 31.1** All of the Council Rules of Procedure apply to meetings of Council. Only **Rules 6-10, 15-16, 18, 20-29** (but not **Rule 25.1**) apply to meetings of Committees and Sub-Committees and to the Cabinet.

## **32. INTERPRETATION OF COUNCIL PROCEDURE RULES**

- 32.1** The ruling of the Chairman of the Council as to the construction or application of any of these Council Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

# **Access to Information Procedure Rules**

## **1. SCOPE**

- 1.1 These rules apply to all meetings of the Council, the Principal Select Committee, Inward Focus Select Committee, Outward Focus Select Committee, the regulatory committees, and public meetings of the Executive (together called Meetings).

## **2. ADDITIONAL RIGHTS TO INFORMATION**

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## **3. RIGHTS TO ATTEND MEETINGS**

- 3.1 Members of the public may have access to attend all Meetings subject only to the exceptions in these rules.

## **4. NOTICES OF MEETING**

- 4.1 The Council will give at least 5 clear working days notice of any Meeting by posting details of the Meeting at the Council Offices, Urban Road, Kirkby-in-Ashfield (the Designated Office).

## **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 5.1 The Council will make copies of the agenda and reports for the Meeting open to the public available on the Council's website at least 5 clear working days before the Meeting, not including weekends and bank holidays. If an item is added to the agenda later, the Chief Executive will make each additional report available to the public on the website as soon as the report is completed and sent to Councillors. The report will be open to inspection from the time the item was added to the agenda.

## **6. SUPPLY OF COPIES**

- 6.1 The Council will supply to any person on payment of a charge for postage and any other costs to be determined by the Monitoring Officer, 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. Any other documents supplied to Councillors in connection with an item, if the Chief Executive thinks fit.

## **7. ACCESS TO INFORMATION ABOUT DECISIONS TAKEN**

**7.1** The Council will make available electronically for six years, records of the decisions that the Council, its Cabinet, committees and sub-committees have made. These records will specify the:

- (a) Details of the decision and the date it was made;
- (b) The reasons for the decision;
- (c) Any other options considered and reasons why they were rejected;
- (d) Details of any interest declared by a Member of the decision-making body;
- (e) A note of dispensations granted.

**7.2** In addition, the Council will also make available electronically:

- (a) The minutes of the Meeting or records of decisions taken, together with reasons, for all Meetings, 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 author of any report will set out in every report a list of 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.

**8.2** The list will not include published works or those which disclose exempt or confidential information as defined in Rule 10 and in respect of Executive reports, the advice of a political advisor.

**8.3 Public Inspection of Background Papers**

The Council will make available electronically for four years after the date of the Meeting, one copy of each of the documents on the list of background papers. For reports in respect of Executive functions a copy of relevant background papers will be published on the Council's website.

**9. SUMMARY OF PUBLIC'S RIGHTS**

**9.1** A written summary of the public's rights to attend Meetings and to inspect and copy documents must be kept at and be available to the public at the Council Offices, Urban Road, Kirkby-in-Ashfield.

**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.

**10.3** 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.

**10.4 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 Court Order.

## 10.5 Meaning of Exempt Information

Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
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 a particular person. (Including the Authority holding that information.)	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 1993.</li> </ul> <p>“financial or business affairs” includes contemplated, as well as past or current activities.</p> <p>“registered” in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act)”</p>
4. Information relating to any 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.	<p>“employee” means a person employed under a contract of service</p> <p>“labour relations matter” means-</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) any dispute about a matter falling within paragraph (a) above;</li> </ul>

	and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the Authority as they apply in relation to employees of the Authority; “office holder” in relation to the Authority, means the holder of any paid office appointments 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;
<b>5.</b> Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
<b>6.</b> Information which reveals that the Authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
<b>7.</b> Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

**10.6** Information is not exempt information if it relates to a proposed development for which the Local Planning Authority (the Council) may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

**10.7** Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the paragraph above,

is exempt information 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 (the Public Interest Test).

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

- 11.1** If the Proper Officer considers that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, 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 (Exclusion of the Public from Meetings)**, 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**

- 12.1** **Rules 13 – 22** below apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a Key Decision then it must also comply with **Rules 1 – 11** unless **Rule 15 (General Exception)** or **Rule 16 (Special Urgency)** apply.

- 12.2** If the Cabinet or its committees meet to discuss a Key Decision to be taken collectively, with an Officer other than a political assistant present, within 28 clear days of the date according to the Forward Plan by which it is to be decided, then it must also comply with **Rules 1 – 11** unless **Rule 15 (General Exception)** or **Rule 16 (Special Urgency)** apply. This requirement does not include meetings, whose sole purpose is for Officers to brief Members.

## **13. PROCEDURE BEFORE TAKING KEY OR EXEMPT DECISIONS**

- 13.1** Subject to **Rule 15 (General Exception)** and **Rule 16 (Special Urgency)**, a Key Decision may not be taken unless:

- (a) A notice giving at least 28 clear days notification has been published in connection with the matter in question; and
- (b) At least 5 clear days have elapsed since the publication of the notice; and
- (c) Where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with **Rule 4 (Notice of Meetings)**.

- 13.2** A private meeting of the Executive to consider an item of business containing either confidential or exempt information shall not be held unless:

- (a) 28 clear days notice has been given of the proposed business to be transacted and allows the opportunity for the public to make



representations about why the business should be transacted in public; and

- (b) A further notice has been given at least 5 clear days before the meeting re-stating the reasons for the meeting being held in private and outlining any representations made by the public as to why the business should be transacted in public and the Executive's response to those representations.

**13.3** If the above timetable is impracticable, a meeting can still go ahead under a "Special Urgency" provision if the Executive has had agreement from the relevant Principal Select Committee Chairman or, if s/he is unable to act, the Chairman or Vice Chairman of the Council setting out why a meeting is urgent and cannot reasonably be deferred. This notice will be displayed at the Council Offices and on the website.

## **14. THE FORWARD PLAN**

### **14.1 Period of Forward Plan**

A Forward Plan notice of a potential key or exempt Executive decision will be prepared by the Leader at least 28 clear days prior to the expected date of the decision. They will be prepared on a monthly basis.

### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a Key Decision or an exempt Executive decision to be taken by the Executive, a committee of the Executive, individual Members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) The matter in respect of which a decision is to be made;
- (b) The decision takers name and title, or if a body, its name and full membership;
- (c) The date on which, or the period within which, the decision will be taken;
- (d) The documents to be submitted to the decision taker and details of how to receive copies in relation to the matter.
- (e) A note that other documents relevant to the decision may be submitted to the decision maker and details of how to receive copies.

**14.3** The Forward Plan of Key and Exempt decisions will be published at least 28 clear days in advance of the date a proposed decision is to be taken.

**15. GENERAL EXCEPTION**

**15.1** If a matter which is likely to be a Key Decision has not been included on the Forward Plan then, subject to **Rule 16 (Special Urgency)**, the decision may still be taken if:

- (a) The Monitoring Officer has informed the Chairman of the Principal Select Committee, or if there is no such person, each Member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (b) The Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on the website; and
- (c) At least 5 clear days have elapsed since the Monitoring Officer complied with (a) and (b).

**16. SPECIAL URGENCY**

**16.1** If, by virtue of the date by which a decision must be taken, **Rule 15 (General Exception)** cannot be followed, then the decision can only be taken if the decision taker obtains the agreement of the Chairman of the relevant Principal Select Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chairman of the Principal Select Committee, or if the Chairman of the Principal Select Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice. A copy of the notice of this agreement will be made available at the offices of the Council and on the website.

**17. REPORT TO COUNCIL**

**17.1 When an Principal Select Committee can require a Report**

If the Principal Select Committee thinks that a Key Decision has been taken which has not been treated as a Key Decision by the Executive, the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Principal Select Committee. Such a report must include:

- (a) The decision and reasons for the decision;
- (b) Who took the decision; and
- (c) If the Executive do not think it was a Key Decision, the reasons for that opinion.

## **17.2 Reports on Special Urgency Decisions**

The Leader will submit a report to the next available Council meeting following any Executive decisions taken in the circumstances set out in **Rule 16 (Special Urgency)**. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. In any event, there will at least be an annual report on the use of the Rule 16 (special urgency) procedure.

## **18. RECORD OF DECISIONS**

- 18.1** After any meeting of the Executive or any of its committees, whether held in public or private, the Chief Executive, a designated Officer, or in exceptional circumstances, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected at that meeting and details of any declaration of interest and any dispensation granted.

## **19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

- 19.1** The Executive will decide whether meetings relating to matters which are not Key Decisions will be held in public or, if there are legal grounds for excluding the public and press, in private.

## **20. DECISIONS BY INDIVIDUAL MEMBERS OF CABINET**

### **20.1 Reports Intended to be Taken into Account**

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until at least five clear days after receipt of that report.

### **20.2 Provision of Copies of Reports to the Principal Select Committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Principal Select Committee as soon as reasonably practicable, and make it publicly available at the same time.

### **20.3 Record of Individual Decision**

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Cabinet or by an Officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of **Rule 7 (Access to Information)** and **Rule 8 (Inspection of Documents after Meetings)** will also apply to the making of decisions by individual Members of the Cabinet or by an Officer. A record of the decision will be available at the Council Offices and on the website. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **21. PRINCIPAL SELECT COMMITTEES ACCESS TO DOCUMENTS**

### **21.1 Rights to Copies**

Subject to **Rule 21.2 (Information Which is not Confidential or Exempt)** below, a member of the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- (a) Any business transacted at a public or private meeting of the Cabinet or its Committees; or
- (b) Any decision taken by an individual Member of the Cabinet; or
- (c) Any Executive decision taken by an Officer.

**21.2** This right only applies to information which is not confidential or exempt, unless it is relevant to an action or decision being reviewed or scrutinised by the Principal Select Committee, Inward Focus Select Committee, Outward Focus Select Committee, or is otherwise relevant to the programme of work of the Committee.

**21.3** Advice from a Political Assistant or adviser is exempt from this right of access.

**21.4** The relevant documents should be provided as soon as practicable and, in any event, no later than 10 clear working days following receipt of the request. Where the Executive or Officer is of the view that a Select Committee Member is not entitled to a copy of the document, it must provide a written statement setting out its reasons for that decision.

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **Material Relating to Business Conducted at a Public or Private Meeting of the Executive or an Individual Member or Officer Exercising an Executive function**

**22.1** All Members will be entitled to inspect any document which is in the possession of, or under the control of the Executive at least 5 clear working days before a public meeting, or for any private meeting, after conclusion of the meeting or immediately after a decision has been made in respect of any decision taken by an individual Member or Officer, unless:

- (a) It discloses exempt information falling within paragraphs 1,2,4,5 and 7 of the categories of exempt information as outlined above; or
- (b) It contains the advice of a political adviser.

### **22.2 Nature of Rights**

These rights of a Member are additional to any other right he/she may have.

# Budget and Policy Framework Procedure Rules

## 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

The Council will be responsible for the adoption of its budget and policy framework as set out in **Article 4**. Once in place, it will be the responsibility of the Executive to implement it.

## 2. PROCESS FOR DEVELOPING THE FRAMEWORK

- (a) The Executive will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Principal Select Committee will also be notified. The consultation period shall in each instance be as specified in the Forward Plan.
- (b) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If the Principal Select Committee wishes to respond to the Executive in that consultation process then it may do so. The Executive will take any response from the Principal Select Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (c)
  - (i) Where the Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (ii)
  - (ii) Before the Council:
    - (a) Amends the draft plan or strategy;
    - (b) Approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
    - (c) Adopts (with or without modification) the plan or strategy;

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him or her instructions requiring the Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- (iii) Where the Council gives instructions in accordance with paragraph (ii) it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives instructions on behalf of the Executive within which the Leader may:
  - (a) submit a revision of the draft plan or strategy as amended by the Executive (the “revised draft plan or strategy”), with the Executive reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration;
  - (b) inform the Council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.
  
- (iv) When the period specified by the Council referred to in paragraph (iii) has expired, the Council must, when:
  - (a) Amending the draft plan or strategy, or, if there is one, the revised draft plan or strategy;
  - (b) Approving, for the purpose of submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (c) Adopting (with or without modification) the plan or strategy;

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive’s reasons for those amendments, any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for that disagreement, which the Leader submitted to the Council or informed the Council within the period specified.
  
- (v) Subject to paragraph (ix) where, before 8<sup>th</sup> February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year:
  - (a) Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

- (b) Estimates or other amounts to be used for the purpose of such a calculation;
- (c) Estimates of such a calculation;
- (d) Amounts required to be stated in a precept under Chapter IV or Part I of the Local Government Finance Act 1992 and following consideration of those estimates or amounts the Council has any objections to them;

it must take the action set out in paragraph (vi)

- (vi) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (v)(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform, the Leader of any objections which it has to the Executive's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (vii) Where the Council gives instructions in accordance with paragraph (vi), it must specify a period of at least five working days beginning on the day after the date on which the Leader received the instructions on behalf of the Executive within which the Leader may:
  - (a) Submit a revision of the estimates or amount as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements with the Executive's reasons for any amendments made of the estimates or amounts, to the Council for the its consideration; or
  - (b) Inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- (viii) When the period specified by the Council referred to in paragraph (vii), has expired the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (v)(a) or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:
  - (a) Any amendments to the estimates or amounts that are included in any revised estimates or amounts;



- (b) The Executive's reasons for those amendments;
  - (c) Any disagreement that the Executive has with any of the Council's objections; and
  - (d) The Executive's reasons for that disagreement, which the Leader submitted to the Council or informed the Council of within the period specified.
- (ix) Paragraphs (v) to (vii) shall not apply in relation to:
- (a) Calculations or substitute calculations which Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (b) Amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Sections 52J or 52U of that Act.

The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of at least 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Executive, individual Members of the Executive and any Officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- (b) If the Executive, Committees of the Executive, individual Members of the Executive and any Officers, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not

wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is urgent, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Executive, a Committee of the Executive, an individual Member of the Executive or Officers, or joint arrangements discharging Executive functions 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 Council if the decision is urgent. A decision is urgent if:
  - i) It is not practical to convene a quorate meeting of the Council; and
  - ii) The Chairman of the Principal Select Committee agrees that the decision is urgent.

The reasons why it is not practical to convene a quorate meeting of Council and the Chairman of the Principal Select 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 Chairman of the Principal Select Committee the consent of the Chairman of the Council, and in the absence of both the Vice-Chairman, will be sufficient. In the absence of all of these Members, the consent of the Monitoring Officer will be sufficient.

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**

- (a) Financial Procedure Rules may provide for limitations on transfers between or within the elements of the Budget.
- (b) Any part of the Budget and Policy Framework may specify the extent to which the Executive may transfer funds within the Framework.

## **6. IN -YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a Committee of the Executive or Officers, or joint arrangements discharging Executive functions must be in line with it.

- (a) The Executive may vary the Policy Framework in circumstances where:-
  - (i) The relevant part of the Policy Framework provides for the Executive to determine a variation;
  - (i) It is necessary to ensure compliance with the law, ministerial direction or government guidance;
  - (iii) In relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
  - (iv) The result is a closure or discontinuance of a service or part of service in order to meet a budgetary constraint.
- (b) Therefore recommendations from the Executive to the Council informing the Policy Framework may contain recommendations as to in what circumstances each part of the proposed Policy Framework may be varied by the Executive.
- (c) When the Executive varies the Policy Framework under this rule it will report the variation and the reasons for it to the next available meeting of the Council.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Where the Principal Select Committee is of the opinion that an Executive decision 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/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's 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 Principal Select Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- (c) 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 Finance 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 Principal Select 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 Principal Select 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 Finance Officer. The Council may either:
  - i) Endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework, the decision to take immediate effect; or
  - ii) Amend the Budget and Policy Framework to allow the decision to take immediate effect; or
  - iii) Determine that the decision is wholly or partly outside the Budget and Policy Framework and require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.
- (d) Urgent decisions under Rule 4 may not be subject to call-in.

8. Where a decision has been taken and implemented and it appears to the Principal Select Committee that it is wholly or partly outside the Budget and Policy Framework, on advice from the Monitoring Officer and/or Chief Finance Officer, then the Committee may submit a report to the Council and/or the Executive with or without recommendations.
9. Where any proposal, notice or other document is to be given by or to the Executive or the Council under these rules it is to be given, in writing, to the Chief Executive who is responsible for serving and/or publishing it.
10. The Chief Executive will call, at the earliest practical time, any meeting required to be called under these rules.

# **Executive Procedure Rules**

## **1. ARRANGEMENTS FOR THE EXERCISE OF EXECUTIVE FUNCTIONS**

### **1.1 Executive Decisions**

The Leader will determine a scheme of delegations (set out in Part 3 of this Constitution) which may provide for Executive functions to be discharged by:

- i) The Leader, personally;
- ii) The Executive as a whole;
- iii) A Committee of the Executive;
- iv) An individual Member of the Executive personally;
- v) An Officer;
- vi) Joint arrangements; or
- vii) Another local authority.

### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written scheme of delegations made by him/her for inclusion in Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- i) The names of the Members appointed to the Executive by the Leader;
- ii) The extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- iii) The terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- iv) The nature and extent of any delegation of Executive functions to, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and

- v) The nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the office to whom the delegation is made.

### **1.3 Sub Delegation of Executive Functions**

- i) Where the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to, a joint arrangement or an Officer.
- ii) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.
- iii) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader may delegate further to an Officer.
- iv) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

### **1.4 Amendment of delegations by the Leader**

- i) The Leader may amend the scheme of delegation at any time by serving notice of the change on the Chief Executive and the person or body concerned.
- ii) Subject to **Article 6.05** the change in delegation will take effect two working days after the Chief Executive is notified, notwithstanding that this Constitution has not been amended to reflect the change.
- iii) The Chief Executive will report the change to the next available meeting of the Council and amend Part III of the Constitution accordingly.

### **1.5 Conflicts of Interest**

- i) 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.
- ii) If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct in Part 5 of this Constitution.
- iii) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member or an Officer,

and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.6 Executive Meetings – When and Where?**

The Executive will meet as required at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader and as specified on the summons convening the meeting.

#### **1.7 Public or Private Meetings of the Executive?**

All meetings of the Executive will be open to the public. The public will only be excluded from meetings of the Executive when dealing with confidential or exempt information as set out in Part 4 of this constitution.

#### **1.8 Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be one quarter of the total number of Members of the Executive (including the Leader or nominated Member), but not less than 3, whichever is the larger.

#### **1.9 How are Decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

## **2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

### **2.1 Who Presides?**

If the Leader is present he/she will preside. In his/her absence, then the Executive Member nominated as Deputy Leader will preside, in his/her absence a nominated Executive Member as agreed and voted upon at the meeting shall preside.

### **2.2 Who May Attend?**

Executive meetings are open to members of the public to attend, subject to the provisions set out in Part 4 of this Constitution which deals with the Access to Information Rules and paragraph 1.7 above.

### **2.3 Conduct of Business?**

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

- i) To receive apologies for absence;
- ii) To consider the minutes of the last meeting;
- iii) To receive declarations of interest by Members;
- iv) Matters referred to the Executive (whether by a Select Committee or by the Council) for reconsideration by the Executive 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;
- v) Consideration of reports from Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee; and
- vi) Matters set out in the agenda for the meeting, and which shall indicate which are the 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 Executive from any Member of the Executive or an Officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the relevant Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select 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 Executive Agenda?**

The Leader will decide upon the schedule for the meetings of the Executive. The Leader may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any Member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Executive.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

# **OVERVIEW AND SCRUTINY PROCEDURE RULES**

## **1. ARRANGEMENTS FOR THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE AND OUTWARD FOCUS SELECT COMMITTEE**

The Council will appoint the Principal Select Committee, the Inward Focus Select Committee and the Outward Focus Select Committee as set out in Article 6 and will appoint such Members to serve on them as it considers appropriate from time to time. The Principal Select Committee may appoint Sub-Committees.

- (a) The Council has appointed one Principal Select Committee which will perform all overview and scrutiny functions on behalf of the Council. It will consist of Members of the Council.
- (b) The Council has appointed the Inward Focus Select Committee and Outward Focus Select Committee.

## **2. MEMBERSHIP OF THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE**

All Councillors, except Members of the Executive, may be members of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committees. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

## **3. CO-OPTEEES**

The Principal Select Committee or Sub-Committee or Inward Focus Select Committee or Outward Focus Select Committee shall be entitled to recommend to Council the appointment of non-voting co-optee(s).

## **4. HOUSING SCRUTINY**

Any tenant activity with regard to scrutiny of housing matters will be carried out by the existing Tenants Gateway and will be reported to the Principal Select Committee as required.

## **5. MEETINGS OF THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE**

Meetings of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may be called by the relevant Chairman and may be called from time to time as and when appropriate or may be scheduled by the Council.

**6. QUORUM**

The quorum for the Principal Select Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

**7. CHAIRING PRINCIPAL SELECT COMMITTEE MEETINGS**

The Chairmen of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee will be appointed by the Council.

**8. WORK PROGRAMME**

The Principal Select Committee approve the Select Work Programme. All Members will be invited at least annually to submit items for suggested Select Committee reviews, in doing so they shall consider wishes of all Members. The Executive and/or Council may also request the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee to undertake work.

**9. AGENDA ITEMS**

Any Member of the Principal Select Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda but any such item shall not be discussed until a report which complies with the requirements of the Local Government Act 2000 is presented.

The Principal Select Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where it does so, the Principal Select Committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Principal Select Committee within two months of receiving it.

Crime and disorder issues shall be considered by either the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee annually.

Any Councillor shall refer an issue to the Principal Select Committee under the 'Councillor Call for Action' where local problems have arisen, and other methods of resolution have been exhausted.

**10. POLICY REVIEW AND DEVELOPMENT**

- (a) The role of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Principal Select Committee or any Sub-Committee may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

**11. REPORTS FROM THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE**

- (a) Once it has formed recommendations on proposals for development, the Principal Select Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared by the Proper Officer and submitted for consideration by the Council or Executive with the majority report. Minority reports and recommendations are not permissible as part of the call-in procedure.
- (c) The Council or Executive shall consider the report of the Principal Select Committee as soon as practicable and in any event within 2 months of it being submitted to the Proper Officer.

## **12. MAKING SURE THAT PRINCIPAL SELECT COMMITTEE REPORTS ARE CONSIDERED BY THE EXECUTIVE OR POLICY COMMITTEES**

Once a Principal Select Committee report on any matter which is the responsibility of the Executive has been completed, an advance copy will be submitted to the Leader after which, it will be included on the agenda of the next available meeting of the Executive. If for any reason the Executive does not consider the Principal Select Committee report within 2 months then the matter will be referred to Council for review, and the Proper Officer will call a Council meeting to consider the report and make a recommendation to the Executive.

The Principal Select Committee will in any event have access to the Executive's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee following consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

## **13. CALL-IN OF EXECUTIVE DECISIONS**

When a decision is made by the Executive, an individual Member of the Executive or a Committee of the Executive, or a Key Decision is made by an Officer with delegated authority from the Leader, or under joint arrangements, the decision shall be published as soon as possible on the Council's website and shall be available at the Main Offices of the Council.

The Council's call-in procedure provides that:

No Executive decision shall be implemented until 5 clear working days have expired after the date of publication of the decision (this 5 day period is the "call-in" period) except for:

- Urgent decisions, as mentioned below; and
- Decisions involving an issue worth less than £5,000 (where capable of being valued).

These decisions may be implemented immediately they are made.

Day to day management and operational decisions taken by Officer's are not subject to the call-in procedure.

Call-in does not apply to decisions of the regulatory committees, i.e. licensing (including Sub Committees) Planning, Audit, or Standards and Personnel Appeals Committees.

If the call-in period expires without a valid call-in being made, the decision may be implemented without any further requirement.

Call-in should only be used in exceptional circumstances. Prior to formally submitting a call-in, the Pre Call-in Procedure must be adhered to (4-61). To call-in a decision at least five Members must complete a form available from Democratic Services notifying the Chief Executive in writing which Executive Member or Officer decision they wish to call-in and why. The grounds for call-in would normally be where a matter is:

- (a) Contrary to policy, (b) Contrary to budget or (c) based on incorrect or inadequate or inaccurate information.

The completed form must be received by the Chief Executive within the call-in period and a copy must be sent to the Leader of the Council.

When a decision is “called in” it must be referred to the Principal Select Committee for a special or ‘extraordinary’ meeting to be held. Such meeting to be convened within **10** clear working days, for further consideration to enable the Committee to review the decision and make recommendations.

Where necessary and at the discretion of the Chairman of the Principal Select Committee, Executive Lead Members/Officers will engage in the process to allow Members to gather more information and consider the matter in more depth to make recommendations.

At the meeting, the Member who has proposed the call-in will have the opportunity to briefly explain his or her reasons to the Committee. The relevant Cabinet Executive Lead Member will then have the opportunity to briefly respond. Members of the Committee (and at the discretion of the Chair other elected Members) will then question the Cabinet Executive Lead Member and relevant officers about the decision. At the conclusion of the discussion, the Committee will determine what further action, if any, it wishes to take. The Committee may:

- (j) Refer the decision back to the Executive for reconsideration in the light of recommendations from the Committee.
- (ii) Request that the decision be deferred until the Principal Select Committee has considered relevant issues and made recommendations to the Executive.
- (iii) Take no action in relation to the called-in decision but consider whether issues arising from the call-in need to be added to the Select Work Programme.
- (iv) If, but only if (having taken the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that

the decision is wholly or partly outside the Budget and Policy Framework refer the matter, with any recommendations, to the Council after following the procedure in the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.

An Executive decision can only be called in once; repeated call-ins of the same decision are not permissible.

The Chief Executive will rule on whether this procedure has been properly followed.

Any matter that is called in should be dealt with in accordance with the Council's "Pre call-in Procedure and Attendance at Executive Protocol", which is set out below.

Minority reports/recommendations are not permissible for a call-in.

**14. RIGHTS OF PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, Members of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee 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.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Principal Select Committee as appropriate depending on the particular matter under consideration.

**15. MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) The Principal Select Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive, the Head of Paid Service and/or any Officer to attend before it to explain in relation to matters within their remit and subject to compliance with the relevant Member/Officer Interview Protocols:
  - i) Any particular decision or series of decisions;
  - ii) The extent to which the actions taken implement Council policy; and/or
  - iii) Their performance.

It is the duty of those persons to attend if so required.

- (b) The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may require Executive Lead Members to report on the implementation and/or progress of approved review recommendations (within their areas of responsibility) no less than 3 months after completion of the review and agreement from the Executive
- (c) Where any Member or Officer is required to attend a meeting of the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee under this provision the approved protocols will apply.

## **16. ATTENDANCE BY OTHERS**

The Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee may invite people to 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. Where any such person is to attend the protocol relating to Members of the Public will apply.

## **17. PROCEDURE AT PRINCIPAL SELECT COMMITTEE MEETINGS**

- (a) The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee shall consider the following business:
  - i) To receive apologies for absence;
  - ii) Receive declarations of interest;
  - iii) The minutes of the last meeting;
  - iv) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision (usually facilitated through an extraordinary meeting);
  - v) Consideration of any matter referred to the Committee under Councillor Call for Action;
  - vi) Responses of the Executive to reports of the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee where appropriate; and
  - vii) The business otherwise set out on the agenda for the meeting.



## 18. PETITIONS

### (a) Principal Select Committee Consideration

In accordance with the Council's Petition Scheme, petitions submitted to the Council containing **between 750 and 1,499 signatures** are considered by the Principal Select Committee.

The Principal Select Committee will invite an appropriate Council Officer to attend a meeting to give evidence in response to the petition. The Principal Select Committee may also decide to call any Member(s) relevant to the issue(s) set out in the petition to attend the meeting.

The petition organiser or nominated person is permitted a maximum of **15 minutes** to present the submitted petition and ask **three** questions relevant to the petition. Questions to be asked by the petition organiser or nominated person must be submitted to the Assistant Director – Democracy at least **10 clear working days** before the Principal Select Committee Meeting. Questions submitted as part of this process considered by the Chief Executive to be vexatious, discriminatory, abusive, unreasonable, or otherwise inappropriate will not be considered.

Following questions asked by the petition organiser or nominated person, a further **15 minutes maximum** is allocated for discussion between the Council Officer in attendance and Principal Select Committee Members.

Following consideration, Principal Select Committee Members may decide to approve recommendations to be submitted to a future meeting of the Council's Cabinet.

### (b) Review

A petition organiser has a right to request that the Principal Select Committee reviews the steps taken by the Council in response to a petition. It is expected that the petition organiser will give a brief explanation including the reasons why the Council's response is not considered to be adequate. The Committee shall consider if the petition was dealt with adequately. If the Committee determines that a petition has not been dealt with adequately it may use any of its powers to deal with the matter.

The petition organiser will be informed of the outcome of the review within 5 working days of the meeting and the decision will be published on the Council's website.

**19. MATTERS NOT WITHIN THE REMIT OF PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, OR OUTWARD FOCUS SELECT COMMITTEE**

The following matters should not normally be considered by Select Committees:-

- (a) Day to day managerial and operational decisions by Officers.
- (b) Any matter previously agreed to be an urgent decision by the Chairman of the Principal Select Committee.
- (c) An executive decision which has already been the subject of consideration under the call-in procedure.
- (d) Regulatory or quasi-judicial decisions of the Council its Committees or Sub Committees or the Executive.
- (e) Matters relating to the conduct of individual Members or Officers which are being dealt with under the ethical framework established by Part III Local Government Act 2000 and the current disciplinary rules and procedure, respectively.
- (f) Urgent decisions under Rule 16 of the Access to Information Rules.

## **OVERVIEW AND SCRUTINY INTERVIEW PROTOCOL (MEMBERS)**

1. Any Executive Member (or any other Member of the Council) invited to appear before the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will receive advance notification together with the proposed terms of reference or purpose of the meeting.
2. Every effort will be made to ensure that adequate notice is given of the date, time and place of the meeting and of the anticipated information and/or documentation that is likely to be requested by a Select Committee.
3. A written explanation of the procedures, including the public nature of the meeting will be given at the time of the invitation to attend. The written explanation shall include the nature of the evidence expected from Members. Subject to prior approval by the relevant Chairman, the Member so requested to appear before the Committee may be accompanied by the appropriate Executive Director or such other Officer as may be nominated.
4. Where considered to be appropriate, Members may be asked to prepare a written statement to deal with the matter or matters under investigation with a view to this being circulated to the Committee with the agenda.
5. At all times during the meeting everyone present will be treated with the utmost courtesy, respect, and consideration. All questions must be put openly and constructively.
6. Only one Member at a time may ask questions (questions will be asked in the order determined by the Chairman).
7. All questions asked of Members in attendance should relate to those areas where the Member has received advance notice, or in those instances where it is considered that the Member may have first-hand experience which is deemed to be beneficial to the investigation.
8. All parties must take extreme care to respect an individual's rights.

## **OVERVIEW AND SCRUTINY INTERVIEW PROTOCOL (OFFICERS)**

1. Any Officer asked to appear before any of the Council's Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will receive advance notification together with the proposed terms of reference or purpose of the meeting.
2. Every effort will be made to ensure that adequate notice is given of the date, time, and place of the meeting and of the anticipated information and/or documentation that is likely to be requested by the Committee.
3. A written explanation of the procedures, including the public nature of the meeting will be given at the time of the invitation to attend. The written explanation shall include the nature of the evidence expected from Officers and of their requirement to be politically impartial.
4. Where considered to be appropriate, Officers will be asked to prepare a written statement to deal with the matter or matters under investigation with a view to this being circulated to the Committee with the agenda.
5. At all times during the meeting everyone present will be treated with the utmost courtesy, respect, and consideration. All questions must be put openly and constructively.
6. Only one Member at a time may ask questions (questions will be asked in the order determined by the Chairman).
7. Whilst undertaking scrutiny of decisions, Officer information will normally be given by an Executive Director or Assistant Director. In exceptional circumstances, a Member of the Committee may request the Chairman to consider asking the relevant Chief Officer for the attendance of a more junior Officer. However, when requesting such attendance the Member must supply to the Chairman reasons for the request. In the event of the Chief Officer being reluctant to accede to the request, the Chief Executive shall have the power to decide.
8. Where the review being undertaken relates to a review of policy (as opposed to a review of a decision being undertaken by the main Principal Select Committee), it will be appropriate for Members to meet with and listen to Officers at all levels within the Council provided always that prior authorisation has been given for such Officer attendance by the appropriate Executive Director or Assistant Director.

9. All questions asked of those Officers attending by virtue of paragraph 8 should relate to those areas where the Officer has received advance notice or in those instances where the Officer has “hands on” experience which is deemed to be beneficial to the investigation.
10. Extreme care must be taken by all parties to respect an individual Officer’s rights, especially if any matter or matters under consideration could ultimately result in the contemplation of disciplinary action or other proceedings.

## **OVERVIEW AND SCRUTINY INTERVIEW PROTOCOL (MEMBERS OF THE PUBLIC)**

1. Any person invited (an 'Invitee') to appear before the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will receive advance notification together with the proposed terms of reference or purpose of the meeting.
2. Every effort will be made to ensure that adequate notice is given of the date, time and place of the meeting and of the anticipated information and/or documentation that is likely to be requested by a Select Committee.
3. A written explanation of the procedures, including the public nature of the meeting will be given at the time of the invitation to attend. The written explanation shall include the nature of the evidence expected from an Invitee.
4. Where considered to be appropriate, the Invitee may be asked to prepare a written statement to deal with the matter or matters under investigation with a view to this being circulated to the Select Committee with the agenda.
5. At all times during the meeting everyone present will be treated with the utmost courtesy, respect and consideration. All questions must be put openly and constructively.
6. Only one question may be asked at a time (questions will be asked in the order determined by the Chairman).
7. All questions asked should relate to those areas where the Invitee has received advance notice or in those instances where it is considered that he/she may have "hands on" experience which is deemed to be beneficial to the investigation.
8. Extreme care must be taken by all parties to respect an individual's rights.

## PRE CALL-IN PROCEDURE AND ATTENDANCE AT CABINET PROTOCOL

1. Any Member considering the prospect of submitting a formal call-in as prescribed within **paragraph 13** of the Overview and Scrutiny Procedure Rules, is requested to comply with the provisions of this Protocol. Firstly, with regard to prior discussion with Executive colleagues and secondly, with respect to attendance at Executive meetings if the subject matter ultimately results in a call-in for reconsideration.
2. Upon receipt of the Executive agenda, Members are requested to carefully read all reports and their recommendation(s) together with the reasons given for the recommendation(s). If the proposal appears unwelcome the Member is required to firstly contact either the Leader, Deputy Leader or the Executive Lead Member for the particular function to discuss the areas of concern.
3. After discussion, the Member needs to be aware that any Member of the Council is entitled to attend a meeting of the Executive and with the consent of the Chairman of the meeting, take part in the discussion but not to vote.
4. If the Member has not consulted a Member of the Executive before the matter is discussed, or attended the meeting during its discussion, that Member is required to consult and discuss the decision with the relevant Executive Lead Member or the Leader or Deputy Leader before instigating the call-in procedure.
5. If after any or all of the above steps have been exhausted a Member still wishes the matter to be called in and reconsidered, the terms of **paragraph 13** will apply. This requires **5 Members** lying outside of the Executive to signify to the Chief Executive that they support the application for the call-in and reconsideration.
6. If the call-in is validly made to the Chief Executive, and all pre-call in procedures have been followed, the matter will be referred within 10 working days to a special meeting of the Principal Select Committee who have the option to ask the Executive to reconsider its decision or make recommendations to it.
7. The originator of the call-in application and the Chairman of the Principal Select Committee have the right to attend if/when that Executive meeting is asked to reconsider its decision or consider further recommendations put forward and place before the Executive, its decision and any recommendations.
8. In reconsidering the matter the Executive must formally respond to the Principal Select Committee giving clear explanations as to the reasons for either accepting or declining any recommendations made.

9. At all times during the meeting everyone present will be treated with the utmost courtesy, respect and consideration. Any questions made to or by either the originator of the application, the Chairman of the Principal Select Committee or any Executive Member must be put openly and constructively.
10. Normal rules of debate are to apply and only one Member at a time may speak as determined by the Chairman.
11. Extreme care must be taken by all parties to respect an individual Member's rights.
12. A call-in will be approved by the Chief Executive subject to the above procedures being followed.



# INTRODUCTION TO FINANCIAL REGULATIONS

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## INTRODUCTION TO FINANCIAL REGULATIONS

1. Financial Regulations provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf.
2. The Regulations identify the financial responsibilities of the Council, the Cabinet and Select Committee Members, the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, and other Chief Officers.

The Council has designated the following posts as shown:

<b>POST</b>	<b>DESIGNATION</b>
Chief Executive	Head of Paid Service (Also Chief Officer)
Executive Directors	Chief Officers
Executive Director of Governance	Monitoring Officer
Corporate Resource Director & Section 151 Officer	Chief Finance Officer

Cabinet Members and Chief Officers must maintain a written record where decision making has been delegated to members of their staff, including seconded staff.

3. These Financial Regulations are complementary to:
  - a) any legislation affecting the functions of the Council;
  - b) the Standing Orders of the Council;
  - c) the Codes of Conduct for Members and Employees;
  - d) the UK Public Procurement Directives;
  - e) any directions agreed under any agreement where the Council acts as agent for other organisations

and shall be applied in conjunction herewith;

Chief Officers are responsible for promoting the financial management standards set by the Chief Finance Officer amongst all relevant staff and for monitoring adherence to the standards and practices, liaising with the Chief Finance Officer.

4. All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
5. Chief Officers are responsible for ensuring that all Officers under their control are aware of the existence and extent of the Council's financial rules and other internal regulatory documents and that they comply with them.

6. Breaches of Financial Regulations and Contracts Procedure Rules shall be referred to the Chief Finance Officer and the Monitoring Officer for investigation. Disciplinary procedures will be invoked where appropriate.

# FINANCIAL REGULATIONS

## FINANCIAL REGULATION A: FINANCIAL MANAGEMENT

### INTRODUCTION

A.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the Policy Framework and Budget.

### THE COUNCIL

A.2 The Council is responsible for adopting the Council's Constitution, the Members' Code of Conduct and for approving the Policy Framework and Budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The Framework is set out in its Constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.

A.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those Key Decisions delegated by, and decisions taken by the Council and its Committees or Sub Committees. The scheme of delegations and details of who has responsibility for which decisions are set out in the Constitution.

### THE CABINET

A.4 The Cabinet is responsible for proposing the Policy Framework and Budget to the Council, and for discharging Cabinet functions in accordance with the Policy Framework and Budget.

A.5 Cabinet decisions can be delegated to a Committee of the Cabinet, an individual Executive Lead Member, an Officer or a joint committee.

A.6 The Cabinet is responsible for establishing protocols to ensure that individual Executive Lead Members consult with relevant Officers before taking a decision within his or her delegated authority. In doing so, the Member must take account of legal and financial liabilities and the principles of decision making as referred to in paragraph 13.02 of Article 13 of the Council's Constitution; namely:

- a) The action must be proportionate to the desired outcome;
- b) Due consultation and the taking of professional advice from Officers;
- c) Respect for human rights;
- d) A presumption in favour of openness; and
- e) Clarity of aims and desired outcomes.

## **COMMITTEES OF THE COUNCIL**

### **Principal Select Committee**

A.7 The Principal Select Committee is responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

### **Standards and Personnel Appeals Committee**

A.8 The Standards and Personnel Appeals Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the Code.

### **Regulatory Committees**

A.9 Planning and Licensing Committees are not Executive functions but are exercised through powers delegated by the Council. These Committees report to the Council. The Audit Committee is responsible for independent assurance about the management's arrangements for ensuring a sound system of internal control which facilitates the effective exercise of the Council's functions and ensuring it has appropriate arrangements for the management of risk.

## **THE STATUTORY OFFICERS**

### **Head of Paid Service**

A.10 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He or she must report to and provide information for the Cabinet, the Council, the Principal Select Committee and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions (see below).

### **Monitoring Officer**

A.11 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and ethics and therefore provides support to the Standards and Personnel Appeals Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting Key Decisions are operating effectively.

A.12 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by Officers who have delegated responsibility.

A.13 The Monitoring Officer is responsible for advising all Councillors and Officers about who has authority to take a particular decision.

A.14 The Monitoring Officer is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Policy Framework.

A.15 The Monitoring Officer (together with the Chief Finance Officer) is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Budget. Actions that may be 'contrary to the budget' include:

- Initiating a new policy;
- Committing expenditure in future years to above the budget level;
- Incurring inter-divisional transfers above virement limits;
- Causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

A.16 The Monitoring Officer is responsible for maintaining the Council's Constitution.

### **Chief Finance Officer**

A.17 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Local Government Act 2000;
- The Local Government Act 2003;
- The Local Audit and Accountability Act 2014; and
- The Accounts and Audit Regulations 2015

A.18 The Chief Finance Officer is responsible for:

- The proper administration of the Council's financial affairs;
- Setting and monitoring compliance with financial management standards;
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- Providing financial information;
- Preparing the Revenue Budget and Capital Programme; and
- Treasury Management.

A.19 The Chief Finance Officer shall:

- a) Report to the Cabinet with respect to the level of financial resources estimated to be available in each financial year;
- b) Report at least once per year informing Cabinet of the Council's financial position and performance.

A.20 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Council, Cabinet and External Auditor if the Council or one of its Officers:

- Incurs unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
- Has made, or is about to make, a decision which involves incurring an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally.
- The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114.

## **CHIEF OFFICERS**

A.21 Chief Officers are responsible for ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.



A.22 It is the responsibility of Chief Officers to consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

A.23 Chief Officers are responsible for the accountability and control of resources consumed and generated by their Directorates.

## **OTHER FINANCIAL ACCOUNTABILITIES**

### **Virement**

A.24 The Council is responsible for agreeing procedures for virement of expenditure between budget headings.

### **Treatment of Year-End Balances**

A.25 The Council is responsible for agreeing procedures for carrying forward revenue underspends on budget headings. (NB - The Council has decided that under Financial Regulation A.25 delegated authority be granted to the Chief Finance Officer in consultation with the Chief Executive and the appropriate Executive Lead Member responsible for Finance to approve the carry forward of an underspend up to a limit of £15,000. Carry forward of underspends in excess of £15,000 must be approved by the Cabinet).

The carry forward should be in respect of unusual items of expenditure that are sufficiently committed, but cannot be accounted for in the original year, and cannot be absorbed in the new year's budget.

All underspends on service estimates carried forward must be reported to Council.

### **Accounting Policies**

A.26 The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently. These are considered annually by the Audit Committee.

### **Accounting Records and Returns**

A.27 All accounting procedures and financial records of the Council and its Services shall be in an approved form subject to the approval of the Chief Finance Officer.

### **The Annual Statement of Accounts**

A.28 The Chief Finance Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the current Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting in the United Kingdom based on International Financial Reporting Standards. The Audit Committee is responsible for approving the Annual Statement of Accounts.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING**

### **INTRODUCTION**

B.1 The Council is responsible for agreeing the Council's Policy Framework and Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- The Corporate Plan;
- The Budget;
- The Capital Programme;
- The Capital Strategy;
- The Medium Term Financial Strategy; and
- The Treasury Management Strategy

B.2 The Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Decisions should be referred to the Council by the Monitoring Officer.

B.3 The Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the Budget Policy Framework within the financial limits set by the Council.

### **Preparation of the Corporate Plan**

B.4 The Head of Paid Service is responsible for proposing the Corporate Plan to the Cabinet for consideration before its submission to the Council for approval.

### **Preparation of the Medium Term Financial Strategy**

B.5 The Chief Finance Officer is responsible for the development and maintenance of the Council's Medium Term Financial Strategy and for obtaining Council approval of the evolving Strategy. The Strategy sets out the way in which the Council's financial resources are aligned to the delivery of the Corporate Plan and the maintenance of prudent levels of finance reserves.

### **BUDGETING**

B.6 The Chief Finance Officer shall report annually to the Cabinet upon the Revenue and Capital Estimates for all the Council's functions. The Chief Finance Officer shall prepare and update at least annually a three-year rolling Revenue Budget and Capital Forecast. Each year, the Cabinet shall consider and recommend, based on corporate priorities, the strategic allocation of resources to services and submit a report to the Council.

B.7 The pre-arranged format and timescale of the Estimates shall be determined by the Chief Finance Officer. It is the responsibility of Chief Officers to ensure that Budget Estimates reflecting agreed Service Plans are submitted to the Chief Finance Officer and that these Estimates are prepared in line with guidance issued by the Chief Finance Officer.

### **Budget Monitoring and Control**

B.8 (a) Chief Officers shall:

- i. Only incur expenditure on revenue services where there is an approved budget in that financial year;
- ii. Only incur expenditure on a capital project where that project is in the Council's Capital Programme as applied to that financial year. Where new projects are proposed, the Cabinet shall consider corporate priorities and affordability and make any necessary recommendation by submitting a report to the Council.
- iii. Note that a capital project will only be considered for inclusion in the Capital Programme if it meets the definition as outlined in the Capital Strategy i.e. expenditure on the acquisition, creation or enhancement of tangible fixed assets that yields benefits to the Council and the services it provides for a period of more than one year. The total cost of the project should exceed £10,000 to be considered as capital expenditure.

Capital expenditure is defined as:

- The acquisition, reclamation, enhancement or laying out of land;
- The acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures and;
- The acquisition, installation or replacement of moveable or immovable plant, machinery or apparatus, vehicles and vessels.

Expenditure on existing assets can be capitalised expenditure where it:

- Is intended to lengthen substantially the useful life of the asset, or increase substantially the market value of the asset; or
- Increase substantially the extent to which the asset can or will be used for the purposes of or in conjunction with the functions of the Council.

It does not include expenditure that merely maintains the value of an existing asset e.g. major repairs.

- iv. Monitor and regulate the financial performance for those services where there is Directorate responsibility. Where in exceptional or unexpected circumstances a Service is faced with a material increase in its net expenditure, which cannot reasonably be contained within its resource allocation figure for the year, the

Chief Officer must (wherever possible, prior to incurring the expenditure) submit a request to Cabinet for a Supplementary Estimate (a Supplementary estimate is a budget increase greater than that already approved by Council at the annual budget setting meeting) to cover the additional expenditure. The Cabinet may only approve the request if the expenditure can be met from within the overall budget and is within the financial limits set by the Council regarding the reallocation of budget funds from one service to another.

The decision to approve, or otherwise, expenditure exceeding the overall budget must be made by the Council who will also decide how this will be funded as outlined in B.2 and B.3.

- (d) The Chief Finance Officer shall ensure that each Chief Officer has access to current statements of receipts and payments for those services under his/her control;
- (e) The foregoing shall be subject to the rules governing virement in B.10 below.

### **Budgetary Control – Capital**

B.9 The approved annual capital estimate for each specific project shall not be exceeded. Where, in exceptional or unexpected circumstances, a Service is faced with an increase in the capital estimate, the Chief Officer must (wherever possible prior to incurring the expenditure) notify the Chief Finance Officer and Cabinet. Cabinet may only approve additional expenditure on a specific project if it can be met from the Capital Budget for the year and does not increase the cost of the life of the approved Capital Programme. The decision to approve or otherwise expenditure exceeding the overall budget must be made by Council who will decide how this will be funded as outlined in B.3 and B.4.

### **Budgetary Control - Virement**

B.10 Once a budget has been approved, a Chief Officer can make a transfer of up to £20,000 between budget heads within that Service Area, if, in the opinion of the Chief Officer, it is in the best interests of the Council. A Chief Officer can, following approval by the Chief Finance Officer and the Executive Lead Member responsible for Finance make a transfer of up to £50,000 between budget heads.

Virements within Revenue budgets may be made subject to the following:-

- i) Virements are not divided into lots to circumvent the financial limits prescribed.
- ii) Where the transfer involves the transfer of budgets from staffing budgets to non-staffing budgets and vice versa, approval must also be sought from the Head of Paid Service.
- iii) Virements may only take place if there is no significant change in policy involved.

- iv) Virements between budgets of different Executive Lead Members or between different Chief Officers shall require the approval of Cabinet.

Virements between £50,000 and £100,000 will require approval by Cabinet. Any amounts in excess of £100,000 will require approval by Council.

Re-allocation of budgets following service reviews and reorganisations do not constitute virements.

### **Emergencies or Disasters**

B.11 The Head of Paid Service and/or the Chief Finance Officer may incur expenditure or utilise resources which are essential to meet any immediate needs and shall suitably report to the Cabinet.

### **USE OF RESERVES**

B.12 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax. A general reserve (or working balance) is maintained as a matter of prudence. It enables the Council to provide for unexpected events and thereby protect it from overspending should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

Key controls for the maintenance of reserves:

- Maintaining reserves in accordance with the relevant CIPFA Accounting Code of Practice and the Reserves Policy
- For each reserve established, the purpose, usage and the basis of transactions should be clearly identified
- Specific approval by the Head of Paid Service in consultation with the Chief Finance Officer for all use of earmarked reserves for a specific project up to £50,000
- A recommendation to Cabinet for amounts for a specific project in excess of £50,000 but under £100,000.
- Where external funding/contributions are made available to support specific projects/schemes, regardless of value, these funds can be accessed without consideration of the above financial limits. In these instances an Officer Decision Record (ODR) will be completed.
- The Council's General Fund minimum balance must be at least £1.35million.

It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or full Council on prudent levels of reserves for the Council to hold, and to take account of advice from the external auditor in this matter.

## **FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **INTRODUCTION**

C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### **RISK MANAGEMENT**

C.2 The Cabinet is responsible for recommending approval of the Council's Risk Management Policy Statement and Strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

C.3 The Chief Finance Officer is responsible for preparing the Council's Risk Management Policy Statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

### **INTERNAL CONTROL**

C.4 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

C.5 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

C.6 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

C.7 The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording amounts, shall be separated as completely as possible for the duty of collecting or disbursing them.

### **AUDIT REQUIREMENTS**

C.8 In accordance with the Accounts and Audit Regulations 2015, the Chief Finance Officer shall have responsibility for arranging a continuous internal audit of accounting, financial and other operations of the Council. The Council shall, at least once in each year, conduct a review of effectiveness of its system of internal audit and report the findings of the review to the Audit Committee.

C.9 Internal Audit will have the responsibility to review, appraise and report as necessary on:

- a) The adequacy and effectiveness of the control environment comprising of risk management, control and governance;
- b) The extent of compliance with Financial Regulations and Contract Procedure Rules and approved procedures of the Council plus the extent of compliance with external laws and regulation;
- c) The extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from waste, inefficiency, administration, poor value of money, fraud or other cause;
- d) The integrity of processes and systems, including those under development, to ensure that controls offer adequate protection against error, fraud and loss of any kind.

C.10 The Chief Finance Officer, or any other authorised officer, shall have authority to:

- a) Enter any Council owned or occupied premises or land at all times (subject to any legal restriction outside the Council's control);
- b) Have access at all times to all records, documents and correspondence relating to any transaction of the Council;
- c) Require and receive such explanations as are necessary concerning any matter under examination; and
- d) Require any Officer or Member of the Council to produce cash, stores or any other Council owned property under their control.

C.11 If a Chief Officer becomes aware of, or reasonably suspects, some irregularity concerning cash, stores or other Council property, or some irregularity concerning the exercise of some Council function, the Chief Officer shall, forthwith, notify the Head of Paid Service and the Chief Finance Officer. If appropriate, the Chief Officer shall also notify the Monitoring Officer. Upon receipt of such notification these Officers shall take such steps as they, or one of them, may consider necessary, including (if appropriate) arrangements for investigation and report in accordance with the Counter Fraud Strategy.

C.12 Financial Regulations C.8 to C.11 above are inclusive and complementary to and not a substitution for the statutory audit undertaken by the External Auditors or for the External Auditors' statutory rights of access. They do not diminish each Chief Officer's responsibility to take adequate measures to safeguard the Council's cash, stores and other property and assets.

C.13 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

## **ASSETS**

### **LAND AND BUILDINGS**

C.14 Transactions involving land and buildings shall be effected in accordance with the Code of Procedures for the Disposal of Land and Buildings.

C.15 The Executive Director of Governance shall maintain suitable and sufficient records relating to all the Council's land and buildings.

C.16 The Executive Director of Governance shall ensure the secure custody of all title deeds.

### **INVENTORIES**

C.17 Chief Officers shall ensure that:

- a) Responsible officer(s) are nominated to maintain inventories;
- b) Inventories are maintained for their Services, in a form agreed with the Chief Finance Officer, recording an adequate description of furniture, fittings and equipment and plant and machinery (excluding I.T Equipment).

A copy of the inventory shall be forwarded to the Chief Finance Officer who shall make suitable arrangements for its storage in a separate location.

Leased items should be included on the Inventory but clearly marked as such.

In addition to the Service inventory, equipment purchased by the Information Technology Section, including that purchased on behalf of other Services shall be recorded on the Information Technology Inventory.

- c) There is an annual physical check of all inventory items. Surpluses or deficiencies (with reasons if ascertainable) shall be recorded in the inventory and reported to the Chief Finance Officer. The Chief Finance Officer shall consider any such report in the context of C.11 above.
- d) Items appearing on the inventory (excluding leased items) shall be 'smart water marked' as property of the Council.
- e) Where an Officer ceases to be the responsible officer, an immediate check of the inventory shall be made and be the subject of a report as described in (c) above.



- f) In the event of any Council equipment being made available to any third party (where this is authorised) an inventory shall be produced which shall be agreed in writing with the third party who shall be responsible for the equipment for the duration of its use.

## **STOCKS AND STORES**

C.18 Chief Officers shall:

- a) Be accountable for the stocks and stores under their control;
- b) If appropriate, determine maximum stock levels and ensure that stocks do not then exceed such levels except in special circumstances with the approval of the Chief Finance Officer; where it is inappropriate to determine maximum stock levels Chief Officers shall ensure that actual stocks are not excessive;
- c) Make arrangements for continual stocktaking covering all items at least once per year. Stocktaking procedures shall be conducted by persons not involved in the receipt and issue of stock;
- d) Supply to the Chief Finance Officer such information as may be required for the financial records;
- e) Be authorised to approve the write-off of any single item of stock valued at £1,000 or under; or a number of items on the same stock code valued at £1,000 or under. Reasons for write-off and authorisation shall be clearly documented and notified to the Chief Finance Officer. All other amounts shall require approval by the Chief Finance Officer.
- f) Determine the appropriate course of action, such action may include:
  - i. Adjustments to the stock records;
  - ii. Disposal by competitive tender, auction or other suitable methods; and
  - iii. In any event comply with C.11 above.
- g) Stocks and Stores should be issued to Council employees only, subject to them having the necessary authorisation to withdraw stores. Authorised Council employees should not withdraw stocks and stores for use by anyone else other than Council employees.

## **SECURITY**

C.19 Chief Officers shall:

- a) Ensure that proper arrangements exist for the security of Council property;
- b) Arrange for the safe custody of keys to safes and other key secured areas. The loss of such keys must be reported to the Chief Finance Officer immediately the loss is discovered;

- c) Consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed; and
- d) Ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure is in place.

C.20 Chief Officers shall be responsible for maintaining proper security and privacy regarding information held on computer for its use, in accordance with the Data Protection Act 1984 and 1998 and the Computer Misuse Act 1990, amended by the Police and Justice Act 2006.

## **BANKING ARRANGEMENTS**

C.21 Arrangements with the Council's bankers shall be made by the Chief Finance Officer, who is hereby authorised to operate bank accounts.

C.22 Cheques shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.

C.23 Cheques drawn on the Council's Bank Accounts shall bear the signature of the Chief Finance Officer (either facsimile or manuscript). All cheques in excess of £50,000 shall bear an additional authorised signatory.

C.24 The Chief Finance Officer shall approve the appropriate procedures for payments made via electronic transfer. No payment is to be made by the Council via Direct Debit without the relevant mandate having first of all been authorised by the Corporate Resource Director.

## **PETTY CASH AND FLOAT ACCOUNTS**

C.25 The Chief Finance Officer shall issue detailed guidance as to the operation and management of these accounts and shall determine whether an account in any area of the Council is necessary.

C.26 Chief Officers shall ensure that:

- a) Each account is accurately maintained on an imprest system;
- b) Petty Cash accounts shall only be used for minor items of expenditure, not exceeding £25 or other items as they may approve. All payments shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require and in particular to enable the recovery of Value Added Tax;
- c) Such accounts must not be used for depositing income collected (see D.28 below) nor for the payment of Officer expenses nor for Officer's personal expenditure;
- d) The Officer responsible for an account shall make adequate provision for the security of the cash and accounting records;

- e) On leaving the employment of the Council or otherwise ceasing to hold an imprest advance, the Officer shall account to the Chief Finance Officer for the amounts advanced to him/her and payments made.

## **TREASURY MANAGEMENT**

C.27 The Council's Treasury Management policies and practices shall conform to the CIPFA Code of Practice "Treasury Management in the Public Sector" and associated sector-specific guidance subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.

C.28 The Council shall adopt and maintain:

- A Treasury Management Policy Statement, setting out the policies, objectives and the approach to risk of its Treasury Management activities; and
- A range of Treasury Management Practice Notes (TMPs), setting out the manner in which the Council will pursue those policies and objectives and prescribing how it will manage and control those activities.

C.29 The Chief Finance Officer shall be responsible for the execution and administration of Treasury Management decisions in accordance with the Council's Policy Statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.

C.30 The Cabinet shall be responsible for the implementation and regular monitoring of Treasury Management policies and practices and will receive, as a minimum, each year reports setting out the Annual Treasury Management Strategy and Plan for the coming year; a mid-year review and an annual Treasury Management Performance Report as prescribed in the relevant TMPs.

C.31 The Audit Committee is responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies.

C.32 Where the Council acts as a Trustee to a Fund or Charity, all funds shall be kept in the name of the Council unless the terms of the Trust require otherwise.

C.33 All securities held for Trust Funds shall be deposited with the Chief Finance Officer.

C.34 Financial transactions of Trust Funds shall be authorised by the Chief Finance Officer who shall ensure that proper accounting records are maintained.

C.35 All income and payments of the Trust Fund shall be in accordance with the Council's Financial Regulations unless the terms of the Trust require otherwise. All investments and borrowing shall be made in the name of the Council or exceptionally in the name of nominees expressly approved by the Cabinet.

## **INSURANCES**

C.36 The Chief Finance Officer shall:

- a) Arrange sufficient insurance cover, either internally or externally, as is considered appropriate, co-ordinate all claims and advise other Officers, where necessary, on the negotiation of claims;
- b) Annually, or at such other shorter period as may be considered necessary, review all insurances in consultation with other Chief Officers as appropriate.

C.37 Chief Officers shall without delay consult with the Chief Finance Officer in respect of:

- a) The terms of any indemnity which the Council is requested to give;
- b) All new risks and property which may be required to be insured and any alterations affecting existing insurance; and
- c) Any loss, liability or damage or any event likely to lead to a claim.

C.38 Chief Officers shall submit to the Chief Finance Officer completed claims for transmission to the Council's Insurance Broker or Insurers as appropriate.

C.39 The Chief Finance Officer shall report annually to the Cabinet on the performance of the Internal Insurance Fund.

## **STAFFING**

C.40 The appointment of employees shall be regulated by the Council and in accordance with the approved establishments, grades and rates of pay.

C.41 Chief Officers are responsible for providing overall management to employees. The HR & Payroll Manager, under the direction of the appropriate Executive Director is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

C.42 Chief Officers are responsible for controlling total employee numbers by:

- Advising the Cabinet on the budget necessary in any given year to cover estimated employee levels;
- Adjusting the employee resources to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs; and
- The proper use of appointment procedures.

## **FINANCIAL REGULATION D: SYSTEMS & PROCEDURES**

### **INTRODUCTION**

D.1 The Accounts and Audit Regulations specify that the Council must ensure that it has a sound system of internal control which—

- (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
- (b) ensures that the financial and operational management of the authority is effective; and
- (c) includes effective arrangements for the management of risk.

### **GENERAL**

D.2 All accounting procedures and financial records of the Council and its Services shall be in an approved form subject to the approval of the Chief Finance Officer. Any proposed changes to financial procedures shall not be implemented without consultation with and approval by the Chief Finance Officer.

D.3 The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording such amounts, shall be separated as completely as possible from the duty of collecting and disbursing them.

D.4 Chief Officers must ensure that all their Officers receive relevant financial training that has been approved by the Chief Finance Officer. The Chief Finance Officer shall determine the level of financial knowledge and awareness required of the Council's Officers and develop, and ensure ongoing delivery of, an appropriate programme of financial training.

D.5 Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation. Chief Officers must ensure that Officers are aware of their responsibilities under Data Protection, Freedom of Information and other legislation relating to information technology and the Council's collection, storage and use of data.

### **AUTHORISED SIGNATORIES**

D.6 Prior to the beginning of each financial year, the Chief Finance Officer shall require each Chief Officer to supply a list of Officers, together with specimen signatures, authorised to certify documents which will result in expenditure being incurred. The lists shall also form the basis of electronic authorisation on the electronic purchase ordering system.

D.7 Any changes of authorised signatories during a financial year shall be notified immediately by the appropriate Chief Officer to the Chief Finance Officer.

## **ORDERS FOR WORK, GOODS AND SERVICES**

D.8 All work, goods or services to be supplied to the Council shall be ordered through the Council's electronic purchase ordering system unless the Chief Finance Officer authorises alternative arrangements. The Chief Finance Officer has specified alternative arrangements for the following generic categories of procurement:

- Supplies of public utility services;
- Periodic payments such as rent or rates;
- Work which is part of a formal contract (excluding term or schedule of rates contracts);
- Credit Card purchases; and
- Approved Purchase Card transactions.

Procedural Instructions for each of these procurement categories are maintained by Corporate Finance.

D.9 Chief Officers must ensure their Officers comply fully with D8. If a Chief Officer considers that there are further categories of procurement where it is inappropriate to make use of the e-ordering system, they may make a case to the Chief Finance Officer for a further exemption. The Chief Finance Officer shall determine whether any exemption is granted after being satisfied that alternative arrangements provide an acceptable level of control.

D.10 Orders for goods and services shall not be issued unless the expenditure is included in an approved estimate or other specified financial provision.

D.11 Each order shall conform to the directions of the Council with respect to the central purchasing, use of contracts and the standardisation of supplies and materials. Each order shall be placed with due regard to the Contract Procedure Rules.

D.12 Official orders shall clearly indicate the nature and quantity of the work and services required and any relevant contract or agreed prices.

D.13 Verbal orders shall not be used except in case of emergencies occurring outside of normal office hours. A Confirmation Order - clearly marked as such - shall be sent to the supplier on the next working day.

D.14 Official orders must not be raised for any personal or private purchases nor must personal or private use be made of Council contracts. This includes the use of Purchase Cards in the name of Ashfield District Council for personal use.

## **RECEIPT OF GOODS**

D.15 Delivery notes should, where appropriate, accompany the delivery of goods and the receiving Officer must certify thereon, at the time of delivery, receipt of the goods and, if necessary qualify the delivery note in respect of missing or substituted goods; damaged items must not be accepted. Where ordered and delivered by weight or volume, the receiving Officer shall make such periodical tests as are necessary to ensure that the quantities charged have actually been delivered. Details of all delivery notes must be entered onto the Council's ordering system; matched against the order and retained in accordance with the document retention guidelines. Where there is no delivery note an acknowledgement should be entered onto the ordering system to confirm that the goods or service have been received.

## **PAYMENT OF ACCOUNTS DUE**

D.16 Payment of money due from the Council shall be in a form approved by the Chief Finance Officer and drawn on the Council's bank accounts.

D.17 In accordance with the procedures outlined in D.6 & D.7 above, an authorised Officer shall be responsible for examining, verifying and certifying invoices and other payment vouchers or accounts arising from sources in the authorised Officer's Department.

D.18 Before certifying an account for payment, or any other payment voucher, the authorised Officer shall be satisfied that:

- a) Financial Regulation D.3 above, separation of duties, has been complied with;
- b) The work, goods or services to which the account relates have been carried out, received, examined and approved, and orders referenced accordingly;
- c) The prices, calculations, trade discounts, other allowances, credits and Value Added Tax (VAT) are correct;
- d) The expenditure has been properly incurred, is within the relevant estimate provision and is correctly coded to the service or account to which it is properly chargeable;
- e) Appropriate entries have been made in inventories and stores records as required;
- f) The account has not been previously paid, that the official order has been matched against the goods received note, or equivalent to prevent duplicate payment and that payment is a proper liability of the Council; and
- g) Under no circumstances should supplier reminders and statements be used to enable payment to a supplier even if an official order exists. The use of copy invoices should be avoided. In situations where it is necessary, the copy invoice should be returned to the Directorate issuing the order and the authorising officer be required to complete, sign and date the following statement on the invoice:

“I certify this copy supplier invoice has not been paid previously and I have undertaken the necessary checks to confirm this fact”.

- h) Incorrect supplier invoices should not be amended by Council employees. They should be returned to the supplier with a request to provide an invoice for the correct amount or a credit note.
- i) Where the item of expenditure is subject to VAT either:
  - A VAT invoice is obtained to ensure that the appropriate amount can be recovered; or
  - A VAT receipt is obtained and forwarded to the Chief Finance Officer.

Where payment is made by purchase card, it may not be possible to comply with (b), (f) and (g) above but Officers must ensure compliance with the other items (a), (c), (d), and with the guidance for the use of purchase cards.

D.19 Suitably certified accounts for payment shall be forwarded to the Chief Finance Officer in accordance with the instructions issued from time to time.

D.20 Contractor payments that are subject to phased payments based on value of work completed to date and where the contractors are VAT registered should comply with the VAT guidance on self billing. The reason being that VAT due is being determined by the Council based on value of work and therefore should be included in the payment to the contractor. The criteria of the scheme include:-

- i. The agreement of the contractor.
- ii. The contractor name, address and VAT registration is stated on each of the staged certificate payments.
- iii. The staged payment certificate states “THE VAT SHOWN IS YOUR OUTPUT TAX DUE TO CUSTOMS & EXCISE”.
- iv. A copy of the certificate is provided to the contractor.
- v. The contractor must not raise VAT invoices for supplies covered by the agreement.

D.21 Before authorising payments to a sub-contractor, as defined by His Majesty’s Revenue & Customs (HMRC), for construction work carried out, the certifying Officer of the service concerned shall satisfy himself/herself that the subcontractor to whom payment is due is the holder of a valid Sub-Contractors Tax Certificate issued by the HMRC, otherwise tax at the appropriate rate must be deducted as required by any statutory provisions in being at that time.



D.22 Duly certified accounts shall be passed without delay to the Chief Finance Officer who shall examine them to the extent that he/she considers necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may require.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

D.23 The Chief Finance Officer shall control the payment of all salaries, wages and other emoluments.

D.24 Each Chief Officer shall notify the HR & Payroll Manager at the Mansfield & Ashfield Shared Service as soon as possible, and in a form prescribed by him/her, of all matters affecting payment of salaries and wages and in particular:

- a) Appointments, resignations, dismissals, suspensions, secondment and transfers;
- b) Absences from duty for sickness or other reason, apart from approved leave with pay;
- c) Changes in remuneration, other than normal increments, pay awards and agreements of general application;
- d) Information necessary to maintain records of service for superannuation, income tax, national insurance, etc;
- e) Certified travel and subsistence claims and other allowances. Certification is taken to mean journeys were authorised and expenses properly and necessarily incurred, and that allowances were properly payable by the Council, ensuring that cost effective use of travel arrangements is achieved.

D.25 Members' Allowances shall be paid in accordance with a scheme approved by the Council.

D.26 Pay documents shall be in a form approved by the Chief Finance Officer and shall after signing by the claimant be certified in accordance with D.6 above.

D.27 Each Chief Officer, in conjunction with the Chief Finance Officer shall make arrangements to annually confirm the authenticity of those employees appearing on the payroll for his/her Directorate. Such arrangements shall include the verification of individual rates of pay.

## **INCOME**

D.28 The Chief Finance Officer shall approve all procedures affecting income due to the Council.

D.29 Chief Officers shall:

- i. Ensure compliance with such procedures;

- ii. Have adequate controls for the custody and use of all receipt books and other receipting facilities;
- iii. Prior to reporting to the Cabinet and at least annually, review the scheme of charges applicable in their Directorates and this shall be done in consultation with the Chief Finance Officer;
- iv. Ensure that for any payment wherever feasible, income will be collected on a prepayment basis i.e. prior to delivery of the goods or services being supplied;
- v. Seek prompt payment by utilising the most secure and efficient methods of payment; and
- vi. Ensure that where appropriate the supply of any service by the Council is supported by a written agreement between the parties.

### **Receipts and Depositing of Income**

D.30 All receipts and depositing of income must comply with the Accounts and Audit Regulations 2015 (or any replacement or re-enactment thereof) as more particularly detailed in the principles below:

- a) Every payment received on behalf of the Council shall, without delay, be acknowledged by the issue of an official receipt;
- b) Where Council income, in whatever form, necessarily passes from one Officer to another, the receiving Officer shall sign an appropriate form of receipt, which shall be retained in the Directorate records of the Officer who passed the income to the receiving Officer;
- c) Chief Officers shall ensure that all income is collected and deposited without delay in the Council's appropriate bank account as directed by the Chief Finance Officer. Further, that adequate detail of receipts and specific records of cheques are kept which refer to the original debt. The cheque values and references to the debts shall be entered on the deposit slip, which shall identify the collecting Officer and Directorate;
- d) All cheques accepted in payment of a debt shall be made payable to Ashfield District Council. Cheques not made payable to Ashfield District Council shall only be accepted with the specific approval of the Chief Finance Officer;
- e) No Officer shall obtain personally, or for a third party, any pecuniary advantage involving the use of any Council funds and, without prejudice to the generality of this requirement, no Officer shall exchange a personal cheque for Council funds;
- f) No deductions shall be made from income received without the specific approval of the Chief Finance Officer;

- g) Income shall be deposited on a daily basis except where the Chief Finance Officer determines otherwise. Where income has not been deposited on a daily basis, the total value kept overnight shall not exceed the limits determined in the Council's insurance policies. Information relating to these limits is available from the Chief Finance Officer;
- h) The Chief Finance Officer shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer shall have the right to inspect any documents or other evidence in this connection as he/she may decide; and
- i) Post-dated cheques shall not be accepted.

### **Irrecoverables**

D.31 All requests for write-off must be submitted on the approved form and processed in accordance with the following:

- a) The Chief Finance Officer may authorise the writing off of individual irrecoverable debts not exceeding £5,000 plus any debts subject to claims in bankruptcy and liquidation proceedings and death where the debt is not recoverable from the deceased's estate;
- b) The Chief Finance Officer, in conjunction with the Executive Lead Member responsible for Finance may authorise amounts between £5,000 and £10,000; and
- c) Proposals to write off amounts in excess of £10,000 (not covered by D.31 a) above) shall be referred to Cabinet.

All amounts submitted for write-off (regardless of value) shall be supported by reasons given by the appropriate Chief Officer for the Directorate which raised the debt for the proposal.

D.32 Outstanding debts will still be pursued after write-off should information be received which indicates that there is a possibility that the debt can legally be recovered.

### **Sundry Debtor Accounts**

D.33 Sundry Debtor accounts shall be raised promptly for all amounts due to the Council except where otherwise approved by the Chief Finance Officer.

D.34 Reductions to accounts raised should only be to correct charges raised in error. The reductions (where necessary) shall only be made by the use of credit notes approved in accordance with the required procedures. Credit notes should not be used to clear unpaid legally collectable debts.

D.35 The Chief Finance Officer is responsible for the collection of all debts owed to the Council. Debts outstanding will be pursued in accordance with the Council's debt recovery procedures. Agreement terms with debtors to recover outstanding debts will be determined by the Recovery Team in line with policy guidance approved by the Chief Finance Officer.

D.36 Where legitimate charges raised remain unpaid after all elements of the recovery process have been completed, these charges should be submitted to the Chief Finance Officer for formal write off in accordance with Section D31 – Irrecoverables.

## **TAXATION**

D.37 The Chief Finance Officer is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.

D.38 The Chief Finance Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **TRADING ACCOUNTS/BUSINESS UNITS**

D.39 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

## **MISCELLANEOUS**

### **Retention periods**

D.40 The original documents (or suitable copies) which relate to financial transactions shall be kept for periods specified in legislation or according to the requirements of interested bodies. Where such requirements do not exist, a minimum of four years will be the standard period of retention.

## **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

### **INTRODUCTION**

E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **PARTNERSHIPS, JOINT VENTURES AND COMPANIES IN WHICH THE COUNCIL IS A GUARANTOR OR HAS A SHARE HOLDING INTEREST**

E.2 Where it is proposed that the Council be involved in a partnership arrangement or joint venture or where the Council is to be guarantor of a company limited by guarantee or a shareholder of a company, the appropriate officer shall first consult with the Chief Finance Officer and the Executive Director of Governance on the proposals, and shall agree arrangements to provide for the effective monitoring in each case of the arrangement, joint venture or company operation.

E.3 Any clauses required by the Executive Director of Governance to safeguard the interests of the Council must be included in a company's Memorandum and Articles of Association.

E.4 Unless secure arrangements are put in place to the contrary, partnerships etc, shall comply with the Council's Financial Regulations.

# Code of Procedures Relating to the Disposal of Land and Buildings

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# Code of Procedures Relating to the Disposal of Land and Buildings

## 1. INTRODUCTION

- 1.1 The Corporate Resource Director shall be responsible for drawing up and amending, on an annual basis, a Code of Procedures with respect to the disposal of land and buildings. This Code and any amendments to it shall be subject to approval by the Executive and shall be subject to review.
- 1.2 The Executive may, in a typical circumstances, waive, vary or suspend the application of any part of the Code of Procedure. In cases of urgency, the Chief Executive may do likewise following consultation with the appropriate Executive Lead Member.
- 1.3 The Code shall include provision relating to the manner of disposal and shall include procedures relating to advertisements, acceptance of tenders, completion of sale and other matters of significance.
- 1.4 The disposal of land and buildings shall be in accordance with this Code of Procedure. The Chief Executive, Executive Directors, or Corporate Resource Director shall keep an up-to-date copy which shall be available for inspection by Members, Officers and the public at all reasonable times in the Council Offices.
- 1.5 This Code does not cover the disposal of Council Houses under the statutory Right to Buy Scheme.

## 2. DISPOSAL OF LAND AND BUILDINGS

### 2.1 General

- (a) Once the Executive has declared Council land or buildings as surplus to requirements, the Executive shall be responsible for the disposal of the land and buildings. For the purpose of this Code, land or buildings shall be deemed surplus to requirements where the disposal is more beneficial than retention, or where the existing beneficial use or purpose has ceased, has become uneconomic or is no longer viable to continue in its existing use.
- (b) Where the value or size or extent of land or buildings located within the District boundary and not forming part of the Council's property investment portfolio are considered by the Corporate Resource Director (in consultation with the appropriate Executive Lead Member) to be either de minimis, or where a prospective purchaser has a specific or unique link to the land or buildings such that they represent the only realistic purchaser, the disposal

may be dealt with by a report made by the Corporate Resource Director to the Executive Lead Member.

- (c) Where the Council land or buildings lie outside of the District and/or form part of the Council's property investment portfolio, the disposal may be dealt with by a report made by the Corporate Resource Director to the Executive, demonstrating a robust business case can be made and best value can be achieved in line with Section 123 of the Local Government Act 1972.
- (d) All such disposals shall be effected in accordance with the Code of Procedures made under Financial Regulations.
- (e) Members or employees who have a direct or indirect pecuniary interest in the disposal of any Council land or buildings shall declare that interest in accordance with the Authority's Standing Orders, Financial Regulations, national and local conditions of service and the relevant codes of conduct. Such persons shall not be supplied with or given any access to any tender documents, contracts or other information relating thereto without the express written authority of the Chief Executive.

## 2.2 Reporting Procedure

The Corporate Resource Director shall make a report to the Executive (or where 2.1(b) applies a report to the Executive Lead Member), to obtain agreement in principle for any proposed disposal and the method of disposal to be used. The report shall include statements on the following matters:

- (a) Identification and clear communication of any issues which need to be resolved prior to marketing, for example (including but not limited to):
  - Clarify physical and legal extent of ownership (including plan)
  - Resolution of occupation;
  - Legal interests;
  - Pre-disposal site works, if required;
  - Repairs and maintenance obligations;
  - Purchase of associated property;
  - Provision of services;
  - Lotting and phasing of large parcels of land;



- Possibility of disposal by means of Joint Venture;
  - Variation/release of covenants governing use of land
  - Whether included on the Register of Community Assets (Localism Act 2011).
- (b) The strategic implications as determined by the relevant Chief Officers.
- (c) The financial implications, as determined by the Chief Finance Officer.
- (d) The legal requirements relating to the disposal of land and buildings specifically but not exclusively Section 123 of the Local Government Act 1972 which requires the Council not to dispose of land at less than best consideration than can reasonably be obtained, unless the transaction is covered by one of the exceptions detailed in the General Disposal (Consent (England) 2003) and Section 32 of the Housing Act 1985 and the General Housing Consents or the need to seek special consent from the Secretary of State.
- (e) Details of planning consents and any significant development potential relating to the property being considered for disposal and whether the contract shall include a clause to enable the recovery of a share of any future increase in value.
- (f) Where it is considered necessary to use the services of external advisers (for example on a complex or a typical sale), the instruction given to the adviser shall ensure, so far as may be appropriate, compliance with this Code.

Without prejudice to the generality of this provision, the advice of an independent registered valuer shall be obtained on all cases where the anticipated value of land exceeds £500,000 or where it is considered necessary due to the complexity or uniqueness of the land or buildings.

- (g) The major terms including (but not limited to) restrictions upon and covenants required from a purchaser to be contained in the contract documentation.
- (h) The recommended method of disposal and the justification for it.

### **3. DISCUSSIONS WITH POTENTIAL PURCHASERS**

Before making a report, the Corporate Resource Director may have informal discussions with potential purchasers prior to making any recommendations. The Corporate Resource Director shall also consider whether in the light of their complexity and/or financial implications, two Officers should attend any such meetings. Key case notes will be recorded as appropriate.

### **4. DISPOSAL**

Disposal shall be by one of the following methods:

#### **4.1 Private Treaty**

Any disposal can be considered as disposal by private treaty and the Corporate Resource Director:

- (a) Shall be responsible, where it is deemed appropriate, to arrange for public advertisement of the property;
- (b) Shall be responsible for making the arrangements with potential purchasers for holding informal discussions to determine the level of interest;
- (c) If the level of interest in the property is sufficiently high, shall be responsible for calling for sealed bids from prospective purchasers;
- (d) After receipt of bids, shall be responsible for determining how further negotiations for the potential disposal are to be conducted;
- (e) Upon the conclusion of negotiations shall report the results to the Executive for consideration.
- (f) Should the results of negotiation yield an offer that satisfies requirements for best value under Section 123 of the Local Government Act 1972 and has a high probability of being concluded, a report shall be made to the Executive (or if appropriate, to the Executive Lead MEmber).

#### **4.2 Public Auction**

Should the disposal be undertaken by Public Auction, the Corporate Resource Director shall recommend to the Executive which auctioneer(s) shall be used and the Executive Director of Governance shall prepare the contract, conditions of sale and all supporting documentation (searches, replies to enquiries etc.). Any reserve prices shall be agreed by the Corporate Resource Director in consultation with the relevant Executive Lead Member.

The guide price shall be agreed by the Corporate Resource Director with the chosen auctioneer(s).

#### 4.3 Public Advertisement and Open Tender

- (a) Where formal tendering procedures are felt appropriate, advertisements shall invite the submission of tenders by a specified date. Where considered appropriate by the Corporate Resource Director, the invitation to tender shall include, for the purpose of guidance only, a guide price. The tenders shall be in a form settled by the Corporate Resource Director after consultation with the Executive Director of Governance and be capable of acceptance as a contractual obligation to enter into a binding contract satisfying the requirements of Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 or any statutory re-enactment or modification thereof. A similar procedure shall apply where sales are to be subject to contract, save that the contractual obligation will not then arise until contracts are exchanged.
- (b) Notices stating the date and time by which tenders are to be returned shall be given in whatever media form as the Corporate Resource Director considers appropriate, describing the land to be sold and inviting tenders for its sale. Said notices shall be given within a reasonable timeframe prior to the tender submission deadline.

### 5. TENDERS

Tenders sought in accordance with Section 4 above shall be in accordance with the following procedures which seek to ensure fair competition; these shall apply in relation to the receipt, opening and acceptance of tenders and shall be clearly stated in all invitations to tender.

#### 5.1 Receipt of Tenders in hardcopy form

Where tenders are invited in hardcopy form, every invitation shall state that no tender will be considered unless contained in a pre-addressed plain envelope which shall be securely sealed and shall bear the word "tender" and the description of the land or buildings which are the subject of the sale. The envelope shall not bear any distinguishing matter or mark intended to indicate the identity of the sender and prospective tenderers shall be notified accordingly. Such envelopes shall be addressed impersonally to the Executive Director of Governance and until the time appointed for opening, shall remain in the secure custody of the Executive Director of Governance. The tender invitation shall include the tender return date and time. Late tenders shall not be considered by the Council.

## 5.2 Receipt of Tenders in electronic form

Where tenders are invited in electronic form, every invitation shall state that emailed correspondence shall be addressed to the Executive Director of Governance and until the time appointed for opening, shall remain in the secure custody of the Executive Director of Governance. Late tenders shall not be considered by the Council.

## 5.2 Opening

Tenders shall be opened at one time and only in the presence of at least one representative each of the Corporate Resource Director and the Executive Director of Governance approved by them for that purpose.

## 5.3 Recording

The Executive Director of Governance shall maintain a register of all tenders received for the sale of land and buildings and issue a receipt to the tenderer. Details of the tenders received shall be recorded in the register and produced when the tenders are opened. The Register shall be signed by the representatives of the Corporate Resource Director and the Executive Director of Governance.

## 5.4 Not Bound by the Highest Tender or any Tender

It shall be clearly stated in all documents of tender that the Council do not bind themselves to accept the highest tender or, indeed, any tender.

## 5.5 Unsuccessful Tenders

All parties submitting unsuccessful tenders shall be notified promptly of the outcome of their offer by the Corporate Resource Director.

## 5.6 Successful Tenders

The successful tenderer shall be notified promptly of the outcome by the Corporate Resource Director.

## 6. **POST TENDER**

The Corporate Resource Director in consultation with Executive Lead Member has the discretion to:

- (a) Negotiate terms, including price, with the successful tender; and
- (b) Cease negotiations with the successful tenderer; and

- (c) Commence negotiations with unsuccessful tenders; and
- (d) Cease sale by tender.

## **7. COMPLETION OF SALE**

Except where a longer period has been expressly agreed, a reasonable period shall be allowed for the completion once a sale has been agreed.

If completion has been aborted, a further report should be made by the Corporate Resource Director and the Executive Director of Governance in consultation with the Executive Lead Member.

# **Contract Procedure Rules**

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## QUICK REFERENCE GUIDE TO THE CONTRACT PROCEDURE RULES

Total Contract Value	Process	Advertising	Authority	Signature	Relevant Part
£0.00 - £10,000	<p>Ensure a budget is allocated.</p> <p>Chief Officer need not obtain quotations.</p> <p>Contracts in writing and a Purchase Order must be raised for every contract</p>	None	Chief Officer	Chief Officer or officer authorised by him/her in writing	5.1.1 9.5.1
£10,000 - £50,000	<p><b>3 Written Quotations</b> (unless using a framework or where using the Crown Commercial Services [CCS] assisted procurement service)</p> <p>Strategic Procurement Lead Officer or Corporate Resource Director notified.</p>	All Contracts over £30,000 must be published on Find a Tender (FTS) & Contract Finder	Chief Officer (ODR at award stage)	Chief Officer or officer authorised by him/her in writing	5.1.2 9.5.1
£50,000 to below Thresholds (and “frameworks”)	<p>Instruct the preferred procurement provider to obtain at least <b>3 tenders in writing</b> (unless using a framework or where using the CCS assisted procurement service)</p> <p>Strategic Procurement Lead Officer or Corporate Resource Director notified.</p>	All Contracts must be published on Find a Tender (FTS) & Contract Finder	Chief Officer/Executive Lead Member (ODR [capital spend up to £1m] or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.3 9.4.1



Above thresholds	Instruct the preferred procurement provider to obtain <b>Competitive Tenders</b> (e.g., Restricted/Open procedure [unless using a framework or where using the CCS assisted procurement service]) Procurements & Projects Officer or Corporate Resource Director notified.	published on Find a Tender (FTS) & Contract Finder	Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.4 9.4.1
Former Part B Services – Social and Other Specific Services (excludes NHS Contracts) <b>below</b> threshold	Competitive Tenders must be sought (e.g., Restricted/Open procedure [unless using a framework]) Procurements & Projects Officer or Corporate Resource Director notified.	published on Find a Tender (FTS) & Contract Finder	Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.6
Former Part B Services – Social and Other Specific Services (excludes NHS Contracts) <b>above</b> threshold	Competitive Tenders must be sought (e.g., Restricted/Open procedure [unless using a framework]) Procurements & Projects Officer or Corporate Resource Director notified.	published on Find a Tender (FTS) & Contract Finder or PIN (Prior Information Notice)	Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.6
<b>Frameworks:</b>					

Frameworks	<p>Ensure VFM (3.11) Process as set out in Framework Agreement - Must Instruct the preferred procurement provider if above thresholds or use the CCS assisted procurement service</p> <p><b>Must not be longer than 4 years (3.15).</b></p>	None – call off agreement to be used	<p>Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)</p>	<p>Chief Officer or officer authorised by him/her in writing) if under £50,000 Signed and Sealed if over £50,000 (refer to Legal Services)</p>	<p>3 9.4.1</p>
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<b>Exceptions:</b>					
Exceptions - Urgency	<p>Chief Officer to certify that contract is required so urgently as to preclude the invitation of tenders. The appropriate Executive Lead Member shall be kept informed of such decisions and a record of the decision shall be retained by the Chief Officer and a copy sent to the Procurements &amp; Projects Officer or Corporate Resource Director.</p>		<p>Chief Officer/Executive Lead Member (ODR or EDR at process stage dependent on non-key/key decision*)</p> <p>Executive Lead Member to be notified</p>	See above re contract value	17.6.1

<p>Exceptions - Specialist</p>	<p>An exception will be sought from the Executive Lead Member or Cabinet to either deal with a single contractor or to vary the quotation/tender requirements.</p>		<p>Executive Lead Member/Cabinet (EDR at process stage regardless of whether non-key/key decision*)</p>	<p>See above re contract value</p>	<p>17.6.2</p>
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**N.B. Contracts must not be broken down into smaller or separate Contracts to avoid compliance with the rules**

**\*NOTE:**

1. If an Executive Decision Record (EDR) is being used to record the decision, then officers need to ensure that the report item (to approve the award) is included on the Forward Plan at the commencement of the procurement process (or in good time) for either a key or non-key decision. This will ensure that the requisite 28-day notice period can be observed (for a key or exempt decision), prior to approval being sought to award the contract from either the Executive Lead Member or Executive Director.
  
2. Please note for Exceptions to Contract Procedure Rules 17.6.1 and 17.6.2 (Urgency and Specialist Contractor), this will require approval being sought earlier at the process stage either due to urgency or to deal with a single contractor/vary the quotation/tender requirements.

## **1. COMPLIANCE**

- 1.1 The purpose of these Contract Procedure Rules is to safeguard the interests of the Council, its employees (“Officers”), or any person acting on behalf of the Council, to set clear rules for the purchase of works, goods and services for the Council and to ensure a system of openness, integrity and accountability, in which the probity and transparency of the Council's procurement process will be beyond reproach or challenge.
- 1.2 The Local Government Act 1972 requires the Council to have standing orders for how it enters into Contracts. These Contract Procedure Rules are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council to officers and members for entering into Contracts on behalf of the Council.
- 1.3 Accordingly, these Contract Procedure Rules must be followed by every Officer and any person acting on behalf of the Council (including consultants) every time there is a requirement of the Council to procure work, goods, materials or services under a contract regardless of value. All necessary legal, financial and professional advice must be taken by such Officers or by such persons to ensure compliance with these Contract Procedure Rules, the Council's Financial Regulations and all relevant UK legislation. Failure to comply with these Contract Procedure Rules may result in disciplinary action and legal proceedings against Officers and other persons concerned.
- 1.4 Each Chief Officer is responsible for ensuring that his/her directorate complies with these Contract Procedure Rules, the Council's Financial Regulations and all relevant UK legislation. To plan the procurement of and manage Contracts within his/her Directorate to ensure that Contracts:
- Secure Best Value;
  - Are operated effectively, efficiently and economically;
  - Are operated within the terms of the Contracts themselves, so that the Council is not at risk of being in breach of Contract;
  - To provide timely details to the Finance Team of Contracts entered into by his/her Directorate for inclusion into the Council's Contracts Register. Contracts for less than £5,000 need not be recorded in the Register.
  - To keep adequate records to show compliance with Contract Procedure Rules, Financial Regulations, and all relevant UK legislation in his/her Directorate.

Another Chief Officer or an Officer within his/her own Directorate may be authorised via written delegation to carry out the Chief Officer's duties in respect of a particular Contract or Contracts generally.

- 1.5 These Contracts Procedure Rules do not apply to:
- 1.5.1 Contracts for the purchase or sale of any interest in land (including leasehold interests).
- 1.5.2 Contracts for the appointment of individual Members of Staff, including Members of Staff sourced through employment agencies under a Corporate Contract (Corporate Contract means a Contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area).
- 1.5.3 Grant agreements, either where the Council is giving or receiving a grant save that where any grant agreement has a value of £50,000 or more the provisions of paragraph 9.4 in relation to signing the grant agreement shall apply.
- 1.5.4 Supply of works, goods and services by the Council.
- 1.5.5 If a Contract is being procured in collaboration with other local authorities, the Contract Procedure Rules of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own Contract Procedure Rules.
- 1.5.6 These Contract Procedure Rules do not apply to:
- i. The obtaining of specialist legal services as an adjunct to the general provision of such services to the Council the obtaining of which shall be made by the Executive Director of Governance but who shall still ensure the price obtained is not in excess of the market price and represents value for money and that the spirit of the rules are complied with as far as possible subject to the specialism of service or that a Framework Agreement is used;
- and;
- ii. The obtaining of financial services in connection with the issue of sale, purchase or transfer of securities or other financial instruments and central bank services the obtaining of which shall be made by the Corporate Resource Director.
- 1.6 Every Council employee ("Officer") must ensure that they are aware of and observe the provisions of the Council's Code of Conduct for Employees. If an Officer has an interest, financial or otherwise, in a Contract or proposed Contract, he/she must declare it in writing to the Chief Officer as soon as he/she becomes aware of the interest. An elected Member must register any contractual interests in accordance with the Member's Code of Conduct. An elected Member or Officer who has an interest in a Contract must not take part in the procurement or management of that Contract.
- 1.7 Chief Officers shall ensure that the Council complies with the statutory obligation to secure Best Value and that the Council complies with other legislation for the time being in force. The Chief Officer responsible for each Contract must record an estimated value for the Contract before any offers are sought. The value of a Contract is the total amount that the Council expects to pay or receive for the

Contract, including any Contract extension period. This may be a lump sum e.g. £250,000 or a periodic payment e.g. £50,000 per year for a 5 year Contract = £250,000.

- 1.8 If a Chief Officer wishes to nominate a particular sub-Contractor to a main Contractor, the procedures in these Contract Procedure Rules must be followed to select the sub-Contractor as well as the main Contractor.
- 1.9 Before beginning the commissioning process for the supply of any services Chief Officers must consider whether the Public Services (Social Value) Act 2012 applies to the services. this applies to all amounts over £25k (ADC Social Value Policy, also see the recent PPN – PPN 05/21 and the National Procurement Policy), . Where it does apply Chief Officers must make the following considerations at the pre-procurement stage:
  - 1.9.1 How what is proposed to be procured might improve the economic, social and environmental well-being of the “relevant area”;
  - 1.9.2 How in conducting a procurement process the Council might act with a view to securing that improvement; and
  - 1.9.3 Whether to undertake a consultation on these matters.
- 1.10 If there is a Corporate Contract for the supply of any works, goods or services, the Chief Officer must buy through that Contract, rather than awarding a separate Contract for his/her own Directorate. The Strategic Procurement Lead Officer or the Corporate Resource Director’s advice should be sought on these matters.

## **2. BEST VALUE**

- 2.1 Best Value requires the Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is the optimum combination of whole life costs and benefits to meet customer requirements.
- 2.2 Best Value requires the Council to identify those quotations and tenders which will secure the best balance of price against quality over the whole life of the Contract.
- 2.3 The best and most widely accepted way of securing the necessary transparency in the evaluation of all the price and quality factors contained in quotations and tenders received is to adopt a robust points system which provides a pre-disclosed maximum number of points for price and for each factor in quality.
- 2.4 Chief Officers shall seek advice from the preferred procurement provider about the Quotation/Tender Evaluation Models to ensure compliance with the requirements of these Contract Procedure Rules especially where any Contract has a procurement requirement falling within the UK procurement regime or whose aggregate value is likely to exceed the relevant threshold figure for the time being in force.

2.5 Chief Officers shall adopt the Quotation/Tender Evaluation Models recommended by the preferred procurement provider to ensure compliance with the requirements of these Contract Procedure Rules where any Contract does not have a procurement requirement falling within the UK procurement regime or, if it does, whose value, or (if made up of a series of related Contracts) whose aggregate value is not likely to exceed the relevant threshold figure for the time being in force.

2.6 Make or Buy

2.6.1 The National Procurement Strategy for Local Government States: 'Procurement is the process of acquiring goods, services and works. It involves options appraisal and the critical 'make or buy' decision which may result in the provision of services in-house in appropriate circumstances. Therefore a joined up, strategic 'Make or Buy' decision for all goods and services should be made by the Council.

2.6.2 Where the Council has chosen to develop and sustain internal expertise in an area then it is likely that using the internal provision will secure Best Value. As a minimum dialogue should be had between the purchasing section and the internal provider before any decision is made to procure externally.

2.6.3 For the majority of services provided in-house, a significant level of their overall costs are fixed or will only change if there is a considerable change in levels of delivery (cost such as supervision/management, investment in ICT, buildings or machinery and their contribution to overheads). Therefore an internal provider is likely to be able to provide a service at a cheaper overall cost to the Council than an external provider.

2.6.4 Arrangements for internal provision should be periodically reviewed to ensure that they do not become out-of-date and continue to be the most suitable arrangements, taking into account, for example, that:

- requirements change over time and may no longer be reflected in the agreed service (e.g. in terms of quality, quantity or range of options offered);
- innovations or alternatives may have been developed since the original agreement;
- new entrants to a market could potentially be cheaper than the in-house alternative.

The regularity of these reviews will depend upon the degree of change in the market, the degree of change in the requirements and the flexibility of the existing agreement.

2.6.5 An externally provided solution may provide better Value for Money for the Council because:

- the extra cost required to provide the service internally is less than the price available externally (including any potential TUPE costs if currently provided externally, and/or break costs in the terms of PFI contracts);
- there is insufficient capacity (including any necessary specialism) to provide the service in-house;
- the quality that can be offered internally does not meet the needs of the internal customer.

2.6.6 The following should not be used for contracting out (or not using internal services) include:

- unsolved management problems (including issues of ‘long-standing resentment or mistrust of one group of staff by another’);
- ability to transfer risk (as this will be built into prices);
- a legacy of capital starvation (as prudential borrowing can rectify this).(Standing Guide to the Commissioning of Local Authority Work and Services, CIPFA’s 2013/4)

2.6.7 The expectation is that in most cases, the service managers from the customer and provider sections will discuss and agree if any of the criteria in 2.6.5 are met and thus if it is appropriate to externally procure. If the parties cannot agree it should be referred to the Strategic Procurement Lead Officer.

2.6.8 Chief Officer(s) are responsible for updating and reviewing procedures and processes for resolving any disputes within the ‘Make or Buy’ process between departments.

2.6.9 Chief Officers are responsible for checking whether in-house provision is an alternative before commencing purchasing or tendering activities.

2.6.10 Strategic Procurement Lead Officer is responsible for periodically reviewing internal arrangements to ensure that they continue to provide the most suitable solution to meet their requirements.

### **3 PARTNERING/Framework Agreements**

3.1 Chief Officers shall adopt an integrated approach to procurement by actively considering whether the use of partnering or framework agreements is an appropriate form of service delivery for any of their services.

3.2 The overriding ethos of partnering is to provide a formal legally binding relationship that allows each party to a project to form a partnering team to work together to deliver the project in line with the principles of Best Value.

3.3 The early integration of the partnering team and the procurement process can achieve substantial improvements in the procurement of projects.



- 3.4 Partnering requires the partners to deal fairly with each other and work together in a spirit of mutual trust, respect, good faith, co-operation and dedication to agreed common goals and an understanding of each other's expectations and values.
- 3.5 Partnering is designed to facilitate collaborative working which can be achieved through either project partnering or strategic alliancing, which is the grouping of a number of projects in order to obtain the benefits of long-term relationships.
- 3.6 Chief Officers shall ensure that the collaborative culture is fully embedded in all procedures, where partnering has been adopted.
- 3.7 There are various contract options available to provide a contractual arrangement to suit a partnering environment. Advice should be sought from the Strategic Procurement Lead Officer the Corporate Resource Director.
- 3.8 Framework agreements established in pursuance of the EU and UK Regulations and any re-enactment(s) of them by other contracting authorities are recommended where it is possible for the Council to access such frameworks and where such use will ensure compliance with the requirements of these Contract Procedure Rules.
- 3.9 Chief Officers shall ensure that the details of every partnering contract and framework agreement option is referred to Legal Services for a consideration of the suitability of the arrangement concerned and the Council's legal liability before such arrangement is concluded.
- 3.10 Legal Services or the Strategic Procurement Lead Officer must be consulted before joining or buying from a new Framework Agreement where the expenditure will be more than the Threshold except for Works Contracts. It must be confirmed by the lead authority and owner of the framework that it is open and available to the Council
- 3.11 A Chief Officer may, subject to complying with UK procurement regime requirements, authorise participation in a Framework Agreement, where it can be shown that the framework:
- Offers value for money; and/or
  - Offers savings in the costs of procurement.
- 3.12 To select a Supplier for a specific Contract under a multi-Supplier framework agreement or to conduct a mini competition, the Chief Officer, in consultation with the preferred procurement provider, must follow the procedure set out in that Framework Agreement. Where the contract value is £50,000 or above, it must be done in consultation with the preferred procurement provider.
- 3.13 Advice must be sought on whether a standstill period applies to the award process Successful and unsuccessful Suppliers who participated in a mini-competition must be notified of the decision to award the specific Contract.

3.14 Call off contracts under framework agreements of £50,000 or more must be executed as deeds, by affixing the Council's Common Seal.

3.15 A call off contract under a Framework Agreement must not be longer than 4 years unless specifically agreed by the Executive Director of Governance.

#### **4 SELECTION OF SUPPLIERS**

4.1 Chief Officers shall ensure compliance with the Council's Corporate Procurement Contracts currently in force to procure work, goods, materials or services. These are arrangements established by the Corporate Resource Director.

4.1.1 Chief Officers shall ensure that quotations and tenders be invited by the use of one of the following approaches:

UK Public Procurement

4.1.1.1 The UK public procurement regime is mandatory for any Contract which has a procurement requirement falling within the UK procurement regime and, if so, whose value, or (if made up of a series of related Contracts), whose aggregate value is likely to exceed the relevant threshold figure for the time being in force;

Approved Lists;

4.1.1.2 Chief Officers should not use approved lists of contractors without first obtaining advice from the Legal Services or the Strategic Procurement Lead Officer

4.1.1.3 Joint procurement arrangements / frameworks / purchasing consortia arrangements established by other contracting authorities;

4.1.1.4 Office of Government Commerce (OGC) Buying Solutions framework contracts or other such like contracts;

4.1.1.5 Suitable suppliers derived from a competitive selection process conducted in consultation with the preferred procurement provider and where necessary, the Strategic Procurement Lead Officer.

4.1.2 Chief Officers should adopt a collaborative approach to procurement, where appropriate, through the use of partnering as described in paragraph 3 of these Contract Procedure Rules. A partner is obtained through a competitive selection process which can be demonstrated by using any of the arrangements set-out in paragraph 4.3.1 of these Contract Procedure Rules.

#### **4.2 Public Procurement including Framework Agreements**

4.2.1 Chief Officers shall ensure that all procurement complies with the requirements of the UK Regulations and any re-enactment(s).

4.2.2 Chief Officers, in conjunction with the preferred procurement provider, shall ensure that the appropriate advertisements are placed in Find a Tender Service

and other relevant publications. The Strategic Procurement Lead Officer shall ensure a register of such advertisements is maintained.

- 4.2.3 Suppliers expressing an interest in being invited to tender in response to an Find a Tender Contract Service notice or an advertisement must complete a PQQ, in a form approved by the preferred procurement provider. PQQs must be evaluated separately from, and before, any tenders are evaluated. Any PQQ that is received after the latest date specified for return must not be considered.

**Advisory Note:** The criteria on which PQQs are evaluated must be designed to establish the capability of the Supplier to undertake the Contract which will be different from the criteria on which tenders are evaluated.

- 4.2.4 A sufficient number of Suppliers must be invited to tender to ensure genuine competition. The minimum number is five. If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of a Chief Officer(s);
- 4.2.5 As soon as possible after the PQQ shortlisting, the preferred procurement provider must write to any Suppliers who were not selected, with reasons as to why they were not successful. If a Supplier who was not selected asks for further information on why he was unsuccessful, the Chief Officer must make the appropriate arrangements with the preferred procurement provider for feedback to be provided.

### 4.3 **Joint Procurement Arrangements / Frameworks/ Purchasing Consortia**

- 4.3.1 To fulfil their requirements, Chief Officers may use a number of arrangements established outside the Council by other parties, provided that those parties are “contracting authorities” as defined by the Public Contracts Regulations 2015 and any re-enactment(s) of them, these arrangements being:
- 4.3.1.1 Joint procurement arrangements with other local authorities;
- 4.3.1.2 Framework arrangements established by contracting authorities such as the East Midlands Property Alliance (EMPA);
- 4.3.1.3 Purchasing consortia established by contracting authorities such as the Eastern Shires Purchasing Organisation (ESPO).
- 4.3.2 Any requirement of the Council involving the procurement of work, goods, materials or services via joint procurement arrangements with other local authorities, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, shall be deemed to comply with the corresponding requirements of these Contract Procedure Rules.
- 4.3.3 Advice from Strategic Procurement Lead Officer/the preferred procurement provider should be sought before using framework arrangements established by contracting authorities.

4.3.4 Chief Officers shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary shall refer them to the Legal Services for a consideration of the suitability of the arrangement concerned and of the Council's legal liability before proceeding with or entering into any arrangement referred to in paragraph 4.3.1 of these Contract Procedure Rules.

4.3.5 Chief Officers shall ensure that the terms and conditions entered into are complied with.

#### 4.4 Vetting of Suppliers

4.4.1 Chief Officers shall ensure that suppliers are vetted for financial stability, technical competence, managerial capability, previous performance for the ability to comply with any national legislation and Council policies and procedures before each Contract is let or before being included into the relevant approved list(s), whichever is the earlier. Where applicable, Chief Officers shall ensure that suppliers meet adequate and appropriate standards of health and safety.

### 5 INVITATIONS TO SUPPLIERS

5.1 Procurement of Contracts for work, goods, materials and services (including Contracts involving construction and engineering related work):

5.1.1 Where the estimated value of a Contract over the whole life of the Contract is under **£10,000**, the Chief Officer need not obtain quotations. All contracts must be in writing and a purchase order must be raised for every contract

5.1.2 Where the estimated value of a Contract over the whole life of the Contract is between **£10,000 and £50,000**, Chief Officers shall obtain at least **3 written quotations**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules. Chief Officers, however, may elect to seek tenders in lieu of quotations.

5.1.3 Where the estimated value of a Contract over the whole life of the Contract is **between £50,000 and the relevant threshold**, Chief Officers will use the preferred procurement provider to obtain **at least 3 tenders in writing**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules

5.1.4 Where the estimated value of a Contract over the whole life of the Contract exceeds the relevant Threshold, Chief Officers will use the preferred procurement provider obtain **a minimum of 5 tenders in writing**. If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of a Chief Officer(s);

5.1.4.1 Where the estimated value of a Contract over the whole life of the Contract exceeds the relevant threshold the Chief Officer and the preferred procurement provider will consider the following principles before inviting tenders:

- Analysis and evaluation of all practical options for Contract packages and methods of procurement, with the object of selecting the option that most effectively ensures best value and provides full, fair and open competition;
- Taking into account the goals and objectives in the Sustainable Community Strategy and the priorities of the Corporate Plan;
- Consultation with stakeholders within and outside the Council about service standards and specifications;
- Market investigation;
- Analysis of performance under any current Contract and consideration of prospective performance in the light of consultations and investigations;
- Stimulation of diversity and innovation, enhancement of choice for service users and attraction of new Suppliers;
- Promotion of sustainability;
- Where appropriate, a commitment from the Supplier not to use zero hour contracts; to recruit local apprentices and local labour and to pay the Living Wage.
- Declarations in relation to professional and business conduct, including Blacklisting;
- Partnerships between the public, private and voluntary sectors should be sought, which demonstrate a shared commitment to objectives that benefit users of the Council's services;
- Value for money should be applied, with the objective of achieving a Contract that best serves the needs of service users.

5.1.4.2 At the same time as submitting the procurement request to engage the preferred procurement provider in developing a procurement plan, the Chief Officer must give full instructions to Legal Services to draft or approve terms and conditions of Contract where non-standard terms are being used.

5.1.5 The decision to invite quotations or tenders for a Contract and the decision to award the Contract must be separate decisions.

Former Part B Services (excludes NHS Contracts)

5.1.6 Competitive tenders must be sought for Social and other Specific Services which are:

- Health, social and related services

- Administrative social, educational, healthcare and cultural services
- Compulsory social security services
- Benefit services
- Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services
- Religious services
- Hotel and restaurant services
- Legal services to the extent not already excluded
- Other administrative services and Government services
- Provision of services to the community
- Prison related services
- Investigation and security services
- Internal services
- Postal services

5.1.7 Full details of the relevant services are contained in Schedule 3 of The Public Contracts Regulations 2015.

5.2 Formal Quotations and Tenders need not be sought:

5.2.1 If the estimated value of a Contract over the whole life of the Contract is less than £10,000. (Chief Officers have delegated authority to enter into Contracts below the Quotation level provided that a budget has been allocated for that expenditure). Contracts below the Quotation level must be signed for and on behalf of the Council by the Chief Officer responsible for the Contract or an Officer authorised by him/her and a Purchase Order raised through the Council's finance system.

5.2.2 In the event of an emergency (Exceptions to Contract Procedure Rules). Chief Officers, however, shall ensure that the most suitable arrangement is secured for the Council and the details are recorded in writing.

5.3 Chief Officers shall ensure that the e-tendering system shall be used wherever possible when inviting and receiving quotations and tenders electronically.

- 5.4 Chief Officers must not try to avoid compliance with these Contract Procedure Rules or the UK Regulations by splitting a procurement for the same or similar works, goods or services into smaller, separate contracts.
- 5.5 Chief Officers shall ensure that each individual Contract be packaged to secure Best Value for the Council.
- 5.6 Chief Officers shall ensure that suppliers invited to provide quotations or to submit tenders are contacted and (regardless of the process being used) a record maintained of the requests made and their agreement to provide quotations or submit tenders.
- 5.7 Chief Officers shall ensure that where there is a multiple stage process for inviting quotations or tenders then any criteria to be used for short-listing suppliers throughout such process is robust and transparent and shall make use of the assistance available from the preferred procurement provider.
- 5.8 Chief Officers shall ensure that a realistic period be stipulated in the invitations to suppliers to provide quotations or to submit tenders, with a minimum period of ten working days allowed for a response. This period may be reduced provided the special circumstances are recorded.
- 5.9 Chief Officers shall ensure that invitations to suppliers to provide quotations or to submit tenders for work, goods, materials or services, incorporate:
- 5.9.1 The requirements set out in these Contract Procedure Rules appropriate to the circumstances of the invitation;
- 5.9.2 A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers. The specification should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the Chief Officer to see whether the Council's requirements are being met by the Supplier. All necessary professional and technical advice and assistance must be obtained in preparing the specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants who assist in the preparation of a specification must not be invited to tender for the Contract. The people who prepare the specification should, as a rule, be part of the panel that evaluates tenders;
- 5.9.3 The nature and quantity of the work, goods, materials or services that is required;
- 5.9.4 The time, or times, within which the work or services are to be performed or the goods and materials are to be delivered;
- 5.9.5 A notification that assignment or sub-contracting is not permitted without prior written consent from the Council, unless the circumstances of the particular invitation require a different approach;
- 5.9.6 A notification that quotations are provided and tenders are submitted to the Council on the basis that they are compiled and delivered at the supplier's

expense and that, in no circumstances, will the Council contribute to such expenses whatever the outcome of the procurement process;

- 5.9.7 A notification that the Council is not bound to accept the lowest or any quotation or tender for a specific Contract;
- 5.9.8 A Certificate of Bona Fides;
- 5.9.9 A Form of Tender. The form of tender must also state that the tender will remain open for acceptance by the Council for a period of ninety days after the last date for receipt of tenders, or such other period as appropriate;
- 5.9.10 Adequate and appropriate provisions regarding insurances, health and safety, equality and diversity, data protection and freedom of information;
- 5.9.11 Adequate and appropriate price adjustment provisions (unless the circumstances of the particular invitation require a different approach), anti-collusion provisions; anti-corruption provisions and anti-fraud provisions;
- 5.9.12 Robust and transparent award criteria to be used in evaluating quotations or tenders received to ensure compliance with the requirements of these Contract Procedure Rules; and/or
- 5.9.13 The terms and conditions of Contract
- 5.9.13.1 For Contracts over the relevant Threshold, full instructions must be given at earliest opportunity and in any event not later than submitting the procurement request to the preferred procurement provider and to Legal Services to draft the terms and conditions of Contract or to approve non-standard terms and conditions of Contract e.g. JCT.
- 5.9.13.2 All Contracts, whatever their value, must include:
- A clear and comprehensive description of the works, goods or services to be supplied (the specification);
  - The price to be paid by the Council and mechanism;
  - Key performance indicators;
  - The time or times within which the Contract is to be performed;
  - A provision allowing the Council to use information gained from the Contract for preventing and detecting fraud;
  - A provision requiring the Supplier to comply with requests under the Freedom of Information Act 2000 for information relating to the Contract; and



- A right for the Council to terminate the Contract immediately in the event of corrupt activity and for the Council to recover its losses arising from the termination and other termination provisions where appropriate.
- A provision requiring the Supplier to comply with all applicable law about:
 

the processing of personal data and privacy (including the General Data Protection Regulation (Regulation (EU) 2016/679)(“UK GDPR”), the Law Enforcement Directive (Directive (EU) 2016/680)(“LED”), any applicable national implementing Laws as amended from time to time and the Data Protection Act 2018 (to the extent that it relates to processing of personal data and privacy)
- Health and Safety;
- Equality and Diversity
- Freedom of Information
- Money Laundering
- Anti-Corruption
- Intellectual Property
- Whistleblowing
- Insurance; and
- Other relevant statutory provisions including Modern Slavery
- A provision for making changes to the Contract to take account of changes in circumstances;
- If the Supplier's failure in performance would cause the Council financial loss, a provision for payment of liquidated damages;
- An appropriate dispute resolution procedure;
- A prohibition on the Supplier assigning, sub-letting or novating the Contract without the Council's consent;
- A provision requiring the Supplier to co-operate with the Council;
- If appropriate, a warranty by the Supplier that his employees are suitable persons to be employed in that Contract and, notwithstanding the provisions of the Rehabilitation of Offenders Act 1974, have disclosed all charges, cautions and convictions of criminal offences. This may include obtaining disclosures by the Disclosure and Barring Service;

- A provision requiring the Supplier to employ sufficient numbers of appropriately trained, skilled and competent staff and allowing the Council to require the removal of any member of the Supplier's staff from the Contract, if his/her behaviour justifies it;
- Where transfer of staff may be involved, provisions dealing with rights and obligations regarding employee matters, including pensions;
- A requirement for the Supplier to maintain records concerning the Contract and to give the Council access to such records and to the Supplier's premises and personnel for the purpose of internal or external audit;
- Where appropriate, a provision regarding tax deductions under the Construction Industry Contract;

5.9.14 The Chief Officer must:

5.9.14.1 Require the Supplier to maintain appropriate and adequate levels of insurance cover, in consultation with the Council's Corporate Resource Director, for employer's liability, public liability, products liability, all risks/Contract works and professional indemnity insurance. Unless otherwise agreed by the Corporate Resource Director, the minimum levels of cover shall be:

- £10 million for employer's liability insurance
- £5 million for public liability and products liability insurance
- £2 million for professional indemnity insurance or in exceptional cases where £2m is not feasible for the works covered, £1m at the discretion of the Chief Finance Officer. All policies must contain an indemnity of principals clause.

5.9.14.2 Ensure that the Supplier holds the required insurance cover at the start of the Contract, renews the policies as necessary during the Contract period and, following each renewal, provides details verified by his insurer or broker of his insurance for the Council's records.

5.9.15 As a general rule, all Contracts, whatever their value, must provide for payment by the Council after supply of the works, goods or services. Exceptionally, and only with the consent of the Chief Finance Officer, a Contract may provide for payment in advance. Generally, the Contract notice or other advertisement inviting tenders must not be published until the terms and conditions of Contract have been drafted.

5.9.16 If appropriate, a pricing document for completion by the tenderer; and

5.9.17 Any other relevant items that are considered necessary.

5.10 Chief Officers shall ensure that the information set-out in paragraphs 5.9.1 to 5.9.17 inclusive of these Contract Procedure Rules be issued to each supplier

invited to provide quotations or to submit tenders at the same time. Any supplementary information must be given on the same basis.

- 5.11 Chief Officers shall ensure that TUPE issues are considered when any employee either of the Council or of an incumbent provider of work or services may be affected by any transfer arrangement and obtain advice from a Legal Services before proceeding with invitations to suppliers to provide quotations or to submit tenders.

## **6 TENDERING PROCEDURES**

This paragraph relates to tendering procedures for Contracts in respect of which the Council's e-tendering system is not used as expressly agreed by the preferred procurement provider involving construction and engineering related work or Contracts estimated to have a value over the whole life of the Contract exceeding £50,000 for work, goods, materials and services, provided there is no conflict with the requirements of the Public Contracts Regulations 2015 and any re-enactment(s) of them.

- 6.1 Chief Officers shall ensure that all suppliers invited to submit a tender (regardless of the process being used) confirm receipt of the tender documents, using the Council's e-tendering system.
- 6.2 Unless otherwise stipulated in the tender documents, all written tenders must be delivered to the preferred procurement provider (as appropriate) and in a plain envelope.
- 6.3 Chief Officers shall ensure that the tender documents stipulate that all envelopes containing tenders shall be securely sealed and shall bear the word 'TENDER' followed by the name and/or reference of the Contract to which the tender relates. Also, such envelopes shall not bear any distinguishing mark intended to indicate the identity of the supplier.
- 6.4 Chief Officers shall ensure that all envelopes containing tenders remain in the custody of the designated officer concerned until the time appointed for their opening.
- 6.5 Chief Officers shall ensure that the envelopes containing tenders for the same Contract be opened at the same time by the designated officer concerned who shall do so in the presence of another officer or officers approved by the designated officer concerned for that purpose.
- 6.6 Chief Officers shall ensure that tenders received for whatever reason after the specified time or date or not delivered to the Council in accordance with the tender instructions will not be considered.
- 6.7 A commitment from the Supplier not to use zero hour contracts; to recruit local apprentices and local labour and to pay the Living Wage is welcomed.
- 6.8 Declarations in relation to professional and business conduct, including Blacklisting must be completed;

- 6.9 Any tender that does not comply with the instructions to tenderers or is conditional in any way will be rejected and will not be evaluated by the Council; and
- Any Contract will be terminated immediately, and any losses to the Council arising from the termination recovered from the Supplier, if the Supplier, or anyone acting on his behalf (with or without the Supplier's knowledge) : (1) Offers or promises or gives a financial or other advantage to any elected Member of the Council, any Member of Staff or any consultant in connection with the Contract; or (2) Requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the Contract is performed improperly
- 6.10 Appropriate time must be allowed for submission of tenders. The minimum is ten working days from the date of the invitation to tender, however each tender process should be considered in the light of the complexity of the tender.
- 6.11 Amendments to invitation to tender documents, made after the invitations have been sent out, must be clearly headed "ITT Amendment" and sent to all Suppliers who have been invited to tender. One or more amendments must be numbered consecutively. Amendments must be sent out in sufficient time to allow Suppliers to adjust their tenders before close of tenders. If necessary, the tender period must be extended to allow for this.
- 6.12 Tenders must be opened one at a time by the preferred procurement provider, in the presence of the Chief Officer or an Officer authorised by him/her.
- 6.13 All tenders must be numbered in the order they are opened and all persons present must initial the forms of tender.
- 6.14 Requests For Quotations and Invitations to Tender should be transmitted by electronic means wherever possible. The paper-based processes set out in these Rules must be followed unless an e-procurement package is being used.

## **7 PROCEDURES FOR QUOTATION AND TENDER DISCUSSION AND/OR CLARIFICATION**

### **7.1 Pre-Quotation and Pre-Tender Discussion**

7.1.1 Discussion prior to inviting quotations or tenders with potential suppliers may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the Council, provided there is no conflict with the requirements of the UK Regulations and any re-enactment(s) of them. The objective of such discussion is to ensure that an effective invitation is prepared. All potential suppliers must be treated equally within this process.

### **7.2 Post-Quotation and Post-Tender Clarification**

7.2.1 Clarification after receipt of quotations or tenders and before the letting of Contract(s) with those supplier(s) who have submitted such quotations or tenders may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the Council, provided there is no conflict with the requirements of the UK Regulations and any re-enactment(s) of them. The objective of such discussion is to obtain an improvement in content of these quotations or tenders in circumstances which do not put the other supplier(s) at a disadvantage, distort competition or affect adversely trust in the competition process. All potential suppliers must be treated equally within this process.

7.2.2 Where post-quotation or post-tender clarification results in a fundamental change to the specification or the proposed terms and conditions that are to apply, an official order must not be issued or a formal contract must not be made and quotations or tenders must be re-invited.

7.2.3 A tender that is qualified or expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of Contract must be treated as non-compliant and rejected. Non-compliant tenders must not be evaluated. This does not prevent the Council inviting variant bids. If variant bids are invited, tenderers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender, so that all bids may be compared fairly.

## **8 ACCEPTANCE OF QUOTATIONS AND TENDERS**

8.1 Whenever an e-tendering system is not used, Chief Officers shall ensure that a record of the quotations received be prepared, signed, dated and timed, which record shall include the date and time each quotation is received, together with the main terms of each quotation (e.g. value, price, delivery period, or other significant issues unique to each quotation).

8.2 Whenever an e-tendering system is not used, Chief Officers shall ensure that a record of the tenders received is prepared, signed, dated and timed and countersigned by another officer or officers present, which record shall include the date and time each tender is received, together with the main terms of each tender (e.g. value, price, delivery period, or other significant issues unique to each tender).

- 8.3 Subject to any legal obligations on the Council, Chief Officers shall ensure that the confidentiality of quotations and tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer shall not be given to another supplier.
- 8.4 Where a quotation or tender is received from a consortium, which is acting jointly for the purpose of being awarded a Contract, such quotation or tender shall be evaluated in accordance with the requirements of either paragraph 8.5 or paragraph 8.5.1 of these Contract Procedure Rules.
- 8.4.1 Chief Officers shall ensure that any quotation or tender of a consortium is not treated as ineligible on the grounds that the consortium has not formed a legal entity for the purposes of providing a quotation or submitting a tender.
- 8.4.2 Where the quotation or tender received from a consortium is to be accepted, Chief Officers shall ensure that the proposed terms and conditions that are to apply are referred to the Legal Services for consideration of the Council's legal liability before proceeding with or entering into an official order or a formal contract. The Executive Director of Governance shall decide on whether to require the consortium to form a legal entity before entering into, or as a term of, the official order or formal contract.
- 8.4.3 The vetting of the consortium, and for Contracts involving construction and engineering related work, shall be in accordance with the requirements of paragraph 4.4.1 of these Contract Procedure Rules.
- 8.5 Chief Officers shall ensure that tenders received are evaluated in accordance with the Quotation/Tender Evaluation model recommended by the preferred procurement provider. Any Contract that has a procurement requirement falling within the UK procurement regime and, if so, whose value, or (if made up of a series of related Contracts), whose aggregate value is likely to exceed the relevant threshold figure for the time being in force.
- 8.5.1 Chief Officers shall ensure that quotations received and tenders received are adequately and appropriately evaluated where any Contract does not have a procurement requirement falling within the UK procurement regime or, if it does, whose value, or (if made up of a series of related Contracts) whose aggregate value is not likely to exceed the relevant threshold figure for the time being in force and shall adopt the Quotation/Tender Evaluation Model recommended by the preferred procurement provider.
- 8.6 Chief Officers shall ensure that errors or discrepancies found in quotations or tenders be adequately and appropriately dealt with. Where such error or discrepancy cannot be adequately and appropriately dealt with the matter shall be immediately referred to the Chief Finance Officer for a decision.
- 8.7 Chief Officers shall ensure that the quotation or tender which secures Best Value for the Council be accepted, provided that there is no conflict with the Public Contracts Regulations 2015 and any re-enactment(s) of them.

- 8.8 Chief Officers shall ensure that a record is kept of the withdrawal of a quotation or tender by a supplier within a specific Contract together with the circumstances of such withdrawal.
- 8.8.1 Chief Officers shall ensure that this information is reported to all officers responsible for the selection of suppliers who may be invited to provide quotations or submit tenders for the provision of work, goods, materials or services.
- 8.9 Chief Officers shall ensure that where the accepted quotation or tender is changed following the rectification of errors or discrepancies and/or post-quotation/tender clarification, such amendment(s) be initialled by Chief Officers or authorised signing officer(s).
- 8.10 Each Contract shall be let on the authority of a Chief Officer, following a decision having been taken on the acceptance of a quotation or tender by an appropriate decision-maker (i.e. for executive business a Chief Officer (or other specifically delegated officer), Executive Lead Member/Leader or Cabinet) in accordance with the currently prevailing financial limits.
- 8.11 Chief Officers shall ensure compliance with the relevant provisions of these Contract Procedure Rules where the accepted quotation or tender incorporates provisional, prime cost or non-defined items or other such similar items.
- 8.12 A tender that exceeds the budget allocated must not be accepted. If a tender exceeds the budget allocated, the Chief Officer must obtain an additional allocation of funds in accordance with Financial Regulations before the tender may be accepted.
- 8.13 The decision to award the Contract must include the name of the successful tenderer, the length of the Contract and any options for extension and the price or estimated price of the Contract.
- 8.14 Chief Officers shall ensure that suppliers whose quotation or tender for a specific Contract is not accepted be notified and given the names of all suppliers who provided a quotation or submitted a tender, together with the prices, or ranges of prices, so provided or submitted. Such prices, or range of prices, must not be correlated to the names of the suppliers.

## **9 ORDERS AND CONTRACTS**

- 9.1 All Contracts must be evidenced by means of an official order or a formal contract. Such official order must be issued or such formal contract must be made to all suppliers for the provision of Contracts, before the relevant supply, service or work begins, except in exceptional circumstances as provided for in paragraph 9.2 of these Contract Procedure Rules.
- 9.1.1 Chief Officers shall ensure that official orders are raised through the Council's main financial system.

- 9.1.2 Chief Officers shall ensure that official orders are also raised through the Council's main financial system:
- 9.1.2.1 For call-offs, draw-downs or other similar arrangements, where an official order has already been issued or formal contract has already been made, or where a series of official orders have already been issued or formal contracts have already been made with the same external organisation, which relate to the same Contract; and
- 9.1.2.2 For budgetary purposes, where a formal contract has already been made. However, such budgetary orders shall not be issued to suppliers, but shall be retained by the relevant Council department.
- 9.2 In exceptional circumstances, where an official order has been raised electronically, i.e. by telephone, e-mail or fax transmission, Chief Officers shall ensure that an official confirmatory order be issued through the Council's main financial system without undue delay.
- 9.3 Chief Officers shall ensure that an official order or a formal contract for any individual Contract is not artificially divided into two or more separate official orders or formal contracts with the intention of avoiding the application of these Contract Procedure Rules.
- 9.4 Where any Contract has a value of £50,000 or more:
- 9.4.1 the Head of Paid Service must make a formal contract under seal where the value of any Contract is £50,000 or more. All Contracts executed as deeds must have the Council's Common Seal impressed on them. All call off contracts under Framework Agreements, bonds and guarantees, and Contracts of £50,000 or more must be executed as deeds.
- 9.4.2 the Executive Director of Governance (taking into consideration the risks involved) may deem a formal contract under seal to be inappropriate in any particular case (except for Contracts involving construction and engineering related work), even where the value of the Contract not involving construction and engineering related work is £50,000 or more. In this case, the Chief Officer concerned shall ensure that an official order or a simple contract relating to such Contract is made in such terms that have the prior approval of the Executive Director of Governance.
- 9.5 Where any Contract has a value of less than £50,000:
- 9.5.1 the Chief Officer concerned must issue an official order or make a simple contract where the value of any Contract is less than £50,000. Such official order or such simple contract must be signed by at least one Chief Officer.
- 9.5.2 the Executive Director of Governance (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the Contract is less than £50,000. In this case, the Chief Officer concerned shall ensure that a formal contract under seal relating to the Contract is made in such terms that have the prior approval of



the Executive Director Governance and in accordance with paragraph 9.4 of these Contract Procedure Rules;

- 9.5.3 Chief Officers may authorise, in writing, other officers to sign official orders or simple contracts or to authorise such orders or contracts electronically in a main financial system on their behalf at a value agreed with the Chief Finance Officer provided Chief Officers are satisfied that their officers have received relevant financial training as approved by the Chief Finance Officer.
- 9.6 Chief Officers shall ensure that:
  - 9.6.1 no official order be issued or formal contract made for a Contract which will commit the Council to expenditure unless provision exists to finance that expenditure, except in the event of an emergency;
  - 9.6.2 no official order be issued or formal contract made for work, goods, materials or services for the private use of any person;
  - 9.6.3 only official order forms in a format approved by the Chief Finance Officer be used;
  - 9.6.4 each official order or formal contract indicates clearly the nature and quantity of the work, goods, materials or services, the agreed value or price and provisions for payment, any trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a quotation, tender or other arrangement;
  - 9.6.5 each official order or supplier's form of order used to call-off, draw-down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the work, goods, materials or services (as the case may be) which form the subject-matter of the contract.
  - 9.6.6 where the terms of any official order or a formal contract are changed, such amendment(s) be initialled by Chief Officers or authorised signing officers. In addition, the copy of an official order so changed and held by the issuing Council department, be amended accordingly;
  - 9.6.7 a scanned copy of every executed formal contract is sent to the Strategic Procurement Lead Officer.
- 9.7 The Strategic Procurement Lead Officer shall ensure that as soon as possible after any formal contract has been made, the Chief Finance Officer is notified and a register be kept of such contracts made.
- 9.8 Chief Officers shall ensure that any contingency allowance incorporated into an official order or formal contract does not exceed 10% of the estimated cost of a Contract unless agreed otherwise with the Chief Finance Officer.

## 10 CONTRACTS THAT HAVE COMMENCED

### Contract Management

- 10.1 A Contract must not start until the Contract documents have been signed or signed and sealed and dated. Chief Officers must allow time for this in the Contract programme.
- 10.2 Within ten days of the date of the Chief Officer or Contract officer should 1] notify the Finance Team if the Contract is worth £5,000 or more or 2] Strategic Procurement Lead Officer and the preferred procurement provider if the Contract is worth £30,000 or more of the following:
- The Contract reference number
  - The title of the agreement
  - The local authority responsible
  - The works, goods or services to be supplied;
  - The procurement procedure adopted;
  - The name of the Supplier,
  - The Contract value; and
  - The commencement and completion dates;
- 10.3 The preferred procurement provider shall arrange for publication of a Contract award notice, this is subject to a time limit of 30 days, if appropriate, and a register of notified information shall be maintained, which will be available for inspection via appointment by any member of the Council, internal/external auditors and any member of the public. Publication is by way of the Contracts Register. Contracts below £30k are managed directly by service areas and should be updated on the Contracts Register through Finance. Where the CCS assisted procurement service is used the assisted procurement service will arrange for the advertisement on Contracts Finder (FTS) and advise the Council that this has been completed. Where the value is between £30k and £50k and where the procurement has been managed in house then the Procurement and Projects Officer is to be advised of the contract award details in order to publish on Contracts Finder
- 10.4 The Chief Officer shall be the Contract manager for the Contracts for which he/she is responsible up to the relevant Threshold, but he/she may authorise another Officer by written delegation to have day-to-day responsibility for managing the Contract. For Contracts over the relevant Threshold, the Chief Officer must appoint a dedicated Contract manager with appropriate skills and experience.
- 10.5 The Chief Officer is responsible for:
- Managing the Contract and ensuring that it is carried out in accordance with its terms and conditions;
  - Monitoring the Supplier's performance;

- Making the Contractor aware that he is expected to comply with the Council's equal opportunities, anti-bribery, whistle-blowing and anti-money laundering policies;
- Ensuring that the Supplier maintains the insurance policies required by the Contract;
- Agreeing any minor changes to the Contract (but not changes to prices) before they are carried out;
- Keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the Contract;
- Deducting liquidated damages, if appropriate;
- In consultation with Legal Services consenting to sub-Contracts, assignments to new Suppliers and/or novation to a new Supplier(s); and
- Managing the transition between the ending of one Contract and the beginning of another

10.6 The Chief Officer must consult Legal Services for consideration of the Council's legal position:

- Before any Contract is to be terminated or suspended;
- In the event of a claim for payment not clearly within the terms and conditions of Contract;
- Before making any deduction from payments due to a Supplier or withholding payment from a Supplier;
- Before making any extension to a Contract or variation of the scope of a Contract.

#### Extensions to Contracts

10.7 An extension to a Contract is an additional period at the end of the Contract, during which the works or the services to be carried out are a repetition of the works, supplies or services under the original Contract.

10.8 Unless a Contract specifically includes an option to extend its term, that Contract may not be extended. The Contract will cease to exist at the end of its term. Exceptions to this paragraph 10.8 (extension of the term of a contract where the contract does not provide an option to extend the term) may be permitted only in exceptional circumstances in consultation with Legal Services and in accordance with the provisions of the Public Contracts Regulations 2015, and the approval of the Executive Director of Governance must be obtained.

10.9 If a Contract specifically includes an option to extend its term and:

- The contract notice or other advertisements for the Contract stated that an extension Contract may be awarded; and
- The estimated value of the Contract in the contract notice or other advertisements took account of the potential extended Contract; and
- The extension represents good value for money for the Council,

10.10 Then the Chief Officer may make a decision to award the extension Contract if the value of the extension is below £50,000 per annum. If the value of the extension is over £50,000 per annum the decision to award the extension Contract must be made by the Cabinet, unless Cabinet Authority has already been provided within the original contract approval. Once the extension has expired, that Contract will cease to exist.

#### Variations to the Scope of Contracts

10.11 Provided that a budget has been allocated for that expenditure and value for money can be demonstrated, the Chief Officer may agree with a Supplier to carry out additional works or services that were not included in the original Contract but which through unforeseen circumstances have become necessary and which either cannot for technical or economic reasons be carried out or provided separately from those included in the original Contract without major inconvenience to the Council or could be carried out or provided separately but are strictly necessary to the later stages of the Contract. The additional works or services must not exceed 50% of the value of the original Contract and authorisation must be obtained from the appropriate decision-maker.

## **11 PAYMENTS**

11.1 Chief Officers shall ensure that payments to suppliers for work, goods, materials or services are certified and made in accordance with:

11.1.1 The appropriate term(s) of the official order or formal contract; and

11.1.2 The Council's Financial Regulations.

## **12 PERFORMANCE SECURITY ARRANGEMENTS**

12.1 Chief Officers shall ensure that procurement exercises allow for the obtaining of security for the due performance of all Contracts (whether they be Contracts involving goods, materials or services or involving construction and engineering related work) between the Council and any external organisation where the value of such Contract is estimated to be £275,000 or more.

12.2 Chief Officers must decide, taking appropriate advice, whether the circumstances justify the Council requiring the supplier to provide appropriate security arrangements. Such security may be by way of performance bonding, parent

company/third party guarantees, deposit of money as security or other means considered appropriate by the Chief Officer.

### **13 INSURANCES**

13.1 Chief Officers shall ensure that there is adequate and appropriate insurance cover in force during the continuance of a Contract for both the Council and its suppliers in conjunction with the Council's insurance officers.

### **14 CONSULTANTS**

14.1 Where a supplier is providing consultancy services to the Council (e.g. professional, technical, IT and managerial), Chief Officers shall ensure that the relevant provisions of these Contract Procedure Rules are followed and included in the terms of such supplier's appointment.

14.2 Chief Officers shall ensure that the taxation procedures set out within the Financial Regulations are followed in the employment of consultants.

14.3 Chief Officers shall ensure compliance with the requirements of the Audit for commissioning and managing consultants

14.4 All consultants engaged to act on behalf of the Council must comply with policy and declare that:

- They will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council; and
- They will notify the relevant Chief Officer if they have any links with (e.g. a family member or close friend works for) an organisation or Supplier who is tendering or quoting for a Contract with the Council or already has a Contract with the Council.

### **15 RECORDS**

15.1 Chief Officers shall ensure that the records required by these Contract Procedure Rules are kept and securely retained.

15.2 For the purpose of these Contract Procedure Rules, Chief Officers shall ensure that the relevant documentation set-out in the Council's Retention and Disposal Policy is securely kept and retained for at least the periods stated in such schedule.

### **16 AUDIT EXAMINATION**

16.1 The authority of the Council's Internal Audit is outlined in the Council's Financial Regulations and will be utilised where appropriate.

## **17 EXCEPTIONS TO CONTRACT PROCEDURE RULES**

- 17.1 An exception to Contract Procedure Rules is a permission to let a Contract without complying with one or more of the Rules. An exception to Contract Procedure Rules may be granted subject to conditions.
- 17.2 Permission to use an exception to Contract Procedure Rules will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not be a permitted exception to the Rules.
- 17.3 If an exception is granted, the Chief Officer responsible for the Contract must demonstrate that the price obtained is not in excess of the market price and that the Contract represents value for money.
- 17.4 An exception to Contract Procedure Rules is not required in the following circumstances:
- 17.4.1 Placing an order under an existing Corporate Contract or single Supplier Framework Agreement;
- 17.4.2 As part of a partnering Contract that contemplates a series of Contracts with a single Supplier, provided the entire series has been duly authorised as appropriate for its value;
- 17.4.3 Legislation requires the Council to let a Contract differently from these Contract Procedure Rules;
- 17.4.4 Placing an order through the preferred procurement under an arrangement, of which the Council is an affiliate, which has gone through a compliant competitive process;
- 17.5 Exceptions under this Rule shall be notified to the Strategic Procurement Lead Officer or the Corporate Resource Director.
- 17.6 Exceptions may be granted in the following circumstances:
- 17.6.1 The Contract is for the execution of works or the supply of goods or services certified by the Chief Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Executive Lead Member shall be kept informed of such decisions and a record of the decision shall be retained by the Chief Officer and a copy sent to the Strategic Procurement Lead Officer or the Corporate Resource Director.
- 17.6.2 Where there is no (or insufficient) marketplace to tender for the supply of goods, services or works required because of the specialist nature of the proposed Contract permission to apply an exception will be sought from the Executive Lead Member or Cabinet to either deal with a single contractor or to vary the quotation/tender requirements.

## **18 ELECTRONIC SIGNATURES**

- 18.1 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.

18.1.1 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative.

18.1.2 The use of Electronic Signatures is not permitted in circumstances where:

- the Contract is to be sealed;
- a physical, handwritten signature needs to be filed;
- there is a proviso in the Contract which prevents the use of an Electronic Signature;
- the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- the Contract needs to be notarised.

## **19 DEFINITIONS**

Authority	Means a decision by the Cabinet, the Council, the Executive Lead Member and or Chief Officer to spend money and award the Contract;
Award a Contract	means to accept an offer from a Supplier;
Cabinet	means the Leader of the Council and the other members of the Council's Executive, who are all Executive Lead Members;
CCS Chief Finance Officer	Crown Commercial Service means the officer designated under section 151 of the Local Government Act 1972.
Chief Officer	means the posts designated as Chief Officers in Part 2 Article 10 of the Council's Constitution or a person authorised by him/her in writing
Contract	means the bargain or agreement between the Council and a Supplier for the supply of works, goods or services;
Contract Document	means the document setting out the Council's specific requirements to be delivered through the contract, together with the terms and conditions of the Contract. A Purchase Order is a Contract document. Although at law a verbal agreement may be a Contract, Contracts for Ashfield District Council must always be supported by appropriate written Contract documents;
Contractor	see Supplier;

Contract Finder	means a web based portal provided by or on behalf of the Cabinet Office
Corporate Contract	means a Contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area e.g. stationery. Corporate Contracts are generally procured and managed by the preferred procurement provider;
Emergency	means an occurrence involving or likely to ‘involve danger to life or health’ or ‘serious damage to property’ or ‘destruction of property’.
Find a Tender Service (FTS)	means a web based portal provided by or on behalf of the Cabinet Office
UK Regulations	means the Public Contracts Regulations 2015 as amended from time to time;
Threshold	means the value in pounds sterling above which the UK Regulations apply to a proposed public Contract;
Exception	means a decision by Cabinet, the Council, a Executive Lead Member or a Chief Officer not to comply fully with these Contract Procedure Rules
Framework Agreement means	an agreement between one or more contracting authorities and one or more Suppliers which fixes the terms and conditions under which the Supplier will enter into one or more specific call off Contracts with an authority during the term of the framework agreement, which should be no more than 4 years;
Goods	see Supplies Contract;
Key Decision	a key Decision is defined in the constitution as one which is likely to:- (a) Result in the Council making savings or incurring expenditure exceeding £50,000 revenue or £1m capital or (b) Have a significant effect, either positive or negative, on communities living or working in an area comprising two or more wards or electoral divisions in the Council’s area.
Living Wage	means an hourly wage rate, set independently and updated annually calculated according to the basic cost of living in the UK;
Members of Staff	means Officers who carry out the day to day work of the Council, either on a permanent or a temporary basis, and includes officers, interim post-holders and agency staff but not consultants or Suppliers;
Monitoring Officer means	the Officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council’s



	compliance with the law and rules of administration. The Executive Director of Governance is the Monitoring Officer;
Officer	means an individual who holds a post on the Council's establishment;
PIN	means the Prior Information Notice;
PQQ	means a Pre-Qualification Questionnaire, which Suppliers have to complete to provide evidence of their legal, financial and technical capacity (including but the not limited to their health and safety and equal opportunities polices) to undertake a Contract for the Council;
Preferred Procurement Provider	means the provider that has been approved to manage procurement activities.
Public Procurement Legislation	includes the Public Contracts Regulations 2015, UK legislation affecting public sector Contracts and any amendment, re-enactment or replacement of any of them;
Purchase Order	means the Council's official order form for the purchase of works, goods or services;
Quotation	means an offer by a Supplier to undertake a Contract;
Services Contract	means a Contract for the provision of services to the Council;
Supplier	means a Supplier of works, goods or services to the Council;
Supplies Contract	means a Contract for the sale or hire of goods to the Council and includes, where appropriate, installation of goods;
Tender	means an offer by a Supplier to undertake a Contract of £50,000 or more in value;
TUPE Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of them.
Voluntary Transparency Notice	means a notice published in Find a Tender by the preferred procurement provider on the request of the Chief Officer, which contains the name and contact details of the Council; a description of the object of the Contract; a justification of the decision of the Council to award the Contract without advertising it in Find a Tender; the name and contact details of the Supplier to be awarded the Contract and any other information the preferred procurement provider considers it useful to include;

Works Contract

means a Contract for the construction, repair or maintenance of a physical asset e.g. a building or a road.

## **EMPLOYMENT PROCEDURE RULES**

### **1. INTRODUCTION**

- (a) The Council has developed these rules in order to outline the process to be followed when appointing or dismissing employees or taking disciplinary action against employees.

### **2. RECRUITMENT AND APPOINTMENT**

#### **(a) Declarations**

- i) The Council requires 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.
- ii) No candidate so related to a Councillor or an employee will be appointed without the authority of the relevant Chief Officer or an employee nominated by him/her.

#### **(b) Seeking Support for Appointment**

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) No Councillor will seek support for any person for any appointment with the Council.

### **3. APPOINTMENT AND DISMISSAL OF CHIEF OFFICERS AND STATUTORY OFFICERS**

- (a) In accordance with the Committee Terms of Reference (Part 3 of the Constitution) the Chief Officers' Employment Committee is responsible for the appointment and dismissal of, and the taking of disciplinary action against, Chief Officers and Statutory Officers as defined in Article 11.
- (b) The Chief Officers' Employment Committee will be required to follow the Council's Recruitment and Selection Policy.
- (c) The Chief Officers' Employment Committee will meet as and when required and must include at least one Member of the Executive. The Chief Officers Employment Committee shall have a membership of 7.

### **4. APPOINTMENTS – CHIEF OFFICERS AND STATUTORY OFFICERS**

- (a) The Chief Officers' Employment Committee may choose to appoint any of the Chief Officers or Statutory Officers from an internal pool of candidates or by externally advertising.

- (b) The Chief Officers' Employment Committee will draw up a job description and person specification which will be sent to any person on request.
- (c) The Chief Officers' Employment Committee will interview shortlisted candidates. Candidates will be interviewed in accordance with the Recruitment and Selection Policy and the advice of an HR adviser.
- (d) The preferred candidate will be offered the post subject to there being no well-founded objection by any member of the Executive, satisfactory references and pre-employment checks.
- (e) A final decision in respect of the appointment of a Statutory Officer rests with the Council.
- (f) Where a reorganisation affects the structure/numbers of Chief Officer posts, posts in the new structure will be filled in line with the relevant Council policy. Any competitive interviews required under that policy will be carried out by the Chief Officers' Employment Committee.

**5. DISMISSAL AND DISCIPLINARY ACTION – CHIEF OFFICERS AND STATUTORY OFFICERS**

- (a) The Chief Officers Employment Committee will hear disciplinary matters relating to Chief Officers and Statutory Officers.
- (b) In the case of dismissals, the Chief Officers' Employment Committee will hear the case against the Chief Officer/Statutory Officer and the hearing will be conducted in accordance with the Council's Disciplinary Policy or the relevant statutory procedure in the case of the Statutory Officers. The provisions of the relevant legislation including the requirements set out in Schedule 1 Part 2 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) are incorporated by reference into these procedure rules. In the case of discrepancy between these procedure rules and the legislation, the legislative provisions shall take precedence.
- (c) A final decision in respect of a Statutory Officer rests with the Council. The Council will consider the proposal to dismiss in accordance with the relevant statutory requirements and any associated detailed procedures and must approve such dismissal before the notice of dismissal is issued.
- (d) In the case of a Statutory Officer, no disciplinary action may be taken until the advice, views or recommendations of an Independent Panel are considered by the Chief Officers' Employment Committee as the body authorised by the Council to act as the relevant Investigation and Disciplinary Committee under the relevant statutory process. The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months beginning on the date of suspension. In the case of the suspension of the

Chief Finance Officer or the Monitoring Officer, the Head of Paid Service will make the suspension having consulted with the Leader of the Council. In the case of the Head of Paid Service, the Monitoring Officer will make the suspension having consulted with the Leader of the Council.

- (e) The Chief Officer (unless the employee is a Statutory Officer) will have a right of appeal in accordance with the appeals process set out in the Disciplinary Policy. The Appeal body for a Statutory Officer is the Standards and Personnel Appeals Committee for disciplinary matters falling short of any proposal to dismiss and Council if dismissal is being proposed.

## **6. APPOINTMENT OF POLITICAL ASSISTANTS**

The appointment of any person as a political assistant must be done in accordance with the legislative requirements and the wishes of the relevant political group.

## **7. APPOINTMENT, DISMISSAL AND MANAGEMENT OF ALL OTHER EMPLOYEES**

- (a) The appointment, dismissal and management of employees (except Chief Officers and Statutory Officers) including disciplinary action, will be carried out by properly authorised Officers of the Council in accordance with relevant policies and procedures and in compliance with statutory obligations.
- (b) Elected Members will not be involved in the appointment, dismissal or management of employees other than Chief Officers or Statutory Officers, except where their involvement is necessary for any investigation into alleged misconduct or as a Member of the Standards and Personnel Appeals Committee when hearing an appeal against dismissal in accordance with the Disciplinary Policy.