

**PART 5**  
**RULES OF PROCEDURE**

## COUNCIL PROCEDURE RULES

### 1. INTRODUCTION

- 1.1 The Council has four types of Full Council meetings:-
- 1.1.1 **ordinary meetings** – these meetings run throughout the year to carry out the business of the Council;
  - 1.1.2 **the annual meeting** – Elects the Chair and Vice-Chair of the Council who hold the posts until the annual meeting the following year selects Councillors for committees and other standing bodies and approves a program of meeting for the following year;
  - 1.1.3 **the annual budget meeting** – To agree the Council's budget for the following financial year. This meeting only considers the budget reports;
  - 1.1.4 **extraordinary meetings** – meetings arranged outside of the schedule of ordinary meetings.
- 1.2 These rules are designed to ensure meetings of the Full Council run smoothly and are conducted properly to enable sound decision-making in line with Wednesbury principles and to ensure that the business of the Council is undertaken effectively and efficiently.
- 1.3 If any issues arise at a meeting in relation to interpretation of the procedure rules, the Chairs decision will be final.

### 2. ANNUAL MEETING OF THE COUNCIL

#### 2.1 Timing and business

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

#### 2.2 At the Annual Meeting the Council will:

- (i) elect a person to preside if the Chair or Vice-Chair of Council are not present;
- (ii) elect the Chair of Council;
- (iii) elect the Vice Chair of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any communications from the Chair of the Council and/or Chief Executive;
- (vi) confirm the election of the Leader;
- (vii) Note the appointment to the role of Deputy Leader
- (viii) appoint an Overview and Scrutiny Committee, Audit and Governance Committee and other such committees or standing bodies as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions;
- (ix) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree
- (ix) approve a programme of ordinary meetings of the Council for the year; and

- (x) consider any business set out in the notice convening the meeting.

2.3 At the Annual Meeting the Council will not include:

- (i) consideration of previous minutes of Council or Committees or other standing bodies or other business unless the agenda provides for their consideration.
- (ii) Questions
- (iii) Motions

#### 2.4 **Selection of Councillors on Committees and Other Standing Bodies**

At the Annual Meeting, the Council will:

- (i) decide which committees or other standing bodies to establish for the municipal year;
- (ii) decide the size and terms of references for those committees or other standing bodies;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each committee or other standing body; and
- (v) appoint to those committees or other standing bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

### 3. **ORDINARY MEETINGS**

3.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chair and if the Chair and Vice Chair of the Council are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interests from members;
- (iv) receive any announcements from the Chair of the Council, Leader, members of the Cabinet or Chief Executive;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) deal with business from the last Council meeting;
- (vii) receive reports from the Cabinet and the Council's committees and other standing bodies and receive questions and answers on any of those report;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(ix) consider motions; and

(x) consider any other business specific in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate.

3.2 In dealing with item (vii) above it will be permissible for a single motion to be moved and seconded in relation to some or all of the reports to be considered by the Council without individual sets of reports being moved and seconded separately.

#### **4. EXTRAORDINARY MEETINGS**

##### **4.1 Calling extraordinary meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

(i) the Council by resolution;

(ii) the Chair of the Council;

(iii) the Leader;

(iv) the Monitoring Officer; and

(v) any five members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition and shall provide to the Chief Executive a description of the business to be considered

##### **4.2 Business at Extraordinary Meetings**

The business of an extraordinary meeting shall be limited to consideration of the business contained within the requisition and will not include:

(iv) consideration of previous minutes of Council or Committees or other standing bodies or other business unless the agenda provides for their consideration.

(v) Questions

(vi) Motions

#### **5. ANNUAL BUDGET MEETING**

5.1 The business of the Annual Budget Meeting shall be limited to the following:

(a) Approve the minutes of the last meeting;

(b) Receive any declarations of interest from Councillors;

(c) Receive announcements from the Chair of the Council, the Chief Executive and Leader;

(d) Receive any statements from members of the public who are residents of, or working in, the district relating only to an item of business on the public part of the agenda of that meeting;

(e) Receive and consider the Council plan, budget and associated reports; and

(f) Any other urgent business as agreed by the Chair of the Council.

## **6. PROPOSAL OF AN ALTERNATIVE BUDGET**

- 6.1 Should minority groups wish to propose an alternative budget proposal, to revise or replace the proposal set out by the current administration they must be presented to the Authorities Section 151 Officer no later than 28 clear days prior to the scheduled date of the Annual Budget Meeting.
- 6.2 The alternative budget will be presented in a report which will form part of the published agenda for the budget meeting.
- 6.3 At the Annual Budget Meeting minority groups may then present alternative budgets. A period of 15 minutes is allowed for each alternative budget, extendable at the discretion of the Chair of the Council. The format and mode of the presentation is for the minority group to decide.
- 6.4 Alternative budget(s) shall be presented after the Executive report.
- 6.5 If there are multiple alternative budgets it shall be for the Chair of the Council to decide what order they shall be presented
- 6.6 Alternative budgets will be moved and seconded in turn as amendments to replace the Executive report. The reports will be debated in the usual way.
- 6.7 At the conclusion of each debate, a vote will be taken for and against the alternative budget.
- 6.8 If the alternative budget is voted down there shall be no further debate
- 6.9 Once all alternative budgets have been presented the Executive report will be debated in the usual way

## **7. APPOINTMENT OF SUBSTITUTE AND REPLACEMENT OF MEMBERS OF COMMITTEES, OTHER STANDING BODIES AND EXTERNAL APPOINTMENTS**

7.1 The Local Government Act 2000 does not allow for substitute or co-opted members on the Cabinet. The provisions for substitutes in respect of other bodies is as set out in Part 3 of this Constitution.

### **7.2 Powers and duties**

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.

### **7.3 Substitution**

Substitute members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after notifying the Chief Executive or their nominee on the day of the meeting of the intended substitution.

### **7.4 Replacement**

Where a member is no longer able to undertake the duty of a member of a committee, standing body or external appointment the Monitoring Officer shall take a report to an Ordinary or Extraordinary meeting proposing the replacement of the original member

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

- 8.1 The time and place of meetings will be determined by the Chief Executive or their nominee after consultation with the Chair of the Council and notified in the summons.

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

- 9.1 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 signed by them by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **10. CHAIR AND VICE-CHAIR OF MEETING**

- 10.1 The Chair of the Council, or in their absence the Vice Chair of the Council (who will have the same powers and duties as the Chair), will preside at meetings of the Council.
- 10.2 Where both the Chair and Vice Chair of the Council are absent, the Council will appoint another Councillor, other than a member of the Cabinet, to chair the meeting, who will have the same powers and duties as the Chair.
- 10.3 The person presiding at the meeting may exercise any power or duty of the Chair of the Council. Where these rules apply to committees and other standing bodies references to the Chair and Vice Chair of the Council also include the Chair and Vice--Chair of committees and other standing bodies.

## **11. QUORUM**

- 11.1 The quorum of a meeting will be one quarter (rounded up) of the whole number of members.
- 11.2 Having waited 5 minutes from the start time of the meeting, if the Chair of the Council or the Chief Executive concludes that an insufficient number of Councillors is present the meeting will not proceed and the meeting will be adjourned to a time fixed by the Chair
- 11.3 During any meeting if the Chair of the Council counts the number of members present and declares there is not a quorum present, then the meeting will adjourn for 15 minutes. After 15 minutes the meeting shall reconvene, if it remains inquorate the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair of the Council. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **12. DURATION OF MEETING**

- 12.1 Unless the majority of Members present vote for the meeting to continue, any meeting which commenced at 6.30 pm on reaching 9.00 pm will adjourn immediately (unless a thirty minute extension in accordance with Rule 30 (The Conclusion of Proceedings) has been approved). The remaining business will then be considered at a time and date to be fixed by the Chair of the Council. If they does not fix a date, the remaining business will be considered at the next ordinary meeting.

**13. OTHER POINTS REGARDING THE ORDER OF BUSINESS**

- 13.1 At any time during the meeting the Chair of the Council can adjourn the meeting.
- 13.2 The Chair of the Council will manage the agenda to enable the meeting to keep to time and has discretion to extend the time limit of a particular section of the agenda within the overall time limit of the meeting.
- 13.3 The order of business can be varied at the discretion of the Chair of the Council.

**14. ABSENCES AND APOLOGIES**

- 14.1 The minutes of the meeting may record any Councillors' absence from the Chamber of more than 10 minutes during a Full Council meeting and/or the late arrival of any Councillor more than 10 minutes after the commencement of the meeting.
- 14.2 If a Councillor submits an apology for absence for the meeting, any questions or motions they have proposed or seconded will be deemed to have fallen at the point the apology is given
- 14.3 If a Councillor is not in the room at the point on the agenda that any question that they would present is to be considered, the matter will be deemed to have fallen.
- 14.4 Both the mover and seconder must be in the room to propose a motion otherwise it will be deemed to have fallen.

**15. QUESTIONS BY THE PUBLIC**

**15.1 General**

Members of the public may ask questions of members of the Cabinet and Chairs of the any Council committee and other standing bodies at ordinary meetings of the Council.

**15.2 Order of questions**

Questions will be asked in the order determined by the Chair of the Council e acting in conjunction with the Monitoring Officer and/or Chief Executive. Questions of a similar subject can be grouped together.

**15.3 Time Limits**

No question or answer may exceed 5 minutes without the permission of the Chair of the Council.

The totality of questions and answers may not extend beyond 15 minutes without the consent of the Chair of Council.

**15.4 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, 8clear working days before the day of the meeting.

A clear working day is any day Monday to Friday (excluding bank holidays) and not including the day of receipt and the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

**15.5 Number of questions**

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 one organisation. A maximum of 4 questions in any local government year may be submitted by any person or on behalf of an organisation or business.

#### 15.6 **Scope of questions**

The Chief Executive in consultation with the Chair of the Council may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is a 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 the confidential or except information;
- relates to judicial/ quasi-judicial items, planning and licensing applications or appeals;
- names Officers or Members by name and/or alleges breaches of the Members' Code of Conduct which are subject or may be subject to investigations; 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.
- Is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information

#### 15.7 **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 to all members and will be made available to the public attending the meeting.

#### 15.8 **Asking the question at the meeting**

The Chair of the Council will invite the questioner to put the question to the relevant cabinet member. If a questioner who has submitted a written question is unable to be present, they may ask the Chair of the Council to put the question on their behalf. The Chair of the Council may ask the question on the questioner's behalf, indicate that a written reply will give or decide, in the absence of the questioner, that the question will not be dealt with.

#### 15.9 **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. A copy of the written answer will be provided to all members.

**15.10 Reference of question to the Cabinet or a committee or other standing body**

Unless the Chair of the Council decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or other standing body. Once seconded, such a motion will be voted on without discussion.

**16. QUESTIONS BY MEMBERS**

**16.1 Questions on notice at Council Meetings**

Where these rules permit and subject to Rule 16, a member of the Council may ask any of the following a Question on notice:

- the Chair of the Council;
- The leader;
- A member of the Cabinet
- the Chair of any committee or sub-committee or standing body

**16.2 Validity of Questions**

Any question must:-

- (a) disclose a question;
- (b) be limited to matters which fall within the remit of the relevant Portfolio or Committee;
- (c) be a matter for which the local authority has a responsibility and direct control over;
- (d) not be defamatory, frivolous or offensive;
- (e) not be substantially the same as a formal question or motion, which is under consideration by or has, in the past six months, been put at a meeting of the Council, Cabinet or a committee;
- (f) not relate to a planning application or any other quasi-judicial matter; and
- (g) not require disclosure of confidential or exempt information.

- 16.3 The Chief Executive in consultation with the Chair of the Council and the Monitoring Officer may reject a question if it is defamatory, frivolous or offensive, or relates to a matter which the Council has no control, responsibility or influence. The Member asking the questions shall have the matter referred back to them with reasons for the rejection indicating that it will not be put at the meeting.

**16.4 Number of Questions**

For any one meeting, no Member may submit more than 1 question-

**16.5 Questions at committees and sub-committees and standing bodies**

Subject to rules 16.2, 16.3 (Validity of Questions), 16.4 (Number of Questions) and 16.7 (Notice of Questions), a member of a committee or a standing body may ask the Chair of it

For any one meeting, no Member may submit more than 1 question.

#### **16.6 Questions on reports or recommendations to the Council**

At any Ordinary Meeting a Member of the Council may ask the Leader, relevant Cabinet member or Chair of a committee or any standing body one question without notice upon any item of report or recommendation when that item is being received or under consideration by the Council

#### **16.7 Notice of questions**

A Member may only ask a question under Rule 16 if either:

- (a) they have been received by the Chief Executive in writing or by e-mail by no later than noon 8 clear working days prior to the meeting; or
- (b) the question relates to urgent matters they have the consent of the Chair of the Council and the person to whom the question is put and the content of the question is given to the Chief Executive by 12noon on the day of the meeting.
- (c) The question must make it clear about who the question is addressed to and who is asking it

#### **16.8 Alteration of Questions**

Any submitted question cannot be altered after the deadlines specified in Rule 16

#### **16.9 Response**

Where a member to whom a question is addressed believes that a question may more conveniently be answered by another member to whom questions may be put, then that other member may answer the question.

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to all members of the Council, to be sent within 5 clear working days of the Council meeting by the member of whom the question was asked

#### **16.10 Supplementary question**

A member asking a question under Rule 16 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### **16.11 Order of Questions**

Questions will be asked in the order determined by the Chair of the Council e acting in conjunction with the Monitoring Officer and/or Chief Executive. Questions of a similar subject can be grouped together.

**16.12 Duration of Question Time**

The length of time for questions by members under this Rule, including the giving of answers shall be limited to 30 minutes unless the Chair of the Council agrees to an extension

**16.13 Lack of Time - Written Answers**

Any question which cannot be dealt with because of lack of time will be dealt with by a written answer to be sent within 5 clear working days of the Council meeting by the member of whom the question was asked.

**17. MOTIONS ON NOTICE**

**17.1 Notice**

Except for motions which can be moved without notice under Rule 18.

Written notice of every motion, signed by at least 2 members, must be delivered to the Chief Executive not later than noon 8 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

**17.2 Motions set out in agenda**

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

**17.3 Number of Motions**

Each Group of the Council may submit a maximum of 1 motion for each Full Council meeting where motions can be submitted.

**17.4 Scope – Motions on Notice**

- a) Motions must be about matters for which the Council has a responsibility or which affect the district.
- b) The Chair of the Council may decide upon the advice of the Monitoring Officer whether any particular motion is improper or out of order, and that it should not be included on the agenda for consideration by the Council. Examples of a motion which is improper or out of order may include one which is;
  - I. Defamatory, frivolous or offensive; and/or
  - II. Not a matter for which the Council has a responsibility and direct control over or which affects the District; and/or
  - III. Not a matter which affects directly or indirectly residents or businesses of the District, and the Council has the power to implement; and/or
  - IV. not be substantially the same (in terms of subject matter or scope) as a motion already submitted or substantive item already on the meeting's agenda; and/or
  - V. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months,
  - VI. Requires the disclosure of confidential or exempt information

- c) Valid motions must:-
- I. be asking the Council to make a decision which is lawful;
  - II. not be defamatory, frivolous or offensive;
  - III. not seek to alter or reverse any Executive decision unless it is contrary to the Policy Framework or contrary to or not wholly consistent with the budget;
  - IV. not relate to a planning application or any other quasi-judicial matter;
  - V. include appropriate and sufficient information to enable Councillors to make a lawful decision for example legal, financial, statutory or policy implications;
  - VI. be in accordance with any guidance issued by the Monitoring Officer and / or the Chief Finance Officer (Section 151 Officer)
- d) An invalid motion cannot be altered after the deadline to make it valid.

17.5 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) Both the mover and seconder must be in the Chamber to move or second their motion, if they are not present the motion is deemed to have fallen.
- (d) A motion shall only be moved by the Member who has signed the notice.
- (e) 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.

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

17.7 Motions which commit the Authority to new or additional expenditure

- (a) Members moving a Motion at Council the net effect of which, if accepted, is to commit the Authority to new or additional expenditure or cause loss of income shall before moving such Motion clearly demonstrate that they have taken appropriate advice from the Section 151 Officer on the following issues:-
  - (i) whether or not the proposal set out in the Motion is within current budgets;
  - (ii) what the implication of incurring the expenditure or loss of income would be;
  - (iii) if not within current budgets how any expenditure or loss of income is to be funded; and
  - (iv) any change in priorities as a result as a result of the proposal

- (b) The relevant information and consequences of the proposal must be clearly set out in the Motion together with the fact that, in voting for the Motion. Members will also be voting to amend the previously agreed expenditure or income and/or change in priorities for the services or areas affected.
- (c) Failure to include the above commitments to the satisfaction of the Section 151 Officer will result in the Motion being rejected by the Monitoring Officer.

#### **17.8 Rejected Motions**

The Monitoring Officer will reject a proposed motion as invalid, giving reasons if it does not comply with the above provisions.

#### **17.9 Urgent Motions**

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

### **18. MOTIONS WITHOUT NOTICE**

18.1 The following motions may be moved without notice:

- (a) to appoint a Chair of that meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or other member body arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or other standing bodies 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 be adjourned;
- (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 26.5 or to provide for the Member to leave the meeting under Rule 26.6; and

- (q) to give the consent of the Council where its consent is required by this Constitution or otherwise by law.
- (r) to extend the duration of question time under Rule 16.12.

## **19. RULES OF DEBATE**

### **19.1 No speeches until motion seconded**

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

### **19.2 Right to require motion in writing/electronic means**

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

### **19.3 Seconded's speech**

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

### **19.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair of the Council, except in moving the Council budget when there is no limitation on the length of the mover's speech.

The spokesperson on finance of the majority party in opposition shall be entitled to a maximum of 15 minutes to respond to that speech and 15 minutes to present an alternative budget.

It is not necessary to read any motion in full when moving the motion, provided the motion has been provided in writing to Full Council

### **19.5 When a member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of a 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 they last spoke;
- (c) if their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

### **19.6 Alterations and amendments to motions**

An alteration is where the motion is changed by or with the agreement of the mover and the seconder of the motion. This can include where a proposal by another Councillor to make a change to a motion is accepted by the mover of the motion which then alters the proposed motion without the need for a vote on the proposed change.

An amendment is a proposal by another Councillor to change a motion being debated which is not accepted by the mover of the original motion.

An alteration must be submitted in writing to the Chair of the Council. An alteration can only be made if it would be accepted as a valid amendment, after consideration by the Monitoring Officer.

Alterations can be accepted:-

- (a) when the mover changes the motion whilst moving it
- (b) during the debate to update the motion to maintain accuracy
- (c) if the mover accepts a proposed amendment
- (d) to make the motion more acceptable to Councillors

An amendment to a motion can be moved or seconded by any Councillor and must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words as long as the effect of (ii) to (iv) is not to negate the motion.
- (e) Notice of an amendment must be given in writing, to the Chief Executive, no later than 10 am two working days before the Full Council meeting
- (f) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (g) If an amendment is not carried, other amendments to the original motion may be moved.
- (h) 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.
- (i) The Monitoring Officer may reject a proposed amendment as invalid if it does not comply with the provisions set out in Rule 17. The Chair of the Council may adjourn the meeting to seek appropriate advice to confirm validity of the amendment.
- (j) The Monitoring Officer may allow a valid minor amendment designed to correct a factual error, or to make the motion more acceptable to Councillors without having been submitted by the deadline set out in Rule 17. This must be submitted in writing to the meeting at the point of being raised in the debate

- (k) After an amendment has been carried, the Chair of the Council will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 19.7 **Withdrawal of motion**

A member may withdraw a motion which they have 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.

#### 19.8 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 19.9 **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 be adjourned;
- (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 26.5 or to exclude them from the meeting under Rule 26.6.

#### 19.10 **Closure motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member;
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or



(iv) to adjourn a meeting.

- (b) If a motion to proceed to next business is seconded and the Chair of the Council thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair of the Council thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair of the Council thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without given the mover of the original motion the right of reply.

#### **19.11 BRINGING DEBATE TO EARLY CLOSURE**

A Councillor who has not already spoken on the matter may orally move a motion that a vote should be taken immediately. This must be seconded.

If the Chair of the Council feels there has been sufficient discussion of the issue, they may put the oral motion to the vote.

If the vote is carried the motion or amendment will be put to the vote following closing remarks as set out in the rules of debate.

#### **19.12 Point of order**

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

#### **19.13 Personal explanation**

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

### **20. STATE OF THE DISTRICT DEBATE**

#### **20.1 Calling of debate**

The Leader may call a state of the district debate annually on a date and in a form to be agreed with the Chair of the Council.

#### **20.2 Form of debate**

The Leader will 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 the district debate.

#### **20.3 Chairing of debate**

The debate will be chaired by the Chair of the Council or if the Chair of the Council is absent the Vice-Chair of the Council or in the absence of both a member will be elected to chair the meeting.

#### **20.4 Results of debate**

The results of the debate will be:

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

### **21 PREVIOUS DECISIONS AND MOTIONS**

#### **21.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 5 members.

#### **21.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 5 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **22. VOTING**

#### **22.1 Majority**

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

#### **22.2 Chair of the Council casting vote**

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

#### **22.3 Show of hands**

Unless a recorded vote is demanded under Rule 22.4, the Chair of the Council will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### **22.4 Recorded vote**

If 7 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing/electronic means and entered into the minutes.

#### **22.5 Right to require individual vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

## **22.6 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 any 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.

## **23. MINUTES**

### **23.1 Signing the minutes**

The Chair of the Council will sign the minutes of the proceedings at the next suitable meeting. The Chair of the Council 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.

### **23.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

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

### **23.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chair of the Council put them.

## **24. RECORD OF ATTENDANCE**

- 24.1 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.

## **25. EXCLUSION OF PUBLIC**

- 25.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 5 of this Constitution or Rule 28 (Disturbance by Public).

## **26. MEMBERS' CONDUCT**

### **26.1 Standing to speak**

When a member speaks at full Council they must address the meeting through the Chair of the Council.

Members may stand to speak but are not required to do so.

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.

**26.2 Chair of the Council Standing**

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

**26.3 Order of Speech**

The Chair of the Council will decide the order in which speakers will be heard. Any Councillor who wishes to speak will be given the opportunity to do so unless any of the exceptions contained in these procedure rules apply.

**26.4 Disorderly Conduct**

Councillors are expected to act in a reasonable and professional manner at Full Council, in accordance with the Code of Conduct and in compliance with the Council's Procedure Rules.

Councillors should not misbehave by persistently disregarding the Chair of the Council ruling, or by behaving improperly or offensively, including by using offensive language or making personal remarks about individuals, or by obstructing the business of the Full Council.

If, at any meeting, any Councillor in the opinion of the Chair of the Council is in breach of this paragraph they will warn the Councillor about their behaviour. If following any warning a Councillor continues to breach this paragraph the Chair of the Council may move "that [the Councillor named] should not be further heard" and, if seconded, a vote will be taken without discussion.

**26.5 Member not to be heard further**

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

**26.6 Member to leave the meeting**

If the member continues to behave improperly after such a motion is carried, the Chair of the Council 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.

**26.7 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair of the Council may adjourn the meeting for as long as they think is necessary.

**26.8 Miscellaneous**

Councillors must speak strictly to the subject under discussion.

**26.9 Adjournments**

Any Councillor may at any time during a meeting request that the meeting be adjourned for a short period. The Chair of the Council has discretion to decide whether to agree the request and, if agreed, to determine the length of any such adjournment.

**27. CONDUCT AT MEETINGS**

- 27.1 Placards, banners, advertising materials, props and similar items are not permitted in any Council meeting and must be covered or removed.
- 27.2 Members of the public should remain seated in the public gallery during any debate and not do anything to endanger the health and safety of any person
- 27.3 Members of the public may record proceedings and report all public meetings. Any person recording the meeting must inform an appropriate officer of the District Council and not disrupt the good order of the meeting.

**28. DISTURBANCE BY PUBLIC**

**28.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Chair of the Council will warn the person concerned. If they continue to interrupt, the Chair of the Council will order their removal from the meeting room.

**28.2 Clearance of part of meeting room**

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

**29. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

**29.1 Suspension**

All of these Council Procedure Rules except Rule 22.5 and 23.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present.

**29.2 Amendment**

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

**30. CONCLUSION OF PROCEEDINGS**

- 30.1 Any meeting called under these Rules which commences at 6.30 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 Chair of the Council agrees to convene an extraordinary meeting to deal with the outstanding business.

**31. APPLICATION TO COMMITTEES AND OTHER STANDING BODIES**

- 31.1 All of the Council Rules of Procedure apply to meetings of full Council.
- 31.2 None of these rules apply to meetings of the Cabinet.
- 31.2 Only Rules the following rules apply to meetings of committees and other standing bodies:

- 31.2.1 Rules 8-14
- 31.2.2 Rules 16-19
- 31.2.3 Rules 21-25
- 31.2.4 Rules 27-31

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Committee, Performance Improvement Scrutiny Committee, the Planning Committee, the Licensing Committee and the Standards Committee and any sub committees of the same bodies (together called meetings).

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

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

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

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

### **4. NOTICES OF MEETINGS**

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Queen's Buildings offices of the Council. Where by reason of urgency a meeting of the Cabinet or a Committee or Sub-Committee is convened at less than 5 clear working days notice then notice of the meeting will be given as soon as the meeting is convened.

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

The Council (subject to Rule 11) will make copies of the agenda and reports open to the public available for inspection at the Queen's Buildings offices of the Council at least five clear working days before the meeting. Where by reason of urgency a meeting of the Cabinet or a Committee or Sub Committee is convened at less than 5 clear working days notice, a copy of the agenda and associated reports will be made available for inspection at the time the meeting is convened.

If an item is added to the agenda after the summons has been sent out (and where a report is finalised after the summons has been sent out) a copy of the item or the report, if open to the public (see Rule 11), will be available for inspection from the time the item is added to the agenda or when the report is finalised and sent to Councillors.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other reasonable costs.

Except during any part of a public meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting;

- a) The minutes of the meeting (including for Cabinet decisions a statement of reasons).
- 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 a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her their opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

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

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept and be available to the public at the Council's Retford, Worksop and Harworth offices.

## **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 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 the disclosure of which to the public is prohibited by or under any enactment or Court Order.

**10.3 Exempt Information – discretion to exclude public**

The public may by resolution of the meeting concerned 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.

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 exempt information**

Exempt information means information falling within the following 10 categories (subject to the conditions stated):

| <b>1 Description of Exempt information</b>   | <b>Qualification</b>   | <b>Notes</b>  |
|--|--|---|
| 1. Information relating to any individual  | 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 – see note on public interest at the end of table | Name, addresses or telephone numbers can identify individuals.<br><br>Also consider the Council’s Data Protection Act responsibilities  |
| 2. Information which is likely to reveal the identity of an individual   | 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 – see note on public interest at the end of table | Name, addresses or telephone numbers can identify individuals.<br><br>Also consider the Council’s Data Protection Act responsibilities  |
| 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information) | Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the   | The authority is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether |

| 1 Description of Exempt information   | Qualification   | Notes  |
|---|---|--|
|   | public interest in disclosing the information – see note on public interest at the end of table   | information is exempt or not falls to be determined (etc.)   |
|   | <p>Information falling within Paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <p>a) the Companies Act 1985<br/>                     b) the Friendly Societies Act 1974<br/>                     c) the Friendly Societies Act 1974<br/>                     d) the Industrial and Provident Societies Acts 1965 to 1978<br/>                     e) the Building Societies Act 1986<br/>                     f) the Charities Act 1993</p> | <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>   |
| <p>4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority</p> | <p>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 – see note on public interest at the end of table</p>   | <p>The authority is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc.]</p> <p>Employee means a person employed under a contract of service.</p> <p>Labour relations matter means:</p> <p>a) any of the matters specified in paragraphs a) to g) of Section 218 of the Trade Union and Labour Relations 9Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>b) any dispute about a matter falling within paragraph a) above</p> <p>(applies to trade disputes relating to office holders as well as employees).</p> <p>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</p> |

| <b>1 Description of Exempt information</b>  | <b>Qualification</b>   | <b>Notes</b>   |
|---|--|--|
| 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings   | 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 – see note on public interest at the end of table | Privilege lies with the “client” which broadly is the council. Seek the view of the relevant Chief Officer whether they wish to waive privilege.   |
| 6. Information which reveals that the authority proposes –<br><br>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or<br><br>b) to make an order | 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 – see note on public interest at the end of table | The authority is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc.] |
| 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.  | 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 – see note on public interest at the end of table |  |
| 8. Information which is subject to any obligation of confidentiality  | 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 – see note on public interest at the end of table | This will not apply to all the papers before a Standards Committee but is likely to need careful consideration in the circumstances of a Investigation or Determination.   |
| 9. Information which relates in any way to matters concerning national security   | 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 – see note on public interest at the end of table |  |

#### **4.1 Public Interest**

There is no legal definition of what the “public interest” in applying<sup>3</sup> the public interest test to exemptions, Freedom of Information Act 2000” identifies the following as some of the relevant considerations:

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to a current national debate
- The issue has generated public or parliamentary debate
- Proper debate cannot take place without wide availability of all the relevant information
- The issue affects a wide range of individuals or companies
- The public interest in a local interest group having sufficient information to represent effectively local interest on an issue
- Facts and analysis behind major policy decisions
- Known reasons for decisions
- Accountability for proceeds of sale of assets in public ownership
- Openness and accountability for tender processes and prices
- Public interest in public bodies obtaining value for money
- Public health
- Contingency plans in an emergency
- Damage to the environment

Information falling within any of paragraphs 1-10 above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

#### **12. APPLICATION OF RULES TO THE CABINET**

Rules 13-14 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. A key decision is defined in Article 13.03 of this Constitution.

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 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. A key decision is defined in Article 13.3 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

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

Subject to Rule 15 (general exception) and Rule 16 (special urgency) a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 5 clear working days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **14. THE FORWARD PLAN**

#### **14.1 Period of forward plan**

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

#### **14.2 Contents of forward plan**

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision (including those deemed to be confidential) to be taken by the Cabinet, ~~a committee of the Cabinet~~, individual members of the Cabinet, Officers, ~~area committees~~ or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the plan. The forward plan will also contain matters which the Leader has reason to believe are confidential but non-key. It will describe the following particulars in so far as the information is available or might reasonably be obtained.

- (i) the matter in respect of which a decision is to be made;
- (ii) where the decision taker is an individual, their name and title, if any and where the decision taken is a body, its name and details of membership;
- (iii) the date on which, or the period within which, the decisions will be taken;
- (iv) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (v) the means by which any such consultation is proposed to be undertaken;
- (vi) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the

decision is to be made, and the date by which those steps must be taken;  
and

- (vii) a list of the documents submitted to the decision taker for consideration in relation to the matter.

14.3 Key decisions and confidential non-key decisions must be identified at least 2 months prior to a Cabinet meeting and published in the forward plan at least 28 days before the a Cabinet meeting is due to be held. The Monitoring Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan;
- (b) the Monitoring Officer has informed the Chair of the Overview & Scrutiny Committee or if there is no such person, each member of that committee in writing/electronic means, by notice, of the matter to which the decision is to be made;
- (c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear working days have elapsed since the Monitoring Officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public

## **16. SPECIAL URGENCY**

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 (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is not a Chair of the Overview and Scrutiny Committee or if the Chair is unavailable or unable to act, then the agreement of the Chair of the Council, or in their absence the Vice- Chair of the Council will suffice.

## **17. REPORT TO THE COUNCIL**

### **17.1 When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure under Rule 15; or
- (c) the subject of an agreement with its Committee Chair, or the Chair /Vice Chair of the Council under Rule 16;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Overview & Scrutiny 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 Chair or any 5 members of the Overview & Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of a relevant scrutiny committee.

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

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

### **17.3 Quarterly reports on special urgency decisions**

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

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Monitoring Officer or their nominee or, 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 and any alternative options considered and rejected at that meeting and details of any interests declared at the meeting (or a note of any dispensations granted by the Council's Standards Committee in relation to such interests).

## **19. INSPECTION OF DOCUMENTS**

The record of decisions referred to in Rule 18 together with any report and background papers which do not contain confidential or exempt information will be made available to the public and press and copies will be provided subject to payment of reasonable costs.

## **20. ATTENDANCE AT MEETINGS OF THE CABINET**

The Chief Executive, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

## **21. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

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

Where an individual member of the Cabinet receives a report which they intend to take into account in making a key decision, then they will not make the decision until at least 5 clear working days after that report was made publicly available under paragraph 21.2 below or would have been made publicly available but for the fact that it contains confidential or exempt information.

### **21.2 Provision of Copies of report**

Unless it contains confidential or exempt information the Councillor making the decision referred to in paragraph 21.1 shall ensure that the Monitoring Officer makes the report available for inspection by the public as soon as is reasonably practicable after that Councillor receives it.

### **21.1 Record of individual decision**

As soon as is reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet, they will prepare or instruct the Monitoring officer to prepare, a record of the decision which shall include a statement of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any Cabinet member who is consulted by the decision maker and in respect of any declared conflict of interest a note of any dispensation granted by the Standards Committee.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Cabinet members. This does not apply to the disclosure of exempt information or advice from a political assistant.

## **22. SCRUTINY COMMITTEES**

### **22.1 Rights to copies**



Subject to Rule 23.2 below, members of the Scrutiny Committees will be entitled to foresight of copies of any document which is in the possession or control of the Cabinet or its committees and which contain material relating to:

- (a) any business transacted be it a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet.

## **22.2 Limit on rights**

A scrutiny committee will not be entitled to:

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

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

### **23.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees unless either (a) or (b) below applies.

- a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or
- b) it contains the advice of a political adviser.

### **23.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

### **23.3 Nature of rights**

These rights of a member are additional to any other right -they may have.

## **BUDGET POLICY FRAMEWORK PROCEDURE RULES**

This Section contains particularly important rules regarding the Cabinet's decision making on budgetary and policy matters.

The budget and policy framework sets the context within which decision making by the Cabinet will take place.

### **1. The Framework for Cabinet Decisions**

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

### **2. Process for Developing the Framework**

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

- a) The Cabinet will publicise 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. This will be published on the Council's Forward Plan document.
- b) The draft detailed budget proposals will be developed under the guidance of the Section 151 Officer by the Council's officers in consultation with the relevant Cabinet Members.
- c) In accordance with the Financial Procedure Rules, the Council's Section 151 Officer and the Cabinet Member for Finance will present a report on the overall budget strategy to the Cabinet and the Scrutiny Committee(s).
- d) The Cabinet shall consider the draft detailed budget proposals for each service area of the Council's activities and shall refer them to the Scrutiny Committee(s) for consideration.
- e) The Cabinet Member for Finance and the Council's Section 151 Officer will take any responses from Scrutiny into account in drawing up firm proposals for submission to the Council, and the report to Council will reflect the comments made by consultees and the Cabinet's response.
- f) If the Council accepts the recommendation of Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision.
- g) Where the Council makes an in principle decision in relation to a budget, it must inform the Leader of any objections which it has to the draft budget and must give to their instructions requiring the Cabinet to reconsider, in the light of those objections, the draft budget submitted to it.
- h) Where the Council gives instructions in accordance with sub-paragraph (g), it must specify a period of at least five working days beginning on the day after

the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may -

- (i) submit a revision of the draft budget as amended by the Cabinet with the Cabinet's reasons for any amendment made to the draft budget, to the Council for its consideration; or
  - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- i) When the period specified by the Council, referred to in sub-paragraph (h), has expired, the Council must, when amending, approving or adopting the draft budget or, if there is one, a revised draft budget submitted to it by the Cabinet take into account any amendments made to the draft budget that are included in any revised draft budget submitted by the Cabinet, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.
  - j) The Council's final decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
  - k) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year changes to policy framework). Any other changes to the budgetary and policy framework are reserved to the Council.

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

- a) Subject to the provisions of paragraph 5 (virement) the Cabinet, individual members of the Cabinet, any officers or joint arrangements discharging Cabinet 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 full

Council, then that decision may only be taken by the Council, subject to paragraph 4 below.

- b) If the Cabinet, individual members of the Cabinet, any officers or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 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 a matter of urgency, 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**

The Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging Cabinet 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 full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chair of a relevant Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council, and the Chair of the relevant Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant Scrutiny Committee the consent of the Deputy Chair 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**

Virement between budget heads is an integral and important feature of budgetary control. It allows service providers to adapt to service changes within Council policy. The details of virement can be found in the section on Financial Procedure Rules in Part 4 of the Constitution.

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

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual member of the Cabinet, officers or joint arrangements discharging Cabinet functions must be in line with it. Changes to any policy and strategy which make up the policy framework may be made within the general discretion of those bodies or individuals except those changes which relate to virements and supplementary estimates.

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

- (a) Where a Scrutiny Committee is of the opinion that a Cabinet 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 Section 151 Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure, and to the Scrutiny Panel if the Monitoring Officer or the Section 151 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 Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Scrutiny Committee. At the meeting it will receive a report from the Cabinet of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
  - (i) endorse a decision or proposal of the Cabinet as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way, and the decision implemented; or
  - (ii) amend the Council's Financial Procedure Rules having regard to advice from the Council's Section 151 officer, or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way, and the decision be implemented; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Section 151 Officer.

**8. Special Provisions regarding calculation of Budget and Precepts**

- (a) Subject to sub-paragraph (e) below, where before 8<sup>th</sup> February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:
  - (i) 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, as amended by the Localism Act 2011;
  - (ii) estimates of other amounts to be used for the purposes of such a calculation;
  - (iii) estimates of such a calculation; or
  - (iv) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, as amended by the Localism Act 2011,

and following consideration of those estimates or amounts the Council has any objections to them it must take the action set out in sub-paragraph (b) below.

- (b) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a)(i) above, or issues a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, as amended by the Localism Act 2011, it must inform the

Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

- (c) Where the Council gives instructions in accordance with sub-paragraph (b) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may -
  - (i) Submit a revision of the estimates or amounts as amended by the Cabinet, which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (ii) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (d) When the period specified by the Council, referred to in paragraph (c) above, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in sub-paragraph (a)(ii) above, or issuing a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, as amended by the Localism Act 2011, take into account:
  - (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) the Cabinet's reasons for those amendments;
  - (iii) any disagreement that the Cabinet has with any of the Council's objections; and
  - (iv) the Cabinet's reasons for that disagreement,which the Leader submitted to the Council, or informed the Council of, within the period specified.
- (e) Paragraphs (a) to (d) above shall not apply in relation to –
  - (i) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992, as amended by the Localism Act 2011; and
  - (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.
- (f) The Council shall by the 11 March in each year, by simple majority, determine the council tax requirement and set the level of council tax for the ensuing financial year, having considered the proposals of the Cabinet.

## **CABINET PROCEDURE RULES**

### **1. Who may make Cabinet decisions?**

The Cabinet functions are set out in Part 3 of the Constitution and may be discharged by:

- i) the Leader and Cabinet Members as appointed by the Leader;
- ii) a committee appointed by the Cabinet (which must only include Cabinet Members);
- iii) an individual member of the Cabinet where the Leader of the Council has delegated powers to that Cabinet Member within their portfolio remit, as set out in Part 3 of the Constitution;

- 1.2 Where the Cabinet, or an individual member of the Cabinet is responsible for a Cabinet function and has been given appropriate delegated powers by the Leader, they may delegate further to an, joint arrangements or an officer. Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **2. Cabinet meetings – when and where?**

The Cabinet will meet at least 10 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader. Notice of meetings will be publicised.

### **3. Public or private meetings of the Cabinet?**

- 3.1 Meetings of the Cabinet will be in public except for those items which include confidential or exempt information.
- 3.2 The Access of Information Procedure Rules contained in this part of the Constitution applies to Cabinet Meetings.
- 3.3 Members of the Council may remain throughout the meeting, (including when the public and press have been excluded) provided they do not have an interest to declare which excludes them, in accordance with the Members Code of Conduct.

### **4. Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one quarter of the total number of members of the Cabinet (including the leader) or 3 including the leader whichever is the larger.

### **5. How are decisions to be taken by the Cabinet?**

Decisions will be made on the basis of majority voting (with only Cabinet members entitled to a vote) with the Chair having a second or casting vote.

**6. How are cabinet meetings conducted?**

**6.1 Who chairs the meeting?**

At a Cabinet meeting if the Leader is present they will chair the meeting. In their absence, the person appointed as Deputy Leader will chair the meeting. If both are absent the Cabinet will appoint a person from among those present to chair that meeting.

**6.2 What procedure is followed?**

The Rules of Procedure applicable to Council meetings do not apply to Cabinet meetings. The Procedure is determined by the Cabinet itself under the control of the Chair.

**6.3 What business?**

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

- i) apologies for absence;
- ii) consideration of the minutes of the last meeting;
- iii) declarations of interest, if any;
- iv) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution;
- v) consideration of reports from scrutiny committees;
- vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 5 of this Constitution; and
- vii) any other business which the Chair considers to be urgent.

**6.4 Questions by the public**

A period of 15 minutes shall be allowed at the start of ordinary meetings of the Cabinet for questions to be put by members of the public to members of the Cabinet. Questions will be allowed at the discretion of the Chair. Answers will be given either orally at the meeting or in writing following the meeting.

**7. Consultation**

All reports to the Cabinet from any member of the Cabinet 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 relevant scrutiny committees, 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 proportionate to the nature of the matter under consideration.

**8. Who can put items on the Cabinet agenda?**



- 8.1 The Leader will decide upon the schedule for the meetings of the Cabinet. They may require the Chief Executive to put on the agenda of any Cabinet meetings any matter which he considers appropriate.
- 8.2 Any member of the Cabinet may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration in relation to matters within that particular members' area of responsibility.
- 8.3 The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee or Performance Improvement Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to 3 such items on any one agenda.
- 8.4 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The individual member will be invited to attend the meeting and with the approval of the Cabinet may speak on the item.
- 8.5 The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet 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

## **SCRUTINY PROCEDURE RULES**

### **1. What will be the number and arrangements for scrutiny committees?**

- 1.1 The Council will have an Overview and Scrutiny Committee, and a as set out in Article 6 of this Constitution.
- 1.2 The Overview & Scrutiny Committee will act as a co-ordinating committee to ensure there is no overlap or omission in the workload of all the scrutiny committees. It will have the power to call in decisions of the Cabinet Committee or an individual Cabinet member under section 21(3) of the Local Government Act 2000. The Terms of Reference of the Overview and Scrutiny Committee are set out in Part 3 of this Constitution.

### **2. Who may sit on scrutiny committees?**

All Councillors except members of the Cabinet and assistants may be members of a scrutiny committee. However, no member may be involved in scrutinising a decision which they have been directly involved.

### **3. Co-optees**

Each scrutiny committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees provided that the number of Councillors on the Committee shall be greater than the number of co-optees.

### **4. Meetings of the scrutiny committees**

The Overview and Scrutiny Committee shall meet monthly with the exception of August and January. In addition, extraordinary meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by the Chair of the relevant scrutiny committee, by any 5 members of the committee or by the Chief Executive if they consider it necessary or appropriate.

### **5. Quorum**

The quorum for a scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 5 of this Constitution.

### **6. Who chairs scrutiny committee meetings?**

The Council will appoint the Chairs and Vice-Chairs of the Overview and Scrutiny Committee (12 members), of the Audit & Risk Scrutiny Committee (9 members) and the Health & Public Services Scrutiny sub-committee (12 members).

### **7. Work programme**

The Overview and Scrutiny Committee will have overall responsibility for the scrutiny work programme established at the its first meeting. In the event that other issues arise during the Council year and which require more immediate scrutiny these will

be delegated by the Overview and Scrutiny Committee to the appropriate scrutiny committee or sub-committee.

## **8. Agenda items**

Any member of a scrutiny committee or select panel shall be entitled to give notice in writing or by electronic mail to the Chief Executive or his/her nominee and the Chair of Committee that they wish an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee or panel. On receipt of such a request the Chief Executive or their nominee and the Chair of the Scrutiny Committee will ensure that it is included on the next available agenda.

The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the scrutiny committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the scrutiny committee within one month of receiving it.

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

- (a) The role of the scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committee or panels may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny committees 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.

## **10. Reports from scrutiny committees**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny committee will prepare a formal report and submit it to the relevant Heads of Service for comment and send it to the Chief Executive who will choose one of the following options:
  - if the recommendations are consistent with the existing budgetary and policy framework, the report and the comments from the Heads of Service will be submitted to the next available Cabinet meeting
  - If the recommendations are not consistent with the existing budgetary and policy framework, the report and the comments from Heads of Service will be submitted to the next available Council meeting
- (b) If a scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) After the report has been considered by either the Cabinet or Council, as appropriate, their response shall be reported to the next available Overview and Scrutiny Committee.

**11. Making sure that scrutiny reports are considered by the Cabinet or Council**

- (a) If the Cabinet is due to consider a report on the same topic as the Overview and Scrutiny Committee's report within a period of 8 weeks of it being adopted by the Overview and Scrutiny Committee, the Cabinet may consider the two reports together. If for any reason the Cabinet does not consider the Overview and Scrutiny Committee's report within 12 weeks then unless an extension of time for consideration by the Overview and Scrutiny Committee is agreed the scrutiny report will be referred to the next meeting of the Council.
- (b) Scrutiny committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. They will be able to respond at any point in the course of the Cabinet's consultation process in relation to any key decision.
- (c) Where the Overview and Scrutiny committee prepares a report or consideration by the Cabinet in relation to a matter in respect of which an individual Cabinet member has been given powers to act on behalf of the Cabinet, then the Overview and Scrutiny committee will submit a copy of their report to them for consideration. At the time of doing so, the scrutiny committee shall send a copy to the Chief Executive. The member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny committee within two weeks of receiving it. A copy of their written response to it shall be sent to the Chief Executive and the Leader. The member will also be required to attend the next available meeting of the Overview and Scrutiny Committee to present their response.
- (d) If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then the report will be referred to Cabinet as set out in Rule 10.

**12. Rights of scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 5 of this Constitution.
- (b) Nothing in these Scrutiny Procedure Rules prevents more detailed liaison between the Cabinet and scrutiny committees as appropriate depending on the particular matter under consideration.

**13. Members and officers giving account**

- (a) Any scrutiny 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 Cabinet, the Chair of a Committee, Chief Executive and/or any Executive Director or Head of Service to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance

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

- (b) Where any member or officer is required to attend a scrutiny committee under this provision, the Chair of the scrutiny committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Members of a scrutiny committee will limit their enquiries of officers to questions of fact and questions relating to the financial, legal, professional and technical aspects of the matter under consideration; political questions will be reserved for members.
- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance a maximum of 28 days from the date of the original request.

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

A scrutiny committee may invite people other than those people referred to in Scrutiny Procedure Rule 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

Attendance is of course entirely optional.

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

##### **15.1 Generally**

Call-in should only be used in exceptional circumstances. It is the process for requiring reconsideration of decisions made by the Cabinet or by individual Cabinet members of the Cabinet such as where there is evidence which suggests that decisions have not been made in accordance with the principles set out in Article 13 (Decision Making) – this may include failure to consult effectively on key decisions, absence of any evidence on which to take the decision, failure to take into account all relevant information or reliance upon irrelevant considerations.

##### **Specifically**

The Call-in Procedure cannot be exercised on more than once occasion in respect of the same decision The Council has decided upon a system whereby only the Overview & Scrutiny Committee can require the call in of a decision.

The process and procedure for doing this is as follows:

##### **15.2 Key decisions**

- (a) When a key decision is made by the Cabinet, an individual member of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Queen's Buildings of the Council normally within 5 working days of being made. Members of the Overview and Scrutiny Committee will be sent copies of the

records of all such decision within the same timescale, by the person responsible for publishing the decision.

- (b) That notice will bear the date on which it is published and will specify that the decision will come into force (unless the Monitoring Officer certifies that the decision is outside the policy and/or budgetary framework agreed by the Council in which case the matter will be referred to the Council), and may then be implemented, on the expiry of 10 working days after the publication of the decision, unless Overview and Scrutiny Committee objects to it and calls it in.
- (c) The Overview and Scrutiny Committee shall consider all such key decisions within 10 working days of the decision being made.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council or another scrutiny committee for further review.
- (e) If the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of the 10 working day period, whichever is the earlier (unless the Monitoring Officer certifies that the decision is outside the policy and/or budgetary framework agreed by the Council in which case the matter will be referred to the Council).
- (f) If the matter was referred to full Council then the Council will meet within 15 working days to consider the matter and if the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request or such other period as is agreed.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

### 15.3 Non Key decisions

- (i) When a non-key decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet or by an officer with delegated authority from the Cabinet or under joint arrangements the decision shall be published, including where possible by electronic means, and shall be available at the Queen's Buildings offices of the Council normally within 5 working days of being made. All Members of the Council will be sent by first class post copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (ii) The notice will state that the decision will come into effect at noon on “a specified day” (which will be the fifth working day from the date of sending such notice) unless at least 4 members then give notice (in writing or by e-mail) that they require a particular decision to be considered for call-in, and outline proposals for alternative action. Such notice must be received by the Monitoring Officer or their nominee before noon on the “specified day”. The notice requiring consideration for call in must contain sufficient information to identify the decision and the reason for the request.
- (iii) If due notice from at least 4 members is not received in accordance with (b) the decision will come into force and may then be implemented unless the Monitoring Officer certifies that the decision is outside the policy and/or budgetary framework agreed by the Council in which case the matter will be referred to the Council.
- (iv) If due notice from at least 4 members is received in accordance with (b) then the decision will be referred to the Overview and Scrutiny Committee which will consider the decision at its next ordinary meeting or within 28 days, whichever is the shorter period.
- (v) If the Overview and Scrutiny Committee does not meet within 28 days or does meet but does not refer the matter back to the decision making body or person, the decision shall take effect on the date of the Overview and Scrutiny meeting or the expiry of the 28 days whichever is the earlier.
- (vi) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing nature of its concerns or refer the matter to full Council or another scrutiny committee for further review.
- (vii) If the matter was referred to full Council then the Council will meet within 15 working days to consider the matter and if the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council’s views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request or such other period as is agreed.
- (viii) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

#### 15.4 Call-in and urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council’s or the public’s interests. The record of the decision, and notice by which it is made public shall state

whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Committee, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **16. The party whip**

The Party Whip means "Any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should they speak or vote in any particular manner".

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

## **17. Procedure at scrutiny committee meetings**

- (a) Scrutiny committees shall consider the following business:
  - (i) apologies;
  - (ii) minutes of the last meeting;
  - (iii) declarations of interest (including whipping declarations);
  - (iv) work plan and progress against it;
  - (v) consideration of any matter referred to the committee for a decision in relation to any matter referred to it for consideration by the Council Overview and Scrutiny Committee or Cabinet Committee;
  - (vi) responses of the Cabinet to reports of the scrutiny committee; and
  - (vii) the business otherwise set out on the agenda for the meeting.
- (b) Where the scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
  - (h) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (i) that those assisting the committee by giving evidence be treated with respect and courtesy; and



- (j) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless the subject matter is mostly concerned with confidential or exempt information in which case it will make as much of it public as is possible without discussion such information.

**18. Matters within the remit of more than one scrutiny committee**

Where a matter for consideration by a scrutiny committee also falls within the remit of one or more other scrutiny committees, the decision as to which scrutiny committee will consider it will be resolved by the Overview and Scrutiny Committee.

**19. Proceedings of Scrutiny Committee Meetings**

Meetings of a scrutiny committee will be conducted in accordance with the Council Procedure Rules insofar as is practicable, except that where the Scrutiny Procedure Rules differ from the Council Procedure Rules, the Scrutiny Procedure Rules shall take precedence.

## **FINANCIAL PROCEDURE RULES**

- 1.1 The Financial Procedure Rules establish the system of control for financial decisions. They are an integral part of the Council's Constitution. The rules reflect the responsibilities arising from being entrusted with public money.
- 1.2 The Financial Procedure Rules consist of 2 parts:
  - The first part defines the roles of Councillor and Officers and sets the framework within which the Rules operate;
  - The second part contains the overarching regulations, and provides the detailed 'Rules' on how those regulations are implemented.
- 1.3 A series of detailed guidance notes and practice support the Financial Procedure Rules. Whilst the detailed guidance is regularly updated, where there is any difference between the Financial Procedure Rules and the detailed guidance, the Finance Procedure Rules have precedence in all cases.

## **2 STATUS OF FINANCIAL PROCEDURE RULES**

- 2.1 The Council must conduct its business efficiently and ensure it has sound financial management policies in place, including arrangements to monitor compliance. The Council's statutory Section 151 Officer (Head of Finance & Property) is also charged with ensuring that proper financial management processes are in place.
- 2.2 The Financial Procedure Rules, together with the Budget and Policy Framework Procedure Rules, provide the basis for managing the Council's financial affairs and are part of the Council's Constitution. They apply to every Councillor and Officer of the Council and to anyone acting on its behalf. The Council's Scheme of Delegation will be taken account of in all matters relevant to these procedure rules.

## **PART ONE – CONTEXT, ROLES AND RESPONSIBILITIES**

### **1 FINANCIAL MANAGEMENT**

- 1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the budget and policy framework.
- 1.2 The processes of financial management involve:
- complying with statutory requirements;
  - ensuring that the Council receives value for money;
  - development and approval of protocols, standards and financial plans (including the revenue and capital budgets);
  - implementing policies, protocols and standards;
  - monitoring compliance;
  - maintaining records;
  - reporting and providing advice;
  - specific financial techniques and functions e.g. virement, year end balances, statements of account.
- 1.3 All Councillors and Officers must abide by the highest standards of probity in dealing with financial issues. This is achieved by ensuring everyone is clear about the standards to which they must work and the controls in place to check that the standards are met. The Financial Procedure Rules must be kept up to date and consistently applied by all Councillors and Officers.

### **2. FINANCIAL ADVICE**

- 2.1 Sound financial advice is fundamental to ensuring the maintenance of basic standards of financial management. Persons qualified to do so should only provide such advice.
- 2.2 Persons giving financial advice must have been authorised to do so by the Section 151 Officer.
- 2.3 The Section 151 Officer has the right to attend all meetings of the Council, committees and sub-committees, working groups, boards or other forums where decisions or recommendations potentially having financial implications may be taken. This is often discharged through Officers within the Finance function.
- 2.4 All reports contain risk management (including financial risks) and financial implications sections, the contents of which must be agreed with the Section 151 Officer, prior to submission to the Management Team, Cabinet, or other forums where decisions will be made.

### **3 ACCOUNTING POLICIES**

- 3.1 'The Code of Practice on Local Authority Accounting in the United Kingdom (the "Code") requires the Council to declare, in the form of accounting policies, how they treat specific items within the annual accounts. These policies take account of current accounting concepts and standards. The Statement of Accounting Policies can be found in the Annual Statement of Accounts.
- 3.2 Key elements of accounting policies are that:

- systems of internal control must be in place that ensure that financial transactions are lawful;
- accounting policies must be applied consistently;
- proper accounting records must be maintained;
- financial statements must present fairly the financial position of the Council and its expenditure and income.

#### **4 INTERNAL CONTROL**

- 4.1 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.
- 4.2 The Section 151 Officer is responsible for advising on effective systems of internal control, an essential part of which is the Internal Audit function. These arrangements ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.3 Directors/Heads of Service must 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.
- 4.4 Key controls must be reviewed annually and the outcome reported in an Annual Governance Statement commenting on the effectiveness of the systems of internal control and corporate governance.

#### **5 AUDIT REQUIREMENTS**

The Accounts and Audit Regulations 2015 (Regulation 4) require that "A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards and guidance".

- 5.1 The Public Sector Audit Appointments Ltd appoints external auditors to each local Council. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- 5.2 The Council may, from time to time, be subject to audit, inspection or investigation by other external bodies such as HM Revenues and Customs, who have statutory rights of access.
- 5.3 The Section 151 Officer has overall responsibility for Internal Audit throughout the Council, whilst the Audit and Risk Scrutiny Committee oversees the performance and effectiveness of Internal Audit.
- 5.4 Both internal and external audit have the right of access to all records, assets and personnel and premises of the Council.

#### **6 ROLES AND RESPONSIBILITIES**

##### **6.1 Role of the Council**

The Council's functions include the following:

- Adopting and changing the Constitution;
- Approving or adopting the policy framework (including the Corporate Plan);
- Approving the budget;

- Approving the Treasury Management Strategy (including the Borrowing, Investment and MRP Strategy, and Prudential Indicators);
- Setting the Council Tax.

## 6.2 **Cabinet**

The Cabinet makes key day to day decisions and recommendations on policy and budgetary matters.

## 6.3 The role of the **Overview & Scrutiny Committee** is to:

- Scrutinise Cabinet decisions before or after they have been implemented, and to hold the Cabinet to account;
- Make recommendations on future policy options;
- Review the general policy and service delivery of the Council.

## 6.4 The role of the **Audit and Risk Scrutiny Committee** is to:

- Consider the Council's Statement of Accounts;
- Approve the Council's internal audit strategy;
- Review internal audit reports and recommend appropriate actions in response to issues raised;
- Consider the reports of external audit and inspections agencies;
- Monitor and review the Council's risk management arrangements;
- Monitor and review the Council's assurance statements;
- Be responsible for ensuring the effective scrutiny of the Treasury Management strategy and policies.

## 6.5 **Section 151 Officer (the Head of Finance & Property and/or Director of Resources)**

The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Local Government Act 1972 (Section 151);
- Local Government Finance Act 1988 (Section 113-114);
- Local Government and Housing Act 1989;
- Local Government Act 2000,2003;

Accounts and Audit Regulations 1996, 2003, 2011, 2015.

These statutory responsibilities cannot be overridden or subject to direction by the Council.

The Section 151 Officer is responsible for:

- Ensuring the proper administration of the Council's financial affairs;
- Setting the financial management standards and monitoring compliance with them;
- Ensuring proper professional practice is adhered to and acting as head of profession in relation to the standards, performance and development of finance Officers throughout the Council;
- Advising on the key strategic controls necessary to secure sound financial management;
- Ensuring that appropriate financial management information is available;
- Maintaining strong financial management underpinned by effective financial controls;
- Contributing to corporate management and leadership;
- Supporting and advising democratically elected representatives;
- Supporting and advising Officers in their operational roles;
- Leading and managing an effective and responsive financial service.

Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to inform the Cabinet and External Auditor if the Council or one of its Officers:

- Has made, or is about to make, a decision which involves incurring 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;
- Is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Section 151 Officer to nominate a properly qualified Officer to deputise should they be unable to perform the duties under Section 114 personally;
- The Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

The Section 151 Officer is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting to the Council any additions or changes. They are responsible for issuing advice and guidance to underpin the Rules that Councillors, Officers and others acting on behalf of the Authority are required to follow, and must approve the content of all such guidance and any amendments, prior to their adoption. The Section 151 Officer must be consulted in respect of all reports to elected members.

#### **6.6 The Monitoring Officer (Director of Corporate Resources)**

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct, including conduct in relation to financial issues, by both Councillors and Officers. In conjunction with the Section 151 Officer they are responsible for advising the Cabinet or the full Council about whether a decision, or intended decision, is likely to be considered contrary to, or not wholly in accordance with, the Council's budget. Such decisions might include:

- Initiating a new policy without specific budget approval;
- Committing expenditure in future years above the approved budget level;
- Incurring expenditure in future years without proper approval of virement;
- Causing total expenditure to increase beyond a specified level.

The Monitoring Officer must be consulted in respect of all reports to elected members.

#### **6.7 Head of Internal Audit (RSM, formerly Baker Tilly)**

The Head of Internal Audit manages the internal audit function in the Council. CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom describes internal audit as:

“An assurance function that provides an independent and objective opinion to the organisation on risk management, control and governance by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.”

The Head of Internal Audit also has a role in advising managers in relation to risk and control issues such as appropriate controls in new projects/development.

6.8 **Directors/Heads of Service** are responsible for ensuring that all Officers in their Service areas are aware of the existence of, and have access to, the content of these Rules and other internal regulatory documents and that they comply with them. In particular they shall:

- Ensure that a Scheme of Delegation has been established in their Service Area. The Scheme of Delegation should identify Officers authorised to act on the Director/Head of Service behalf in respect of payments, income collection and the requisitioning of goods and services.
- Promote the financial management standards set by the Section 151 Officer in their Directorate/Service area and monitor adherence to them, liaising as necessary with them;
- Promote sound financial practices in relation to the standards, performance and development of Officers in their Directorate/Service area;
- Ensure, within their Directorate/Service area, compliance with the Financial Procedure Rules and associated manuals;
- Ensure that all Service Financial Procedure Manuals, and amendments thereto, are approved by the Section 151 Officer before adoption;
- 
- Ensure Officers in their Directorate/Service area are aware of their responsibilities for devising and implementing systems of internal control;
- Maintain a written record where decisions have been delegated or devolved to other responsible Officers;
- Ensure appropriate training of Officers with financial or budget responsibilities.

6.9 **All Councillors 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, properly authorised, provides value for money and is correctly recorded in line with Council policies.

## **7 FAILURE TO COMPLY**

7.1 Failure to comply with the Financial Procedure Rules:

- is a breach of the Code of Conduct for Councillors and may result in referral to the Standards Sub-Committee;
- is a breach of the Code of Conduct for Officers that is covered by the Council's Disciplinary Procedures and Rules in the Human Resources Handbook.

7.2 Councillors must report any apparent breach of the Financial Procedure Rules to the Chief Executive. Officers must report apparent breaches to an appropriate Head of Service or the Head of Internal Audit. The Head of Service or Head of Internal Audit should report breaches of these Rules to the Section 151 Officer and the Monitoring Officer.

## **PART TWO – FINANCIAL PROCEDURE RULES**

### **REGULATION 1 – FINANCIAL PLANNING**

- 1.1 Financial Planning Policy Framework
- 1.2 Preparation of the Corporate Plan
- 1.3 The Financial Strategy and Medium Term Financial Plan
- 1.4 The Capital Investment Strategy and Asset Management Plan (AMP)
- 1.5 The Treasury Management Strategy
- 1.6 The Revenue Budget and the Capital Programme
- 1.7 Directorate Service Delivery Plans

### **REGULATION 2 – CAPITAL**

- 2.1 The Capital Programme
- 2.2 Determining the Capital Programme
- 2.3 Amendments to the Capital Programme
- 2.4 Capital Monitoring

### **REGULATION 3 – REVENUE**

- 3.1 The Revenue Budget
- 3.2 Revenue Resources
- 3.3 Determining the Revenue Budget
- 3.4 Budget Monitoring
- 3.5 Amendments to the Revenue Budget - Virements
- 3.6 Contract and Windfall Savings
- 3.7 Fees and Charges
- 3.8 Internal Charging
- 3.9 Reserves

### **REGULATION 4 – ACCOUNTING RECORDS**

- 4.1 Accounting Records
- 4.2 Annual Statement of Accounts
- 4.3 Retention of Accounting and Financial Documents

### **REGULATION 5 – RISK MANAGEMENT AND RESOURCE CONTROL**

- 5.1 Risk Management and Insurance
- 5.2 Preventing Fraud and Corruption
- 5.3 Gifts and Hospitality
- 5.4 Assets
- 5.5 Treasury Management and Leasing
- 5.6 Staffing
- 5.7 Unofficial Non-Council Funds
- 5.8 Internal Audit

### **REGULATION 6 – ACCOUNTING SYSTEMS AND PROCEDURES**

- 6.1 Accounting Systems and Procedures
- 6.2 Banking Arrangements
- 6.3 Salaries, Wages, Pensions and Other Emoluments
- 6.4 Creditors and Debtors
- 6.5 Claims for Expenses
- 6.6 Petty Cash/Imprest Accounts



- 6.7 Income
- 6.8 Taxation
- 6.9 Trading Accounts
- 6.10 Credit/Purchasing Cards
  
- 6.11 Change Floats
- 6.12 Controlled Financial Stationery

**REGULATION 7 – EXTERNAL ARRANGEMENTS**

- 7.1 Introduction
- 7.2 Partnerships
- 7.3 External Funding/Grants
- 7.4 Work for Third Parties

- Appendix 1 – Summary of Financial Responsibilities
- Appendix 2 – Retention of Accounting and Financial Documents
- Appendix 3 – Main Accounting Systems
- Appendix 4 – Definitions

## **1 REGULATION 1 - FINANCIAL PLANNING**

### **1.1 FINANCIAL PLANNING POLICY FRAMEWORK**

1.1.1 The full Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet.

1.1.2 The Council's Policy Framework includes various service and corporate plans and strategies. All such plans and strategies must be consistent with the Council's Financial Strategy and Medium Term Financial Plan, or indicate their reliance on resources not yet approved or secured by the Council.

1.1.3 The key elements of the financial planning process are:

- Corporate Plan;
- The Financial Strategy and Medium Term Financial Plan;
- The Capital Investment Strategy and Asset Management Plan;
- The Treasury Management Strategy;
- The Revenue Budget and the Capital Programme;
- Directorate Service Delivery Plans.

### **1.2 PREPARATION OF THE CORPORATE PLAN**

1.2.1 The Chief Executive is responsible for proposing the Corporate Plan to Cabinet for consideration before submission to the full Council for approval. It will contain a statement of the priorities of the Council.

1.2.2 The Council require that each planned item of expenditure, whether revenue or capital, is intended to further one or more of the Council's stated priorities or, if that is not the case, is required to discharge a specific statutory obligation on the Council.

### **1.3 THE FINANCIAL STRATEGY AND MEDIUM TERM FINANCIAL PLAN**

1.3.1 The Section 151 Officer is responsible for recommending the Financial Strategy to the Council and for preparing a Medium Term Financial Plan (MTFP), covering at least three years and updated at least annually for consideration by the Cabinet and approval by the Council. The Strategy and the MTFP will be consistent with, and designed to further the achievement of, the Council's priorities.

1.3.2 The Financial Strategy sets out the Council's objectives for, and principles adopted in, the management of its financial position. It includes Council Tax levels, the overall position for the Council's reserves and balances, and funding, investment and risk considerations.

1.3.3 The MTFP:

- sets out how the Council's performance plans can be resourced in both capital and revenue terms;
- identifies how resources are to be re-allocated over time and what the Council's priorities are for resource allocation;
- Other aspects of financial management may also be included in the MTFP e.g. levels of balances, reserves and provisions.

1.3.4 The MTFP that turns the Strategy into practice must be prepared for at least a three year period plus the current financial year. This is updated throughout the year as events and the budget timetable dictate.

1.3.5 Key Controls

The key controls are:

- It covers a number of forward years and is approved annually;
- It is monitored and updates are reported to Cabinet during the year;
- It is clearly linked and aligned to the Corporate Plan;
- It is based on a sustainable financial position and approved policies.

**1.4 THE CAPITAL INVESTMENT STRATEGY AND ASSET MANAGEMENT PLAN (AMP)**

1.4.1 The Section 151 Officer is responsible for ensuring that a Capital Investment Strategy and Asset Management Plan are prepared and integrated into the Medium Term Financial Plan. They will be updated annually for consideration by the Cabinet and approval by the Council.

1.4.2 The strategy:

- defines how the capital programme is to be formulated and designed;
- identifies the issues and options that influence capital spending;
- sets out how the resources and capital programme will be managed.

1.4.3 Key Controls

The key controls are:

- They are clearly linked and aligned to the Corporate Plan;
- They provide a framework for the review and management of existing and future assets (the AMP);
- They provide a medium-term investment programme linked to the medium-term financial strategy;
- They are reviewed at least annually and reported to Cabinet.

**1.5 THE TREASURY MANAGEMENT STRATEGY**

1.5.1 The Section 151 Officer is responsible for ensuring that the requirements of the Local Government Act 2003 are met, and the Council has regard to the Prudential Code. This requires that Prudential Indicators are set for the following three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable. It also requires that the Council's policies for managing its investments give due priority to the security of those investments over liquidity and yield. This will be updated annually for consideration by the Cabinet and approval by the Council.

1.5.2 Key Controls

The key controls are:

- Approval by full Council of the Treasury Management Strategy (including Borrowing and Investment Strategies, Prudential Indicators for the following three years, and the existence of an Authorised Limit and Operational Boundary to ensure affordable borrowing);
- Regular monitoring of Prudential Indicators;
- The operation of Treasury Management Practices (TMP's) and Treasury Management Practice Schedules.

## **1.6 THE REVENUE BUDGET AND THE CAPITAL PROGRAMME**

1.6.1 These are considered in depth under Regulations 2 and 3.

## **1.7 DIRECTORATE SERVICE DELIVERY PLANS**

1.7.1 Directors are responsible for the preparation of these plans that reflect the Council's priorities as shown in the Corporate Plan. They must be produced in conjunction with the Capital and Revenue Budgets and each of these plans must support the others.

### **1.7.2 Key Controls**

The key controls are:

- all relevant plans are produced and that they are consistent;
- plans are produced in accordance with statutory requirements;
- all plans reflect the Council's Financial Strategies and vice-versa;
- timetables are met;
- all performance information is accurate, complete and up to date;
- improvement targets are meaningful, realistic and challenging;
- Corporate, Directorate and Service Delivery Plans and the budget are all produced from an integrated timetable and an agreed base position.

## **2 REGULATION 2 – CAPITAL**

### **2.1 THE CAPITAL PROGRAMME**

2.1.1 The Section 151 Officer is responsible for preparing a capital programme covering at least 3 years that is integrated within the MTFP and reporting expenditure and funding implications of the programme to Cabinet for consideration. The Cabinet will make recommendations to the Council, who will approve the capital programme.

### **2.2 DETERMINING THE CAPITAL PROGRAMME**

2.2.1 The Section 151 Officer is responsible for the initial consideration of capital spending proposals and the comparative ranking by priority of these proposals.

2.2.2 The ranking process is based on the completion of Outline Capital Bid Forms (outline business cases) and guidance as approved by the Section 151 Officer from time to time.

2.2.3 Heads of Service/Senior Managers are responsible for submitting the Outline Capital Bid Forms and complying with the guidance issued by the Section 151 Officer.

2.2.4 The Capital Programme shall include the gross cost of, and sources of funding for, schemes where the Council assembles the finance on behalf of a third party and so incurs no potential liability in respect of funding or project delivery. Such schemes may not result in any asset retained by the Council. Directors must ensure that these arrangements are reported to the Cabinet stating the nature of the arrangements, the participants in the process, and the sources of finance. The report must clearly state the projected expenditure and income for each financial year.

2.2.5 The Section 151 Officer will recommend to Cabinet the Capital Budget and funding in accordance with the Council's prudential indicators and CIPFA's Prudential Code.

### **2.3 AMENDMENTS TO THE CAPITAL PROGRAMME**

- 2.3.1 Any mid-year amendment to the Capital Programme as last approved by the Council must be approved by the Cabinet in any cases where:
- a new scheme is proposed to be added to the programme, including those funded entirely by external grants and contributions;
  - a scheme is to be deleted from the capital programme;
  - the total cost of an existing scheme is to be amended;
  - a reprofiling of capital resources is proposed.
- 2.3.2 The Section 151 Officer, must approve any mid-year amendment to the approved Capital Programme before a report is submitted to Cabinet. This also applies to reprofiling requests i.e. where the amendment involves a change in the timing of the spending over the life of the project, but there is no change in the total cost or funding.
- 2.3.3 The Chief Executive may take decisions in an emergency, subject to the delegation and budget framework provisions of the Constitution, in consultation with the Section 151 Officer.
- 2.3.4 With the exception of emergency decisions, expenditure must not be incurred or committed on any capital scheme until the Cabinet or Council has given approval. For clarity, capital schemes of £250,000 or less will be deemed to have received approval to spend once full Council have approved the budget for the following year (usually end of February/early March). Any amendments to the capital programme made in year will only require the approval of the Cabinet.
- 2.3.5 For capital schemes in excess of £250,000, a separate report must be presented to Cabinet requesting approval to spend.
- 2.3.6 In either event, expenditure should not be incurred until funding is in place. For external funding, this means that a formal approval of funding has been received rather than a conditional offer or a bid that has been given provisional approval.
- 2.4 CAPITAL MONITORING**
- 2.4.1 Budget monitoring will be carried out in accordance with guidance issued by the Section 151 Officer. This guidance will lay down the Council's requirements in respect of:
- Frequency of reporting;
  - The format and content of reports (including the degree of detail, risk analysis undertaken and any corrective actions taken or proposed);
  - The recipients of budget monitoring reports (such as the Management Team or Cabinet);
  - The linkages with approved outputs.
- 2.4.2 For each scheme that is approved, the relevant Director will appoint a Project Manager, who will be responsible for the scheme, including budget accountability. This includes monitoring progress (financial and otherwise) of the scheme, and managing the scheme in accordance with the Council's guidance on Project Management.
- 2.4.3 If there is any anticipated reprofiling or "slippage" of a scheme that will affect the allocation of resources over future financial years the procedures outlined under Regulation 2.3 must be followed. Any loss of external funding arising from slippage must be reported to Cabinet and approval sought for the alternative funding required or other corrective action.
- 2.4.4 Where in-year spending is likely to exceed the profiled budget and this has an impact on the financial year, this must be reported to the Section 151 Officer who will then review the overall capital financing arrangements for that year.

2.4.5 Where the total cost of a scheme exceeds, or is expected to exceed the budget approved in the Capital Programme, this must be reported to the Section 151 Officer by the Director/Head of Service as soon as possible. In the first instance, overspends will fall on the relevant Directorate/Service area revenue budget, unless alternative funding is identified. In respect of any anticipated overspending in excess of £10,000 or 20% whichever is the lesser, the approval of Cabinet must be sought under 2.3.1 above.

2.4.6 Directors/Heads of Service must notify the Section 151 Officer upon the offer of or receipt of grant awards or any other offer of support of any type for capital expenditure. Capital receipts will be regarded as corporate resources and may only be ringfenced to schemes on the express approval of the Cabinet.

#### 2.4.7 Key Controls

The key controls are:

- Approval by the full Council for the Capital Programme;
- An Outline Capital Bid Form is completed for all schemes to be included in the capital programme;
- A prioritisation process in accordance with the Capital Investment Strategy and corporate priorities;
- A project manager is responsible for each capital project (delivery and budget);
- Appropriate project management techniques are used and project managers are trained to carry out their responsibilities;
- Contract Procedure Rules are adhered to at all times;
- The requirements imposed by funding bodies are followed;
- Monitoring and reporting requirements on schemes are implemented.

### 3 REGULATION 3 - REVENUE

#### 3.1 THE REVENUE BUDGET

3.1.1 The Council will agree the Medium Term Financial Plan (MTFP), to be updated annually. The MTFP will include the Revenue Budget for the coming year plus forecasts for at least the next two subsequent years. Revenue resources must be aligned to the corporate objectives of the Council. The budget will be published in the Council's annual Budget Book. The approved Revenue Budget may be amended during the year in compliance with these FPRs.

#### 3.2 REVENUE RESOURCES

3.2.1 Funding for revenue will come from government grants, fees and charges, calls on revenue reserves and balances, and local taxation. **Capital resources cannot be used to fund revenue expenditure.**

#### 3.2.2 Key Controls

The key controls are:

- resources are acquired in accordance with the law and using an approved authorisation process (i.e. the budget setting process);
- resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- professional guidance in relation to the adequacy of reserves and minimum level of balances is followed;

- the budget, which sets out how the Council is resourced, is approved annually by the Council;
- The MTFP ensures year on year sustainability of resources are considered in setting spending plans.

### **3.3 DETERMINING THE REVENUE BUDGET**

3.3.1 The Section 151 Officer is responsible for ensuring that the MTFP and Budget are prepared and submitted for approval by the Council, upon the recommendation of the Cabinet, on or before the statutory date for such approval (currently 11 March). The adoption of the budget by the Council shall be accompanied by a Resolution as to the level of Council Tax required for the coming financial year in order to sustain the budget. The MTFP should set out forward projections of council tax increases for at least the next two subsequent years.

3.3.2 The Section 151 Officer recommends the overall quantum of revenue resources available to the Council, based on potential increases in the Council Tax, affordable calls on reserves, and best estimates of grant income. The Section 151 Officer shall advise as to what would constitute a prudent and necessary minimum level of uncommitted balances/reserves for the Council to retain, and also as to whether the budget being proposed is consistent with such a requirement. In forming such a judgement, the Section 151 Officer shall have regard to available guidance.

3.3.3 The Council agrees an overall MTFP and budget that matches its available resources with corporate priorities and statutory requirements.

3.3.4 The revenue budget agreed by Council will as a minimum allocate spending to:

- Each Portfolio/Service Area showing the gross spending and income and net budget;
- Each levy;
- The net cost of borrowing.

3.3.5 Directors/Heads of Service must ensure that all fees and charges are reviewed as part of the annual budget process in line with the Corporate Charging Policy (see Regulation 3.7).

3.3.6 The level of reserves is reviewed annually in line with the financial strategy and Medium Term Financial Plan, and must be decided before the budget and the Council Tax can be fixed. Reserves are amounts set aside by the Council as a result of surpluses, deferred expenditure or policy decisions to 'save' towards future expenditure. Reserves can be either specific (earmarked) or general. The General Fund Reserve will be maintained at a minimum level agreed by Cabinet having regard to the advice of the Section 151 Officer. The budget report to the Council will include a statement showing the estimated opening reserve balances for the year ahead, the addition to/withdrawal from balances, and the estimated year-end balance. Reference should be made as to the extent to which such reserves are to be used to finance recurrent expenditure.

3.3.7 The Council's approved budget is published in a "Budget Book", which breaks down Directorate budgets into a budget for each Service area within the Directorate. Each service budget has a named responsible Officer.

#### **3.3.8 Key Controls**

The key controls are:

- Adoption of project management techniques;
- Clear and timely guidance from the Section 151 Officer;
- Consistent format used across all service areas that reflects the relevant level of accountability of service delivery and enables consistency of comparison over time and with other local authorities;

- Effective timetable;
- Reflect the content of the Financial Strategy and Medium Term Financial Plan for the appropriate year;
- Be balanced, affordable and sustainable;
- Prudent risk assessment of the possible implications in terms of both affordability and service delivery.

### **3.4 BUDGET MONITORING**

3.4.1 Budget monitoring will be carried out in accordance with guidance issued by the Section 151 Officer. This guidance will lay down the Council's requirements in respect of:

- Frequency of reporting;
- The format and content of reports (including the degree of detail, risk analysis undertaken and any corrective actions taken or proposed);
- The recipients of budget monitoring reports (such as the Management Team or Cabinet);
- The linkages with service performance monitoring.

3.4.2 The Section 151 Officer will ensure that appropriate financial information is available to Directors/Heads of Service so as to enable them to monitor their budgets and financial aspects of their Service Delivery Plans effectively.

3.4.3 When monitoring their budgets, Directors/Heads of Service should understand that delivering the outturn within budget is an important service objective. Where it appears that a variation on a service budget will exceed £10,000, the Head of Service will immediately advise the Section 151 Officer and Management Team of the situation, together with their proposed action to recover the position. The Section 151 Officer will then compile and submit regular budget monitoring reports together with recommendations to Cabinet and Scrutiny.

3.4.4 The approved budget is the financial extent of the Council's commitment to a service each year. Any breach of that limit is therefore an ultra vires act. Depending upon the severity and circumstances of any overspend, it may lead to disciplinary action, as Officers have exceeded their delegated authority.

#### **3.4.5 Key Controls**

The key controls are:

- there is a named budget holder who is responsible for each budget service in the annual Budget Book;
- each Head of Service nominates a responsible budget holder for each cost centre within his/her their Service Area's revenue estimates and ensures that mechanisms are in place to provide early warnings of anticipated under or overspending;
- all budget holders, including cost centre managers, are accountable for their budgets and the level of service to be delivered, and understand their financial responsibilities;
- services are delivered within the net budget allocated in the annual Budget Book and in line with the Service Delivery Plan;
- income and expenditure are properly recorded and accounted for on a timely basis within the Council's General Ledger;
- the budget and Service Delivery Plan are monitored together and necessary action is taken to align service outputs and budget;
- budget managers are appropriately trained to carry out their budgetary control and financial management responsibilities.

### **3.5 AMENDMENTS TO THE REVENUE BUDGET - VIREMENTS**



- 3.5.1 The overall revenue budget that reflects the Corporate Plan is drawn up by the Cabinet and approved by the full Council. Heads of Service are authorised to incur expenditure in accordance with the estimates and service levels that make up the budget and Directorate/Service Delivery Plans.
- 3.5.2 Expenditure and income for any Service Budget may be incurred up to the amounts included in the approved Budget. The management of services within Business Plans and Budgets allows resources to be transferred between services within limits. For example, where a potential overspend in one Service Budget has been identified through Budget Monitoring this overspend could be funded by transferring budget from a Service Budget where an underspend has been identified. Future monitoring will be against these adjusted budgets.
- 3.5.3 Within the parameters set out below, Directors/Heads of Service have the ability to vire monies both within and between Service Budgets. This provides flexibility for the Council and its Officers to manage overall service delivery within budgets.
- 3.5.4 Directors/Heads of Service are authorised to approve virements, which, in total, transfer no more than £25,000, in consultation with the Section 151 Officer.
- 3.5.5 Directors are authorised to approve virement exceeding £25,000 and up to £250,000 in consultation with the Section 151 Officer and the relevant Portfolio Holder.
- 3.5.6 Virements over £250,000 are a Key Decision and can only be approved by Cabinet. They will be reported by the Director, in such format as the Section 151 Officer may prescribe.
- 3.5.7 Virement to or from the budgets for Recharges and Asset Rentals is not permitted unless approved by the Section 151 Officer.
- 3.5.8 All other budgets can be vired but subject to any other Council policies. No virement may commit future additional expenditure above MTFP provision without Cabinet approval.
- 3.5.9 If the same budget head is used for virement on more than one occasion, the application of the above rules will relate to the accumulated figure.
- 3.5.10 Any virement between an employee budget and a non employee budget, or between an income budget and a non-income budget, must be approved by the Section 151 Officer, in accordance with the above determined limits, who may request a report to Cabinet for approval.
- 3.5.11 The securing of additional revenue resources (grants, etc.) must be reported to the Section 151 Officer. The Section 151 Officer may authorise the use of those resources to finance additional revenue expenditure where the grant conditions require such. Where there are no such requirements the Section 151 Officer may require the use of these resources to be approved by Cabinet and will do so in all cases where the sum is £250,000 or more.
- 3.5.12 The Section 151 Officer will determine whether a change to budgets is a virement (i.e. the budget is reallocated to a purpose other than originally intended) or a re-presentation or restructure where there is no change to the purpose of the spending. The virement rules set out above shall not apply to restructure or re-presentational changes.
- 3.5.13 Key Controls

Key controls are:

- Virement of resources between one head of account and another, whether within or between Service Areas is subject to approval;
- Virement does not create additional overall budget liability. Directors/Heads of Service are expected to manage their budgets responsibly, prudently, and within approved service levels. They should not support recurring revenue expenditure from

one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors/Heads of Service must plan to fund such commitments from within their own budgets;

- Virement to provide a fundamentally different service level to that approved in Directorate/Service Delivery Plans can only be approved by Cabinet.

### **3.6 CONTRACT AND WINDFALL SAVINGS**

3.6.1 Unless specific agreement with the Section 151 Officer is obtained, contract savings and windfall savings (i.e. unanticipated income or unanticipated savings on expenditure including any figure relating to previous years) will revert to General Balances.

### **3.7 FEES AND CHARGES**

3.7.1 The Corporate Charging Policy forms the basis of all fees and charges set within the Council. The Policy establishes clear principles for charging, integrates charging into service management linking with corporate objectives, and sets clear objectives and targets. The Policy shall be reviewed by the Section 151 Officer and reported to Cabinet as a minimum every three years.

3.7.2 Charges should be reviewed and reported as part of the revenue budget and business plan setting process.

3.7.3 Fees and charges fall into two categories:

- Statutory;
- Discretionary.

#### **3.7.4 Statutory Charges**

Statutory charges are those determined by organisations external to the Council, and over which the Council has no discretion.

#### **3.7.5 Discretionary Charges**

- Where charges are not prescribed, the Director/Head of Service is able to set the charge by reference to a number of factors e.g. cost of service provision, demand trends, local competition etc;
- Some constraints may exist whereby the charge should be set to only cover the cost of the service, e.g. Public Entertainment Licences, Local Search Fees;
- Directors/Heads of Service must have appropriate systems in place to support the fee-setting process, including the allocation of overheads;
- Where decisions on increases in fees and charges are taken outside the budget process for administrative reasons (e.g. where there is a statutory regulation or a duty of consultation, for example, car parking where notices have to be served) due regard must be given to the financial strategy;
- Directors/Heads of Service will have local discretion to offer concessions and discounts.

#### **3.7.6 Key Controls**

The key controls are:

- Clear and consistent fees and charges strategy;
- Annual review of strategy and levels of charges;
- All fees should be considered as part of the Service Planning process;
- Approval of all fees and charges by the Cabinet.

### **3.8 INTERNAL CHARGING**

- 3.8.1 Internal charges are made between services within the Council. Whilst they do not directly generate external income, they do affect the total cost of individual services.
- 3.8.2 Internal charges should be set in accordance with the principles set out in CIPFA's Service Reporting Code of Practice. There must be a clear rationale for any residual sum not recovered from services and charged to the Corporate and Democratic Core.
- 3.8.3 Where internal charges are made they should be fixed to recover the full cost of services, and may be set at a unit/volume based amount linked to demand, or as a reallocation of costs.
- 3.8.4 For most services, the service manager responsible for making the charge will develop a service agreement that outlines the service provided and establish the basis of the allocation of costs. The service standard should be agreed with the Council's Management Team.
- 3.8.5 Some services operate as a fully traded service. In these cases, charges will be made on the basis of a Service Level Agreement (SLA). The SLA will specify the service to be provided and the charge to be levied, and will generally be a volume based charge. SLAs must be published well in advance of the start of each financial year to enable customers to negotiate with providers if they wish. All charges with A1 Housing (Bassetlaw) Ltd. must be made on the basis of an SLA.
- 3.8.6 Directors/Heads of Service must have appropriate systems in place to support the charge-setting process, including the allocation of overheads.
- 3.8.7 Regard shall be had to the frequency and basis of charge to minimise the administrative costs involved in recharging.

#### **3.8.8 Key Controls**

The key controls are:

- Clear and consistent internal charging strategy;
- Annual review of strategy and basis, and level of charges with specific reference to Value for Money;
- Clear guidance on forming SLAs and service agreements;
- All charges should be considered as part of the Service Planning process.

### **3.9 RESERVES**

- 3.9.1 Reserves are amounts set aside by the Council as a result of surpluses, deferred expenditure or policy decisions to 'save' towards future expenditure. Reserves can be either specific (earmarked) or general. For each reserve established, the amount, purpose and origin of funding must be clearly identified.
- 3.9.2 The levels and requirements for reserves are reviewed annually in setting the budget and in the context of the MTFP.
- 3.9.3 The establishment of new earmarked reserves is subject to approval on a case by case basis except where such a reserve (e.g. pension's reserve) is specifically required by statute or by CIPFA's Accounting Code of Practice.
- 3.9.4 New reserves will generally be approved by Cabinet as part of the budget setting process or budget monitoring process and exceptionally by the Cabinet as part of the accounts closure process on the recommendation of the Section 151 Officer.

- 3.9.5 Contributions to reserves will be managed as a budgeted call on resources, which could otherwise have been spent on services or taken to the General Reserve or used to reduce Council Tax. The timing and size of contributions will be considered in the context of the Council's MTFP and reviewed when each years accounts are closed.
- 3.9.6 Earmarked reserves will generally fall into four categories:
- Trading account balances;
  - Time limited programmes and projects;
  - To meet specific risks of a non insurable nature or self insured risks;
  - To carry forward under spending (or overspending) as a ring fenced amount.
- 3.9.7 **Trading account balances** will be allowed where real or quasi trading accounts are used to manage costs. Balances will be maintained to allow flexible response to changes to demand and/or to meet defined future capital expenditure needs. Generally such balances should not exceed 20% of the annual turnover. Balances in excess of this limit should be returned to the General Reserve.
- 3.9.8 **Time limited programmes** may be pre-funded by the establishment of reserves. Reserves will be useful where the pace of spending is difficult to predict and where the spend will run over a number of budget years. However, the creation of reserves causes an earlier call on the taxpayer than when the benefits of the programme are derived by the taxpayer. So pre-funding requires careful consideration of the benefits of the use of a reserve as against annual revenue budgets. It would be unusual for a time-limited programme running for more than 3 years to be pre-funded. Longer programmes might be managed by a reserve to which a consistent level of contribution was made annually but where spend fluctuated from year to year. In all cases the purpose of the reserve must be clearly established at the outset and the scope and cost of the programme defined to ensure the adequacy of the reserve.
- 3.9.9 **Reserves to meet specific risks or contingencies** should have regard to a reasonable estimate of the potential costs involved, and should continue to be held only while the risk remains, and should be reviewed at least annually. The Insurance Reserve falls within this category being support for the Council's self insurance programme and a contingency in respect of any past insurance claims yet to be settled.
- 3.9.10 **At each year-end the Council may determine that an under-spending (or overspending) is carried forward for use by the Directorate in which it arose in the subsequent year.** This may be because of a delay in implementing a revenue programme or because a commitment to a future payment exists but which does not meet the test of an accrual as a creditor, or establishment of a Balance Sheet provision. In each case the relevant Director/Head of Service, together with the Section 151 Officer will establish the reasonable estimate of the under-spending and the amount to be carried forward.
- 3.9.11 The Council may determine that a Service may retain part of a general under-spending if the Council's financial situation does not require the sum to be returned to the General Reserve. The sum retained must be identified to a programme and for a one off purpose that does not give rise to any ongoing commitment. The Section 151 Officer will consider each case and advise whether the purpose meets the test of being spending of a one-off nature.
- 3.9.12 In all circumstances, a carry forward request must not be spent without the prior approval of Cabinet.
- 3.9.13 Approval to use earmarked reserves will be subject to formal release by the Section 151 Officer who will confirm that planned spending remains affordable when considering any mixed funding including call on reserves, current budgets and/or external funding packages. Monitoring of spending against reserves must be subject to periodic budget monitoring

arrangements. Projected variances should form part of the periodic corporate budget monitoring arrangements.

3.9.14 The Council may close an earmarked reserve (except where there is a statutory requirement to maintain it) at any time and appropriate any remaining balance to the General Reserve.

3.9.15 Key Controls

The key controls are:

- The establishment and use of reserves must be authorised by the Section 151 officer;
- Reserves will only be established to meet a defined purpose;
- The level and requirement of each reserve is reviewed annually.

## **4 REGULATION 4 - ACCOUNTING RECORDS**

### **4.1 ACCOUNTING RECORDS**

4.1.1 To enable reliance to be placed on financial management information all the Council's transactions, commitments, contracts and other essential accounting information must be recorded completely, accurately, on a timely basis and in corporately approved systems.

4.1.2 Any financial systems and records used within Directorates/Service areas that do not interface with the corporate financial ledger must be in a form agreed by the Section 151 Officer, and must be regularly reconciled to the corporate financial ledger by the relevant service manager.

4.1.3 Directors/Heads of Service shall ensure supporting documentation is available as required by the Section 151 Officer.

4.1.4 Key Controls

The key controls are:

- The primary record
- of accounting entries and approved budget is the financial ledger;
- Reconciliation procedures are carried out to the financial ledger to ensure transactions are correctly recorded;
- Original documents are retained in accordance with legislative and other requirements including compliance with the Council's Document Retention Policy.

### **4.2 ANNUAL STATEMENT OF ACCOUNTS**

4.2.1 The Council has a statutory responsibility to prepare accounts that present accurately and fairly its operations during the year. This must be done in accordance with The Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

4.2.2 The Accounts will be produced within the statutory timescales.

4.2.3 Annually the Section 151 Officer draws up a detailed timetable, guidance and instructions for final accounts preparation, approval and audit.

4.2.4 The timetable and guidance covers all areas relating to the closure of accounts, the deadlines by which each task should be completed, and the format in which key information

should be submitted. Directors/Heads of Service shall ensure compliance with the timetable and guidance.

#### 4.2.5 Key Controls

The key controls are:

- The Council's Statement of Accounts is prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom;
- Clear and consistent advice and instructions are issued for dealing with all year-end processes, such as accruals, prepayments, treatment of year-end balances, and analytical review;
- Accounts are kept up to date during the year, reconciliations are carried out on a regular basis, the revenue and capital budgets are compiled and monitored effectively, and year-end processes are completed in accordance with the timetable issued;
- Year end variances and balances are reported on within the parameters agreed with the external auditor;
- There is a clear policy for the setting up and maintenance of reserves;
- Comprehensive working papers are compiled and maintained.

### 4.3 RETENTION OF ACCOUNTING AND FINANCIAL DOCUMENTS

4.3.1 *The Retention Periods shown in Appendix 2 represent the minimum number of complete financial years, i.e. excluding the current financial year.*

4.3.2 *This guidance refers to retention of hard copy. Retention in electronic format (e.g. document imaging) may be acceptable, subject to the agreement of appropriate authorities, such as External Audit, HMRC.*

4.3.3 *No documents or records should be disposed of until notification has been received from the External Auditor of the completion of the audit of accounts for the year to which the records relate.*

4.3.4 If in doubt, contact Information Services Manager for advice on specific cases.

## 5 REGULATION 5 - RISK MANAGEMENT AND RESOURCE CONTROL

### 5.1 RISK MANAGEMENT AND INSURANCE

#### Introduction

5.1.1 It is essential that robust systems are developed and maintained for identifying, evaluating and controlling all of the operational risks to the Council on an integrated basis in accordance with the Council's Risk Management Strategy.

#### Risk Management

5.1.2 The Audit and Risk Scrutiny Committee is responsible for approving the authority's Risk Management Strategy and for reviewing the effectiveness of risk management. It is also responsible for approving the Council's Strategic Risk Assessment and for ensuring that proper insurance exists where appropriate.

5.1.3 The Management Team will produce an annual corporate risk assessment. The Section 151 Officer is responsible for preparing the Council's Risk Management Strategy statement and for promoting it throughout the authority. The S151 Officer is also responsible for ensuring that proper insurance cover exists where appropriate. Copies of the Council's formal Risk

Management Strategy and Corporate Risk Register are available from the Section 151 Officer and on the Internet, upon request.

- 5.1.4 Directors/Heads of Service shall ensure the regular identification, review and management of risk within their Service areas having regard to advice and instructions from the Section 151 Officer and other specialist officers. Within each Directorate a risk champion shall be nominated to ensure these issues are progressed.
- 5.1.5 The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.

### **Insurance**

- 5.1.6 The Section 151 Officer shall ensure that appropriate insurance is in place for all items identified as falling within the framework of insurable risks agreed by the Council and shall deal with all claims, in consultation with other Directors/Heads of Service where necessary. The Council will determine which risks must be covered by external insurances or internal insurance provision. Other risks may be covered by insurance or carried by the Directorate/Service area involved at the discretion of the relevant Director/Head of Service, having regard to advice from the Section 151 Officer.
- 5.1.7 Each Director/Head of Service shall immediately notify the Section 151 Officer of all new risks, properties, vehicles and other assets or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
- 5.1.8 Directors/Heads of Service shall notify the Section 151 Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and shall provide such information and explanations required by the Section 151 Officer or the Council's insurers.
- 5.1.9 Directors/Heads of Service shall consult the Section 151 Officer and the Monitoring Officer concerning the terms of any indemnity which they are requested to give on behalf of the Council.
- 5.1.10 Before entering into any arrangement involving a legal relationship, the Director/Head of Service involved must ensure that the Council has adequate legal powers and where appropriate that there is adequate professional indemnity insurance to cover and minimise any risk to the Council and to those individuals involved (advice should be obtained from the Section 151 Officer and /or the Monitoring Officer where necessary before proceeding).
- 5.1.11 The Section 151 Officer shall review insurance requirements at each annual renewal date and as part of the re-tendering process at the end of the overall insurance contract period.

### **Self Insurance**

- 5.1.12 For some risks not covered by external insurance policies, and as determined by the Council, the Section 151 Officer will operate an internal insurance account and is authorised to charge the various Council service budgets with the cost of contributions to this account.
- 5.1.13 Risk Management is the responsibility of every Director/Head of Service having regard to advice from the Section 151 Officer and other specialist officers. In general, costs and losses not insured externally and not covered by the Council Fund will fall as a charge upon the budget of the Directorate/Service area to which the item relates. Also, claims for insured risks could result in increased levels of future premiums, and this emphasises the need for effective preventive measures against all risks.

### **Business Risk Management**

5.1.14 Each Director/Head of Service must assess all risks annually and to record them in their Departmental/Service risk register. All corporate strategy targets should be evaluated and appropriate performance measures should be set for monitoring.

5.1.15 All strategic and high level/impact risks should be recorded in the Corporate Risk Register via the Section 151 Officer, together with an action plan to show how the risks are being monitored.

5.1.16 The management of risks at a Directorate level should be reported upon at least quarterly to the Corporate Risk Management Group and the appropriate Directorate meeting.

5.1.17 Key Controls

The key controls are:

- Procedures are in place to identify, assess, prevent or contain known risks, and these procedures are operating effectively throughout the authority;
- The Council has adopted Corporate Risk Templates and processes to record all identified risks;
- A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
- Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- Provision is made in the accounts for losses that might result from the risks that remain;
- The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources;
- Acceptable levels of risk are determined and insured against where appropriate.

**5.2 PREVENTING FRAUD AND CORRUPTION**

5.2.1 The Section 151 Officer is responsible for the development and maintenance of an Anti-Fraud and Anti-Corruption strategy and policy.

5.2.2 The Council operates an Anti-Fraud and Anti-Corruption strategy and policy, incorporating a 'Whistle blowing' policy. These, in conjunction with Councillor and Officer Codes of Conduct and registers of interest, determine the overall policy of the Council with regard to the prevention of fraud and corruption.

5.2.3 Any suspected irregularities should be reported to internal audit and, if necessary, the Section 151 Officer, the Monitoring Officer, or the Chief Executive.

5.2.4 Key Controls

The key controls are:

- the Council has an effective Anti-Fraud and Anti-Corruption strategy and policy and maintains a culture that will not tolerate fraud or corruption;
- codes of conduct exist for Councillors and Officers and are regularly reviewed by the Corporate Governance Working Group;
- a Register of Interests is maintained to enable Councillors and Officers to record any financial or non-financial interests that may bring about conflict with the Council's interests;
- a register of Gifts & Hospitality is maintained to enable Councillors and Officers to record gifts and hospitality either received, or offered and declined, from the Council's contractors and suppliers;



- “whistle blowing” procedures are in place and operate effectively;
- the Anti-Fraud and Anti-Corruption strategy and policy, and the “whistle blowing” policy can be found on the intranet and internet.
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### **5.3 GIFTS AND HOSPITALITY**

5.3.1 Part 6 of The Constitution sets out the Council’s Codes of Conduct for Councillors and for Employees on Gifts and Hospitality. These must be adhered to at all times.

5.3.2 A Register of Gifts & Hospitality is maintained by the Legal Department to enable Officers to record gifts and hospitality either received, or offered and declined, from the Council’s existing or potential contractors and suppliers.

#### **5.3.3 Key Controls**

The key controls are:

- Relevant Codes of Conduct must be adhered to at all times;
- Registers of gifts and hospitality must be maintained and kept up to date.

### **5.4 ASSETS**

#### **Assets – Security**

5.4.1 The Section 151 Officer maintains an up-to-date asset register. The Section 151 Officer should be notified in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

5.4.2 The Council’s Solicitor shall have the custody of all title deeds and be responsible for ensuring their safety.

5.4.3 The Section 151 Officer shall be responsible for ensuring that a full revaluation of all Council properties is undertaken at least every five years.

#### **5.4.4 Key Controls**

The key controls are:

- assets and resources are used only for the purposes of the Council and are properly accounted for;
- assets and resources are available for use when required;
- assets and resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
- an asset register is maintained for the Council - assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset;
- all Officers are aware of their responsibilities with regard to safeguarding the Council’s assets and information, including the requirements of the Data Protection Act and software copyright legislation;
- all Officers are aware of their responsibilities with regard to safeguarding the security of the Council’s computer systems, including maintaining restricted access to the information held on them and compliance with the Council’s information security and internet security policies;
- Proper security arrangements are in place for all buildings and other assets belonging to the Council.

#### **Assets – Inventories**

- 5.4.5 Each Directorate will nominate an Officer with responsibility to maintain an inventory for all assets with a life expectancy of more than one year whose single replacement value exceeds £500 including furniture, fittings and equipment. This must record descriptions, values, relevant dates, expected life, and location.
- 5.4.6 All electrical equipment must be recorded on the inventory list to enable suitable PAT testing regimes to be established.
- 5.4.7 All attractive/portable items must be security marked as belonging to the Council and wherever possible kept securely.
- 5.4.8 No item shall be removed from the Council premises without the written authorisation of the Director/Head of Service concerned.
- 5.4.9 Inventories must be checked at least annually to verify the details.
- 5.4.10 Any variations to inventory records must be reported to the relevant Director, and all variations over £2,000 must be reported to the Section 151 Officer.
- 5.4.11 The Head of Corporate Services shall be responsible for maintaining an inventory of all computer hardware and software held by the Council, a copy of which must be provided to the Section 151 Officer.

#### **Assets – Stocks and Stores**

- 5.4.12 All Directors/Heads of Service must ensure that they maintain adequate records and controls over stock movements.
- 5.4.13 Stocks and stores comprise the following categories:
- Goods or other assets purchased for resale;
  - Consumable stores;
  - Raw materials and components purchased for incorporation into products for sale;
  - Products and services in intermediate stages of completion;
  - Long-term contract balances;
  - Finished goods.
- 5.4.14 Independent stock checks must be undertaken periodically and at least annually at year-end. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 5.4.15 Any variations must be reported to the relevant Director/Head of Service, and all variations over £2,000 must be reported to the Section 151 Officer for investigation prior to write-off.
- 5.4.16 A certificate of stock must be issued to the Section 151 Officer as at 31 March in each year. Stocks must be valued at the lower of cost and net realisable value.
- 5.4.17 The Section 151 Officer is entitled to check stocks, if necessary requiring closure, after consultation and agreement with the Director/Head of Service concerned.
- 5.4.18 All receipts and issues of stock must be properly recorded and accounted for in the Council's financial records.

#### **Assets – Intellectual Property**

- 5.4.19 Intellectual property is a generic term that includes inventions and writing. If these are created by the Officer during the course of employment then they are the property of the Council. Examples include software and product development. These items are collectively known as intellectual property.

#### 5.4.20 Key Controls

The key controls are:

- In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved intellectual property procedures.

#### **Assets – Disposal by Sale**

5.4.21 Surplus or obsolete goods, materials, and stocks shall be disposed of by public tender, except when, in the opinion of the Director/Head of Service concerned, the financial interest of the Council is better served by disposal by other means. This may include a public auction, offering the asset in part exchange or Council wide invitations for personal bids. Wherever possible, a reserve price will be set. The Director/Head of Service concerned shall prepare and certify a list of all items disposed of, showing the amount received. This will be reflected in the inventory, the asset register, and/or the stock account. The disposal of the asset should be fully documented.

5.4.22 If sale by this means is not available or has failed, then disposals may be made to schools or registered charities based within Bassetlaw.

5.4.23 The disposal of all ICT equipment must be co-ordinated through the ICT unit.

5.4.24 Disposals of land and property are subject to the Asset Management process.

5.4.25 The Property Manager will identify the initial value of the Land/Property asset and whether there is any alternative use before disposal takes place. Running costs for property declared surplus to requirement will also transfer to the Estates budget.

5.4.26 The proceeds of all sales of surplus or obsolete assets must be reported to the relevant Director/Head of Service, and all sales over £2,000 must be reported to the Section 151 Officer, who will then decide if a report to Cabinet is necessary.

#### 5.4.27 Key Controls

The key controls are:

- Land/Property assets are disposed of in accordance with the Asset Management Plan;
- Disposal of assets is fully documented;
- Annual stock valuation identifies obsolete stock;
- Other disposals are made in accordance with the Office Furniture and Equipment Inventory and Disposal Policy.

#### **Assets – Disposal By Write Off**

5.4.28 Write-offs may only take place as a last resort after all other economic/social solutions have been exhausted.

5.4.29 Following investigation, the relevant Director/Head of Service in consultation with the Section 151 Officer may write off Income, Stocks and Inventory deficiencies of up to £2,000.

5.4.30 Following investigation, the relevant Director/Head of Service in consultation with the Section 151 Officer and the Portfolio Holder, may write off items over £2,000 and under £25,000.

5.4.31 Following investigation, write offs of amounts over £25,000 may only be written off by the Cabinet after receiving a report from the Section 151 Officer.

5.4.32 A report must be submitted at least annually by the relevant Director/Head of Service to the Section 151 Officer, who will report annually on the overall level of write-offs in year.

5.4.33 Key Controls

The key controls are:

- Specific write-off limits;
- Disposal of assets is fully documented;
- Annual stock valuation identifies obsolete stock.

**5.5 TREASURY MANAGEMENT AND LEASING**

5.5.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice 2001 as updated from time to time.

5.5.2 The Section 151 Officer will create and maintain, as the cornerstone for effective Treasury Management:

- A Treasury Management Policy Statement (TMPS) stating the policies, objectives and approach to risk management of its treasury management activities;
- Suitable Treasury Management Practices (TMP) setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

5.5.3 The Section 151 Officer will produce reports on its treasury management policies, practices and activities including, as a minimum, a report to Council on an annual strategy and plan in advance of the forthcoming year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

5.5.4 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Section 151 Officer, who will act in accordance with the Council's policy statement and TMPs, and the CIPFA Standard of Professional Practice on Treasury Management.

5.5.5 The Council nominates the Audit and Risk Scrutiny Committee to be responsible for ensuring the effective scrutiny of the Treasury Management strategy and policies.

5.5.6 All executive decisions on borrowing, investment or financing (including leasing) are delegated to the Section 151 Officer who will act in accordance with the Council's agreed "Treasury Management Strategy".

5.5.7 The Section 151 Officer must report any decisions on borrowing strategy to Cabinet at the next available opportunity.

5.5.8 The Section 151 Officer must report any debt rescheduling activity to Cabinet at the next available opportunity.

5.5.9 The Section 151 Officer is responsible for acting as the Council's registrar of stocks, bonds, mortgages (where applicable), and to maintain records of all borrowing by the Council.

5.5.10 Directors/Heads of Service are responsible for ensuring the prior approval of the Section 151 Officer before leasing any assets.

5.5.11 Directors/Heads of Service are responsible for ensuring that no loans are made to third parties or interests acquired in companies, joint ventures, or other enterprises without consulting the Section 151 Officer and obtaining approval from Cabinet.

5.5.12 Directors/Heads of Service are responsible for ensuring that any potential under-writing of events are consulted with the Section 151 Officer, seeking Cabinet approval if deemed necessary.

5.5.13 Key Controls

The key controls are:

- Adopted CIPFA's Treasury Management in the Public Services Code;
- Created and maintained Treasury Management Policy Statement (TMPS) and Treasury Management Practices (TMP);
- Agreed Treasury Management Strategy for forthcoming year;
- Mid-year Treasury Management Update report;
- Reported performance within six months of the end of the year;
- An annually agreed Minimum Revenue Provision (MRP) Policy;
- The role of the Audit and Risk Scrutiny Committee.

**5.6 STAFFING**

5.6.1 The HR Business Manager, in consultation with the Chief Executive, is responsible for determining how Officer support for executive and non-executive roles within the Council will be organised.

5.6.2 The Chief Executive is responsible for providing overall management to Officers. They are also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

5.6.3 Directors/Heads of Service should ensure that Officers are aware of their management responsibilities under the Financial Procedure Rules, Contract Procedure Rules, Declaration of Interests, Gifts and Hospitality, Whistleblowing Policy etc.

5.6.4 All Officers are responsible for complying with the Council's Human Resources Policies to protect the Council against losses and minimise risk exposure.

5.6.5 The HR Business Manager is responsible for maintaining an approved list of Officer posts (known as the Establishment List), which have been approved by or on behalf of the Council as being required to provide the Council with the services and advice, which it requires from time to time. Additions, amendments and deletions in relation to this list shall be kept up to date at all times.

5.6.6 Regular meetings shall take place between the HR Business Manager, the Payroll Officer, and the Management Accounts Finance Manager to ensure that all records in relation to this Establishment List reconcile.

5.6.7 No appointments of permanent Officers shall be made unless there is a post on the Establishment List for which current budgetary provision has been made.

5.6.8 The Establishment List shall not preclude the appointment of temporary or agency staff, or direct works employees in respect of which special budgetary provision is available.

5.6.9 Directors/Heads of Service are responsible for controlling total staff numbers by:

- advising the Cabinet (via the Section 151 Officer) on the budget necessary in any given year to cover estimated staffing levels;
- adjusting the staffing 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.

#### 5.6.10 Key Controls

The key controls are:

- an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;
- procedures are in place for forecasting staffing requirements and cost;
- There is a process of performance review and identification of development needs;
- Training budgets are adequate to support agreed development needs.

### **5.7 UNOFFICIAL NON-COUNCIL FUNDS**

5.7.1 An unofficial fund is one where the income and expenditure does not form part of the Council's accounts, but which is controlled wholly or in part by an Officer employed by the Council or a semi-autonomous body. Examples may include charity accounts or Trust Funds.

5.7.2 Unofficial funds may only be established by the Section 151 Officer who will issue and update accounting instructions for them where necessary.

5.7.3 All Unofficial funds must be properly accounted for, and be subject to an independent annual audit (Council or other provider).

#### 5.7.4 Key Controls

The key controls are:

- they must be subject to an audit;
- they must be identified and recorded centrally;
- normal accounting rules will apply.

### **5.8 INTERNAL AUDIT**

5.8.1 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit regulations 2015 (SI2015/234), Regulation 5, more specifically require that a "relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance".

5.8.2 Accordingly, Internal Audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

5.8.3 The provision of a full Internal Audit service requires total accessibility to records and staff employed either by, or on behalf of, the Council.

5.8.4 Notwithstanding the Section 151 Officer's responsibility for the review of the Council's systems, the actual responsibility for their correct form and operation lies solely and totally with service management. Internal Audit will review and comment on the operation of

systems, but this does not constitute a control function and must not be relied upon as such. Conversely, the lack of an Internal Audit review or the failure by Internal Audit to identify a weakness or irregularity does not in any way act as an excuse or defence for its occurrence or non-detection by service managers.

#### 5.8.5 Key Controls

The key controls are:

- It is independent in its planning and operation;
- The Head of Internal Audit has direct access to the Chief Executive, all levels of management, and directly to elected members;
- Internal Auditors comply with the Public Sector Internal Audit Standards (PSIAS).

## **6 REGULATION 6 – ACCOUNTING SYSTEMS AND PROCEDURES**

### **6.1 ACCOUNTING SYSTEMS AND PROCEDURES**

- 6.1.1 The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. The main accounting systems used by the Council are listed at Appendix 3. No changes shall be made to the existing financial systems or new systems shall be established without the prior approval of the Section 151 Officer.
- 6.1.2 A complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, must be maintained.
- 6.1.3 Directors/Heads of Service are responsible for the proper operation of financial processes in their own Directorates/Service areas and for ensuring that their Officers receive relevant financial training, approved by the Section 151 Officer.
- 6.1.4 Lists of Authorised Officers, with specimen signatures and delegated limits will be provided to the Section 151 Officer, together with any subsequent variations on a periodic basis. This includes all areas of the Council, including the outlying areas such as depots, sports facilities and Museums.
- 6.1.5 Directors/Heads of Service must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation, and that Officers are aware of their responsibilities under Freedom of Information legislation.
- 6.1.6 The development, purchase, and implementation of all ICT systems must conform to the Council's ICT Development Plan, managed by the Head of Corporate Services.
- 6.1.7 All passwords must remain confidential.
- 6.1.8 The Head of Corporate Services will be able to identify, and hold copies of, all relevant software licences employed by the Council. No software may be loaded onto the Council's computer equipment without the prior permission of that Officer.
- 6.1.9 Contingency arrangements, including back-up procedures, must be maintained for computer systems by the Officers responsible for the systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 6.1.10 Any income or expenditure allocated to an incorrect cost centre or detail code must be corrected in the General Ledger by a journal. Limits are set against Officers capable of

posting journals and where necessary are authorised by a Senior Accountant (or equivalent) or higher.

6.1.11 Any service specific procedures should be followed by the service in question; any changes made to agreed procedures by Officers to meet specific service needs should be agreed with the Section 151 Officer. These procedures will incorporate appropriate controls to ensure that, where relevant:

- All input is genuine, complete, accurate, timely and not previously processed;
- All processing is carried out in an accurate, complete and timely manner;
- Output from the system is complete, accurate and timely;
- There is an appropriate segregation of duties providing for adequate internal controls and to minimise the risk of fraud or other malpractice.

#### 6.1.12 Key Controls

The key controls are:

- basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- early warning is provided of deviations from target, plans and budgets that require management attention;
- operating systems and procedures are secure;
- data is backed up on a regular basis;
- Scheme of delegation in relation to journal authorisation.

## **6.2 BANKING ARRANGEMENTS**

6.2.1 The Council operates a number of bank accounts for the collection and payment of money. All receipts and payments of the Council are made through these accounts. The Section 151 Officer is responsible for the opening of all bank accounts in the name of, and on behalf of, the Council. No Officer of the Council shall open any bank (or equivalent) account without the explicit agreement of the Section 151 Officer.

6.2.2 The Section 151 Officer will ensure that sound, adequate arrangements are in place for the safe and efficient operation of all the Council's bank accounts, and will effect, or cause to be effected, proper and timely reconciliations.

6.2.3 All bank accounts shall bear an official title and in no circumstances shall an account be opened in the name of an individual, with the exception of the Returning Officers Account for election expenses.

6.2.4 Only the Section 151 Officer can make arrangements concerning the Council's bank accounts. No overdraft arrangements will be permitted with the exception of corporate arrangements under the Treasury Management policy.

6.2.5 Cheques on the Council's main banking accounts, including Girobank accounts, shall bear the facsimile signature of the Chief Executive or be manually signed by the Section 151 Officer or other Officers authorised to do so by them. All cheques in excess of £10,000 must be manually signed by an authorised Officer.

6.2.6 All stocks of cheques must be held securely and stock records maintained to identify both issued and spoilt cheques.



6.2.7 Bank accounts shall be reconciled with financial records and cashbooks at least once in each month and any discrepancies identified and appropriate action undertaken.

6.2.8 The following duties, as far as possible, will be the responsibility of at least 2 separate Officers;

- The checking of creditor accounts;
- The control of cheque forms;
- The preparation of cheques;
- The signature of cheques;
- The entry of cash accounts;
- The reconciliation of bank balances.

6.2.9 Key Controls

The key controls are:

- All cheques must be signed, either manually or by facsimile, by the Chief Executive;
- Bank Accounts can only be opened by the Section 151 Officer.

### **6.3 SALARIES, WAGES, PENSIONS AND OTHER EMOLUMENTS**

6.3.1 The Section 151 Officer is responsible for all payments of remuneration and expenses to all Officers, including payments for overtime, and for payments of allowances to Councillors.

#### **Payroll**

6.3.2 Effective controls are needed to ensure that payments are accurate, made only when they are due and, comply with relevant conditions of service. The Council's payroll system must be reconciled regularly.

6.3.3 All procedures dealing with starters, leavers, variations and enhancements must be rigorously adhered to.

6.3.4 All Officers must only be paid through the Council's or an authorised contractor's payroll system.

6.3.5 The Officers' Code of Conduct is set out in Part 6 of the Council's Constitution.

6.3.6 Key Controls

The key controls are:

- proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to: starters, leavers, variations and enhancements;
- payments are made on the basis of appropriately authorised timesheets or claims;
- frequent reconciliation of payroll expenditure against approved budgets and bank accounts;
- all appropriate payroll documents are retained and stored for the defined period, in accordance with guidance issued by the Section 151 Officer;
- all expenditure, including VAT, is accurately recorded against the correct directorate and any exceptions are corrected;
- HMRC regulations are complied with.

#### **Human Resources Arrangements**

6.3.7 The HR Service Manager must ensure that adequate arrangements have been made to notify the Payroll Officer of all the information required in terms of starters and leavers, amendments to working hours, pension arrangements and any other factor that can compromise the integrity of the Payroll service.

6.3.8 Key Controls

The key controls are:

- Payments are only made when there is a valid entitlement which can be proved if necessary;
- Conditions and contracts of employment must be correctly applied;
- Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness;
- Appointments, resignations, dismissals, suspensions, secondments and transfers should be recorded and reported in line with Human Resource Policies.
- Records supporting absences from duty for sickness or any other reason, apart from approved leave must be supplied monthly to the Payroll Section.
- Changes in remuneration, other than normal increments and pay awards and agreements of general application, must be notified to the Payroll Section promptly.
- The Section 151 Officer must maintain records for pension, income tax, and national insurance.

**6.4 CREDITORS AND DEBTORS**

6.4.1 The Section 151 Officer is responsible for ensuring the operation and maintenance of effective systems for the payment of creditors and the collection of monies from debtors across the range of Council services.

6.4.2 No creditor shall be paid or debtor be invoiced other than through systems operated by the Section 151 Officer or otherwise specifically approved by him/her.

**Ordering**

6.4.3 All orders/purchases of goods and services must comply with the Council's Contract Procedure Rules and Procurement Policy and Strategy.

6.4.4 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies from public utility services, for periodical payments such as rent or rates, for petty cash purchases or such other exceptions as the Section 151 Officer may approve. In cases of emergency, orders may be given orally and confirmed in writing. Official orders for work, goods and services shall be in a form approved by the Section 151 Officer.

6.4.5 Electronic orders can only be authorised by Officers delegated by the Director/Head of Service concerned who is responsible for official orders issued from his Directorate/Service area. For emergency situations only, dedicated order numbers can be obtained from the Section 151 Officer. An up-to-date list of authorised Officers, including specimen signatures identifying in each case the limits of their authorisation must be maintained by the Director/Head of Service and be readily available.

6.4.6 No order for work, goods or services can be given which will commit the Council to expenditure unless a budget exists to incur that expenditure.

6.4.7 Official orders must not be raised for any personal or private purchases, nor should personal or private use be made of Council contracts.

6.4.8 Any purchase of IT software or hardware (except consumables) must be made through the ICT Service.

- 6.4.9 A Director/Head of Service may order goods to be supplied or work to be done by requisition on another Directorate/Service area on any occasion where more favourable terms are obtainable by this method than would be the case by direct ordering.
- 6.4.10 Where it appears to be advantageous for supplies to more than one Service area to be ordered from one source, the Lead Service Procurement Manager shall be responsible for co-ordinating the arrangements.
- 6.4.11 The authoriser of the electronic requisition must be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Value For Money should always be obtained.
- 6.4.12 Goods and services must be checked on receipt to ensure they are in accordance with the official order. This check should, where practicable, be carried out by a different Officer to the Officer who signed the original order.
- 6.4.13 On receipt of goods/services, entries must be made in inventories or stocks records as appropriate and delivered on the Council's electronic ordering system.
- 6.4.14 Separation of duties at different stages of ordering and paying for goods should be in place.
- 6.4.15 All orders must be recorded, along with delivery and receipt of invoice.
- 6.4.16 No orders should be placed that will commit the Council to a loan, leasing or rental arrangement without the prior approval of the Section 151 Officer and a Director/Head of Service.
- 6.4.17 Open orders should only be used where unavoidable, and with the permission of the Section 151 Officer. In the situation where an open order has been issued e.g. for a call-off contract, the order must have a clear end date, which may be no later than 31<sup>st</sup> March following the date of issue.
- 6.4.18 Verbal orders lessen the control of the Council over expenditure and must be avoided wherever possible. Even should a supplier state that they do not require or want an electronic/written order, one should be produced and dispatched as standard. Unless there is a genuine reason e.g. for a standard utility supply, an order must always be issued.

### **Paying for Goods**

- 6.4.19 Payment must not be made on a photocopied or faxed invoice (unless the original invoice has been mislaid), a statement or other document other than the formal invoice.
- 6.4.20 Where payment is to be made on anything other than an original VAT invoice, the copy must be endorsed "*I certify that this invoice has not previously been paid*".
- 6.4.21 Payments to suppliers should be by the most economical means for the Council. Direct Debit or Standing Orders may be used with the agreement of the Section 151 Officer.
- 6.4.22 Certification of interim and final contract payments, checking, recording and authorising these payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub-contractors' tax status must be documented and agreed with the Section 151 Officer.
- 6.4.23 Payment must not be made unless a proper VAT invoice has been received, checked, coded and certified for payment confirming:

- Receipt of goods or services;
- That the invoice has not previously been paid;
- That expenditure has been properly incurred and is within budget provision;
- That prices and arithmetic are correct and accord with quotations, tender, contracts or catalogue prices;
- Correct accounting treatment of tax;
- The invoice is correctly coded;
- Discounts have been taken where available;
- That appropriate entries are made in the accounting records.

6.4.24 No loan, leasing or rental arrangements may be entered into without prior agreement from the Section 151 Officer and the Legal section. The agreement must also be authorised by a Director/Head of Service.

6.4.25 No payment shall be made to any organisation in advance of goods or services being rendered to the Council except in instances of subscriptions, memberships, training courses etc.

#### 6.4.26 Key Controls

The key controls are:

- all goods and services are requisitioned only by appropriate persons and are correctly recorded;
- requisitions shall only be issued where budgetary provision exists to pay for the goods and services to be supplied;
- all goods and services shall be requisitioned in accordance with the Council's Contract Procedure Rules and Procurement Policy and Strategy unless they are purchased from sources within the Council;
- goods and services received are checked to ensure they are in accordance with the requisition. Goods should not be receipted by the person who authorised the order;
- payments are not made unless goods have been received by the Council, to the correct price, quantity and quality standards;
- all payments are made to the correct person/supplier, for the correct amount and are properly recorded, regardless of the payment method;
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with guidance issued by the Section 151 Officer;
- all expenditure is accurately recorded against the right budget, any exceptions are corrected and VAT is recorded against the relevant VAT code;
- in addition, the use of e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

#### **Debtors**

6.4.27 Wherever possible, charges for the use of Council services should be collected in advance of service delivery, reducing the need for debtor invoices to be raised. See Contract Procedure Rule 6.7

### **6.5 CLAIMS FOR EXPENSES**

6.5.1 Councillors and Officers may incur expenses in the course of their Council duties. Approved expenses will be reimbursed to the individual. Normally the need to incur expenses will be approved in advance, and shall be incurred in the most cost-effective way.

6.5.2 All expense claims are paid through the Council's creditors or payroll systems.

- 6.5.3 Expense claims will only be paid on approved forms. For Officers, these must be authorised by the claimant's line manager. For Councillors, these must be authorised by the Senior Democratic Services Officer or other nominated Officer.
- 6.5.4 All Councillors and Officers submitting claims for expenses shall confirm that the claim is in respect of legitimate and authorised expenditure that has been incurred on Council business.
- 6.5.5 Certification by a line manager shall be taken to mean that the certifying Officer is satisfied that those journeys were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council.
- 6.5.6 All car allowances will be paid through the Council's Payroll System. The use of the Council's corporate travel contract should be encouraged whenever rail travel is contemplated.
- 6.5.7 Each claim must be promptly submitted for payment and must be presented on a form clearly detailing the expenditure incurred, supported by VAT receipts where applicable, dated, coded, and signed by the claimant and counter signed by the appropriate authorising Officer. Promptly is defined as monthly for large transactional or high value claims, or quarterly for small transactional or low value claims. In either case, all claims relating to a previous financial year must be presented to payroll for payment by the 10<sup>th</sup> April each year.

6.5.8 Key Controls

The key controls are:

- Claims will only be paid in accordance with approved schemes;
- Claims must be made on official forms and correctly authorised.

**6.6 PETTY CASH/IMPREST ACCOUNTS**

- 6.6.1 Petty cash/imprest accounts facilitate minor, routine transactions, where raising an official order and processing an invoice through the Creditor system would be neither realistic nor cost effective.
- 6.6.2 All petty cash/imprest accounts are arranged through the Section 151 Officer.
- 6.6.3 Payments relating to the following headings must not be made from petty cash/imprest accounts:
- Salaries or Wages;
  - Sub-contractors;
  - Officers' Travelling and Subsistence;
  - Fees to Individuals.
- 6.6.4 Items of a value of £50 or more must be purchased through the Council's procurement system, unless the Director/Head of Service has agreed a different limit in consultation with the Section 151 Officer.
- 6.6.5 Only the original advance and reimbursements will be credited to the account – no other income can be credited to a petty cash/imprest account. All income must be banked in accordance with Financial Procedure Rule 6.7.
- 6.6.6 Each Director/Head of Service will compile and maintain a schedule of all Officers who have been authorised to operate a petty cash/imprest account.
- 6.6.7 Officers operating a petty cash/imprest account must:

- Obtain and retain petty cash vouchers, showing full details of the payment vouchers to support each payment from the petty cash/imprest account;
- Make adequate arrangements in their office for the safe custody of the account;
- Produce, upon demand of the Section 151 Officer and/or internal audit, cash and all vouchers to the total value of the petty cash/imprest account;
- Record transactions properly;
- Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the petty cash/imprest holder;
- Provide the Section 151 Officer with a certificate of the value of the account held at 31 March in accordance with the timetable to be issued by the Section 151 Officer;
- Ensure that the account is never used to cash personal cheques or to make personal loans and that payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made;
- On leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash/imprest advance, an Officer shall account to the Director/Head of Service for the amount advanced to them.

6.6.8 Vouchers must be:

- Authorised by the budget holder, or nominated representative, in advance of the purchase wherever possible;
- Signed by the person making the purchase or payment to acknowledge that they have received the amount shown on the voucher;
- Accompanied by an invoice/receipt, other than in exceptional circumstances. Where appropriate, this should be a valid VAT invoice/receipt.

6.6.9 A claim form must accompany every claim for reimbursement. In preparing the claim, it is important to ensure that:

- Properly certified vouchers and VAT invoices/receipts must be provided in support of every item included in the claim;
- Full details of the net cost, the VAT and the total paid are completed for every entry on the claim;
- Expenditure is accurately coded and all recoverable VAT has been taken;
- The total value, including bank account where applicable, is reconciled to the nominal amount of the petty cash/imprest account;
- All certifications are properly completed on the claim form by authorised signatories.

6.6.10 All non-computerised records relating to petty cash/imprest accounts shall be maintained in ink.

6.6.11 If circumstances arise where the amount of a petty cash/imprest account becomes excessive, the responsible Officer shall make appropriate arrangements to pay the excess amount back to the Section 151 Officer.

6.6.12 Every temporary or permanent transfer of a petty cash/imprest account from one Officer to another shall be evidenced by the signature of the receiving Officer. This will be either through a formal receipt or a document maintained for that purpose.

6.6.13 Key Controls

The key controls are:

- Imprest accounts can only be established with the approval of the Section 151 Officer;
- An individual must be responsible for the operation, maintenance and accounting of each imprest account.

## **6.7 INCOME**

- 6.7.1 The Section 151 Officer is responsible for ensuring that adequate systems are available, and are maintained, for the recording of all income by the Council.
- 6.7.2 It is the responsibility of every Officer of the Council to ensure that all sums of money due to the Council are promptly invoiced or otherwise demanded and that all sums of money received are promptly paid into the Council's accounts.
- 6.7.3 All income due to the Council must be processed accurately and securely through one of the primary income systems (e.g. NNDR, Council Tax, Debtors, Housing Rents).
- 6.7.4 Official receipts, signed by an authorised Officer, must be given on receipt of income.
- 6.7.5 All receipt forms, books, tickets etc. shall be in an official form. Income stationery should be stored securely. The security of stationery is subject to Internal Audit inspection.
- 6.7.6 The Section 151 Officer must be provided with details relating to work done, goods supplied or services rendered or other amounts, to enable the sums due to the Council to be recorded correctly and to ensure accounts are sent out promptly.
- 6.7.7 Directorates/Service areas must assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf, including providing evidence in legal proceedings.
- 6.7.8 All income must be paid fully and promptly into the appropriate bank account in the form in which it is received. Income documents must be detailed enough to provide a complete audit trail to the Council's General Ledger.
- 6.7.9 All cash taken must be reconciled to till or manual receipts, and all deposited cash/cheques should be counted and verified.
- 6.7.10 At least two Officers must be present when post is opened in the Council's Mail Room to ensure that where income is received all money received by post is properly identified and recorded.
- 6.7.11 Adequate security arrangements must be in operation to safeguard all income against loss or theft, and to ensure the security of cash handling.
- 6.7.12 The value and quantity of outstanding debts will be regularly reviewed. Write-offs will only take place as a last resort after all other economic/social solutions have been exhausted. These are detailed under "Assets – Disposal by Write-off" under Financial Procedure Rule 5.4.
- 6.7.13 Key Controls

The key controls are:

- An approved charging policy, which is regularly reviewed;
- Correct procedures and the appropriate stationery ensure that income is collected from the correct person at the right time;
- Separation of duties within the income process;
- Effective action is taken to pursue non-payment within defined timescales;
- Formal approval process for debt write-off;
- All appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the Section 151 Officer;

- Money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process;
- Payment in advance, wherever possible

## **6.8 TAXATION**

- 6.8.1 The Section 151 Officer is responsible for ensuring that adequate procedures are in place and adequate advice available to Directorates so as to ensure that the Council is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 6.8.2 The Section 151 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. In appropriate circumstances (e.g. where part of this function may have been devolved to a partner organisation) the Section 151 Officer will ensure compliance with the requirements of the particular tax regimes.
- 6.8.3 Each Director/Head of Service will at all times conduct the financial arrangements of their services, with regard to taxation issues, in accordance with advice or instructions issued by the Section 151 Officer, and shall provide any related information or documents upon request.
- 6.8.4 All returns must comply with the relevant formats and timetables for submission.
- 6.8.5 All taxable transactions shall be identified, properly carried out and accounted for within stipulated timescales.
- 6.8.6 Officers shall be nominated by the Section 151 Officer to take responsibility for taxation issues and liaison with agencies such as the HMRC.
- 6.8.7 Key Controls

The key controls are:

- budget managers are provided with relevant information and kept up to date on tax issues;
- budget managers are instructed on required record keeping;
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- records are maintained in accordance with instructions;
- returns are made to the appropriate authorities within the stipulated timescale.

## **6.9 TRADING ACCOUNTS**

- 6.9.1 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts throughout the Council.
- 6.9.2 Under the Service Reporting Code of Practice, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. Accounts that merely recharge cost are referred to as holding accounts and are not subject to this part of the Financial Procedure Rules.
- 6.9.3 Trading Accounts are only established after seeking advice from the Section 151 Officer.
- 6.9.4 Trading Accounts are only applicable where the charge out of the account is not on the basis of cost.



6.9.5 A separate revenue account must be maintained for each Trading Account. This will show all relevant income and expenditure, including overhead costs. A financial report supporting the final accounts will be produced (if required).

6.9.6 The same accounting principles will be applied to Trading Accounts as to other services.

6.9.7 Trading account balances will be allowed where real or quasi trading accounts are used to manage costs. Balances will be maintained to allow flexible response to changes to demand and/or to meet defined future capital expenditure needs. Generally such balances should not exceed 20% of the annual turnover of the Trading account. Balances in excess of this limit should be returned to the General Reserve.

6.9.8 Key Controls

The key controls are:

- They must be maintained in accordance with proper accounting practices;
- They must appear separately in the Annual Statement of Accounts.

**6.10 CREDIT/PURCHASING CARDS**

6.10.1 The Section 151 Officer is responsible for the issue of Credit/Purchasing cards to Senior Officers of the Council, including setting merchant categories and card limits.

6.10.2 All Credit/Purchasing cards must be held securely. Card details and PIN numbers must not be disclosed other than for the purposes of using the card for payments. Cardholders will be held personally liable for any expenditure they cannot account for.

6.10.3 On a monthly basis, a record of card purchases shall be maintained by individual cardholders and reconciled to the card statement provided by the card issuer. This record should be passed to Finance for processing.

6.10.4 Credit/Purchasing cards shall only be used for authorised purchases. Under no circumstances shall they be used for personal expenditure, or periodic/direct debit payments.

6.10.5 No cash withdrawals are allowed, and the card will block any attempts to do so.

6.10.6 In all circumstances, every purchase with VAT will require a VAT receipt in order for the Visa statement to be accounted for correctly.

6.10.7 Key Controls

The key controls are:

- The Credit/Purchasing cards have a monthly and individual transaction limit;
- The categories of spend are limited to the officers professional duties;
- They are reconciled each month by the cardholder and Finance.

**6.11 CHANGE FLOATS**

6.11.1 The Section 151 Officer shall provide such change floats as they consider appropriate to Officers of the Council to undertake their official duties.

6.11.2 Payments of any kind must not, under any circumstances, be made out of change floats. Any breach of this regulation may result in disciplinary proceedings taking place against the Officer concerned.

6.11.3 If circumstances arise where the amount of a change float becomes excessive, the responsible Officer shall make appropriate arrangements to pay the excess amount back to the Section 151 Officer.

6.11.4 Every temporary or permanent transfer of a change float from one Officer to another shall be evidenced by the signature of the receiving Officer. This will be either through a formal receipt or a document maintained for that purpose.

6.11.5 Key Controls

The key controls are:

- Change floats can only be established with the approval of the Section 151 Officer;
- An individual must be responsible for the operation, maintenance and accounting of each change float;
- No payments should go either in or out of the change float.

**6.12 CONTROLLED FINANCIAL STATIONERY**

6.12.1 The term Controlled Financial Stationery refers to stationery which is sequentially pre-numbered to provide a sound audit trail, usually to record and process items of a financial nature, the use of which has to be regulated in order to ensure it is restricted to authorised Officers only.

6.12.2 Within the Council this primarily relates to cheques, income collection sheets, income receipts, petty cash books, and car park tickets.

6.12.3 The Section 151 Officer shall determine which stationery is appropriate to be classed as Controlled Financial Stationery.

6.12.4 Sufficient working levels of unused Controlled Financial Stationery should be kept in a locked, secure, fireproof cabinet.

6.12.5 A register must be kept by the finance department for all items of Controlled Financial Stationery, to ensure that a proper sequence control is maintained, showing:

- Items on order, including serial numbers, supplier and expected delivery date;
- Items received, including serial numbers, date received and signature/date of person responsible for safe keeping;
- Items issued, including serial numbers, date issued, and signature/date of person to whom issued.

6.12.6 Responsible Officers are required to periodically check the level of stock in hand, and alert the appropriate Officer of the need to re-order.

6.12.7 Replacement stocks should be ordered in good time, especially during holiday time.

6.12.8 Any loss or shortfall of an item of Controlled Financial Stationery must be reported immediately to the Section 151 Officer.

6.12.9 Key Controls

The key controls are:

- Controlled Financial Stationery can only be established with the approval of the Section 151 Officer;
- Sequential serial numbers are identified and reconciled periodically;
- Formal approval is required for issue.

## **7 REGULATION 7 - EXTERNAL ARRANGEMENTS**

### **7.1 INTRODUCTION**

7.1.1 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.

### **7.2 PARTNERSHIPS**

#### **General**

7.2.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Council is working in partnership with others – public agencies, private companies, community groups and voluntary organisations, and its distinctive leadership role is to bring together the contributions of the various stakeholders to deliver a shared vision of services based on user wishes.

7.2.2 The Council will mobilise investment, bid for funds, champion the needs of the area and harness the energies of local people and community organisations. The Council will be measured by what it achieves in partnership with others.

7.2.3 The main reasons for entering into a partnership are:

- the desire to find new ways to share risk;
- the ability to access new resources;
- to provide new and better ways of delivering services; and
- to forge new relationships.

7.2.4 A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
- a body whose nature or status give it a right or obligation to support the project.

7.2.5 Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others;
- acting as a project funder or part funder; and
- being the beneficiary group of the activity undertaken in a project.

7.2.6 Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- to act in good faith at all times and in the best interests of the partnership's aims and objectives;
- be open about any conflict of interests that might arise;
- to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature; and
- to act wherever possible as ambassadors for the project.

7.2.7 The Council has the Bassetlaw Public & Third Sector Community Partnership in place that brings together at a local level the different parts of the public, private, business, community and voluntary sectors so that different initiatives and services support each other and work

together. The Bassetlaw Public & Third Sector Community Partnership is intended to help local service providers' co-ordinate their actions. However, it is still the individual partners that remain responsible and accountable for decisions on their own services and use of their own resources.

### **Roles and Responsibilities**

7.2.8 The Cabinet is responsible for overseeing an effective partnership approach throughout the Council. The Cabinet is responsible for approving protocols, delegations, including frameworks to inform decisions around partnership engagement. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

7.2.9 The Cabinet can delegate functions, including those relating to partnerships, to Officers. These are set out in the Scheme of Delegation that forms part of the Council's Constitution. Where functions are delegated, the Cabinet remains accountable for them to the full Council.

7.2.10 The Cabinet nominates the Audit and Risk Scrutiny committee to be responsible for ensuring the effective scrutiny of the Partnership register.

7.2.11 Members and Officers will represent the authority on partnership and external bodies in accordance with the Scheme of Delegation.

7.2.12 The Section 151 Officer:

- is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;
- must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory;
- must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

7.2.13 Directors/Heads of Service:

- are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies;
- must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.

7.2.14 Key controls

The key controls are:

- if appropriate, to be aware of their responsibilities under the Council's Financial Procedure Rules and the Contract Procedure Rules;
- to ensure that risk management processes are in place to identify and assess all known risks;
- to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
- to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution;
- declarations of interest from Members and Officers.

## **7.3 EXTERNAL FUNDING / GRANTS**

### **General**

- 7.3.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

### **Bids for external funding**

- 7.3.2 Bids must be comprehensive and comply with relevant Council policies. If bids are successful then the grant works and administration must be properly undertaken to ensure no penalties are incurred.
- 7.3.3 All bids and claims must be signed by the Section 151 officer, through the use of a certification process.
- 7.3.4 All bids for grants must be in accordance with the approved Service Improvement Bid process (if applicable).
- 7.3.5 Directors/Heads of Service must obtain, Management Team and Cabinet approval, if appropriate, for any bids for new monies detailing the service and financial implications before grant applications are made.
- 7.3.6 Comprehensive business cases must identify associated risks, internal budget provisions including matched funding, and any resource implications.
- 7.3.7 Accountancy must be involved in the preparation of all grant applications.

### **Grant Claims**

- 7.3.8 Records supporting any claim, including interim and final claims, must be maintained and available, and reconcile back to the Council's General Ledger.
- 7.3.9 All claims must be submitted in accordance with the Council's 'Grant Claim Guidance Manual' as directed by the Section 151 Officer.

### **Roles and Responsibilities**

- 7.3.10 The Section 151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 7.3.11 Directors/Heads of Service are responsible for providing the Section 151 Officer with all necessary information to enable the proper recording to be achieved. They have the responsibility for submitting any proposed grant funded projects to the Section 151 Officer, and they must also ensure that any conditions of grant funding are met and all the statutory requirements are complied with.

### **7.3.12 Key Controls**

The key controls are:

- Before any arrangements for external funding are entered into, the project must be submitted to the Section 151 Officer for approval;
- to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements;

- to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council;
- to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
- The adoption and use by Officers of the 'Grant Claim Guidance Manual'.

#### **7.4 WORK FOR THIRD PARTIES**

7.4.1 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

7.4.2 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a service team to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

#### **7.4.3 Key Controls**

The key controls are:

- to ensure that proposals are costed properly in accordance with guidance provided by the Section 151 Officer;
- to ensure that contracts are drawn up using guidance provided by the Section 151 Officer and the Monitoring Officer, and that the formal approvals process is adhered to;
- to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

**SUMMARY OF FINANCIAL RESPONSIBILITIES**

|                           | <b>Council/Cabinet</b>   | <b>Chief Executive</b>  | <b>Portfolio Holder</b>   | <b>Section 151 officer</b>   | <b>Director/Head of Service</b>  |
|---------------------------|--|---|---|--|--|
| <b>Financial Planning</b> | a) Approve policy framework and budget   | a) Propose Corporate Plan to Cabinet                            |   | a) Prepare three year Financial Strategy<br>b) Prepare Capital Investment Strategy and Asset Management Plan   | a) Preparation of Directorate and Service Delivery Plans   |
| Capital Programme         | a) Approve three year capital programme<br>b) Approve amendments to the capital programme<br>c) Approve capital schemes in excess of £250k before commencement of work | a) Emergency decisions in consultation with Section 151 Officer | a) Approve amendments to capital programme over £100k with Director/Head of Service and Section 151 Officer | a) Prepare three year capital programme<br>b) Approve amendments to capital programme up to £100k with Director/Head of Service.<br>c) Approve amendments over £100k with Director/Head of Service and Portfolio Holder<br>d) Report all changes to capital programme to Cabinet | a) Complete outline capital bid forms<br>b) Approve amendments to capital programme up to £100k with Section 151 Officer   |
| Capital Monitoring        | a) Approve amendments of £10k or 20% of total project cost<br>b) Note quarterly budget monitoring reports  |   |   | a) Issue guidance on monitoring  | a) Appoint Project Manager<br>b) Notify Section 151 Officer of expected slippage<br>c) Notify Section 151 Officer of overspends<br>d) Report to Cabinet on overspends of £10k or 20% of total project cost |

|                    | <b>Council/Cabinet</b>                      | <b>Chief Executive</b> | <b>Portfolio Holder</b>  | <b>Section 151 officer</b>  | <b>Director/Head of Service</b>                                 |
|--------------------|---|------------------------|--|---|---|
| Revenue Budget     | a) Approve three year revenue budget        |                        |  | a) Prepare overall budget   | a) Prepare Directorate budget<br>b) Review all fees and charges |
| Revenue Monitoring | a) Note quarterly budget monitoring reports |                        |  | a) Provide guidance on budget monitoring<br>b) Provide financial information  | a) Monitor budget   |
| Virement           | a) Approve virements over £100k             |                        | a) Approve virements over £25k and up to £100k with Director/Head of Service and Section 151 Officer | a) Approve virements up to £25k with Director/Head of Service.<br>b) Approve virements over £25k and up to £100k with Director/Head of Service and Portfolio Holder | a) Up to £25k with Section 151 Officer                          |
| Write-Offs         | a) Approve write-offs over £25k             |                        | a) Approve write-offs over £2k and up to £25k with Director/Head of Service and Section 151 Officer  | a) Approve write-offs up to £2k with Director/Head of Service.<br>b) Approve write-offs over £2k and up to £25k with Director/Head of Service and Portfolio Holder  | a) Up to £2k with Section 151 Officer                           |



## RETENTION OF ACCOUNTING AND FINANCIAL DOCUMENTS

| <b>Title</b>  | <b>Retention Period –<br/>Complete Years</b>      |
|---|---|
| Budget Working Papers   | 2   |
| Final Accounts Working Papers   | Offer to Archivist                                |
| Financial Ledger:   |   |
| - Final Summary   | Indefinite  |
| - Cumulative Year End Detail  | Indefinite  |
| - Other   | 2   |
| Grant Claim Records   | <u>6 or as specified by the<br/>awarding body</u> |
| Journals  | 6   |
| Leasing Records – vehicles, plant, equipment                            | 7 (after termination)                             |
| Loans – Contractual documentation                                       | 7   |
| Statement of Accounts   | Indefinite  |
| VAT:  |   |
| - Assessments   | 12  |
| - Claims  | 6   |
| - Records   | 6   |
| Voluntary Fund Accounts   | 6   |
| Other Documents e.g. official orders, receipts, paying in<br>slips etc. | 6   |
| Treasury Management daily record document                               | 3   |

**APPENDIX 3**

**MAIN ACCOUNTING SYSTEMS**

|                                 |   |  |
|---------------------------------|---|--|
| General Ledger/Accounts Payable | – | Advanced Business Solutions e-Financials           |
| Accounts Receivable             | – | Advanced Business Solutions e-Financials/Northgate |
| Purchase Order Processing       | – | Advanced Business Solutions e-Financials           |
| Payroll System                  | – | Midland i-Trent                                    |
| Benefits/Council Tax/NNDR       | – | Northgate  |
| Asset Management                | – | Real Asset Management                              |
| Loans/Investments/Cash Flow     | – | Logotech   |
| Cash Receipting                 | – | Capita Axis Income Management                      |

**DEFINITIONS**

**APPOINTED AUDITORS** - external auditors of local authorities appointed by the Public Sector Audit Appointments Ltd. They will be from the major accountancy firms.

**BUDGET** - a plan that matches spending with available resources. The budget is an authorisation for future expenditure and a base for controlling expenditure and income.

**BUDGET HOLDER** - the postholder named on the relevant page of the Annual Budget Book.

**BUDGET MANAGER** - is whoever a Responsible Budget Holder delegates as being responsible for a budget within a service.

**BUDGET PAGE** - the page in the Annual Budget Book that sets out the budget for a Service.

**CAPITAL EXPENDITURE** - Section 40 of the *Local Government and Housing Act 1989* defines 'expenditure for capital purposes'. This includes spending on the acquisition of assets either directly by the local authority or indirectly in the form of grants to other persons or bodies. Expenditure that does not fall within this definition must be charged to a revenue account. Capital Expenditure includes:

- Acquisition or disposal of land, buildings and major items of plant, apparatus and vehicles;
- Construction of roads and buildings;
- Enhancement of land, roads and buildings.

In addition the Council usually regards any item below £10,000 as revenue.

**CIPFA** is one of the leading professional accountancy bodies in the UK and has responsibility for setting accounting standards for local government.

**CONTINGENCY** - money set aside in the budget to meet the cost of unforeseen items of expenditure, or shortfalls in income, and to provide for inflation where this is not included in individual budgets.

**COST CENTRE** - any unit to which costs are assigned or allocated. A cost centre is the lowest level to which the Council's budget monitoring procedures currently apply.

**ESTIMATES** - the amounts expected to be spent, or received as income, during an accounting period. The term is also used to describe detailed budgets, which are either being prepared for the following years, or have been approved for the current year.

**FEES AND CHARGES** - income raised by charging users of services for the facilities. For example, local authorities usually make charges for the use of car parks, the collection of trade refuse, etc. The Council levies fees and charges in accordance with the Corporate Charging Policy.

**GENERAL LEDGER** - the core of the Council's financial records. These constitute the central "books" of the system, and every financial transaction flows through the general ledger.

**NET EXPENDITURE** - Total expenditure less specific service income.

**OFFICER** - an employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules apply.

**PROVISIONS AND RESERVES** - amounts set aside in one year to cover expenditure in the future.

## BASSETLAW DISTRICT COUNCIL CONSTITUTION PART 5 (DECEMBER 2022) PAGE 5.95

Provisions are for liabilities or losses that are likely or certain to be incurred, but the amounts or the dates on which they will arise are uncertain. Reserves are amounts set aside which do not fall within

the definition of provisions and include general reserves (or 'balances'), which every authority must maintain as a matter of prudence.

**SERVICE** - a cost centre or group of cost centres delivering a common function. The Service is the lowest level of budget detail set out in the Budget Book.

**SLIPPAGE** - where actual expenditure on a project is less than the planned spend in a financial year.

**VALUE FOR MONEY (VFM)** - a term used to assess whether or not an organisation has obtained the maximum benefit from the goods and services it both acquires and provides, within the resources available to it. It not only measures the cost of goods and services, but also takes account of the mix of quality, cost, resource, use, fitness for purpose, timeliness, and convenience to judge whether or not, together, they constitute good value.

**VIREMENT** - the permission to spend more on one budget head when this is matched by a corresponding reduction on some other budget head, i.e. a switch of resources between budget heads. Virement must be properly authorised by the appropriate committee or by Officers under delegated powers.

## CONTRACT PROCEDURE RULES

### Amendments to Contract Procedure Rules

Previous issue            April 2012

Revised issue            August **2015**

| <b>New EU Procurement Directives 2015</b>  |   |                             |                            |
|--|---|-----------------------------|----------------------------|
| <b>Changes to threshold's</b>  | <b>Goods</b><br>£172,514  | <b>Services</b><br>£172,514 | <b>Works</b><br>£4,322,012 |
| <b>New procedures</b>  |   |                             |                            |
| Innovation Partnership (Clause 31)   | Development of innovative products services or works not available on the market.   |                             |                            |
| Competitive Negotiated Procedure (Clause 29)   | <p>Open and Restricted still the “default” options, but must be justified.</p> <p>Similar to previous Competitive Dialogue (CD) process.</p> <p>Should be used where the needs cannot be met without adaptation of readily available solution.</p> <p>Procurement includes design and innovation process.</p> |                             |                            |
| <b>Notable changes</b>   |   |                             |                            |
| On 5 <sup>th</sup> February 2015, the Public Contracts Regulations 2015 (SI 2015/02) were published. These Regulations will replace the Public Contracts Regulations 2006. New EU Procurement Regulations are effective from 26 <sup>th</sup> February 2015.             |   |                             |                            |
| No more Part ‘A’ and Part ‘B’ but a new “Light touch Regime” (LTR) for health, social care and education. As set out In Schedule 3 Regulation 5(1) (d) and 74 Social and other Specific Services. Part 4 Regulations 105 to114 Lord Young’s report (UK interpretation),  |   |                             |                            |
| Self-declaration for PQQ / “European Single Procurement Document” - Regulation 59  |   |                             |                            |
| <p>There is a new requirement for contracting authorities to draw up an Individual Report in relation to every contract, framework or dynamic purchasing system that it awards – Regulation 84</p> <p>This can be replaced by a suitable contract award notice</p>       |   |                             |                            |
| <p>All procurement processes above £25,000 must be published (advertised) through the Governments Contracts Finder (CF) portal, after 1<sup>st</sup> April 2015. Regulations 106 to 112</p> <p>Part 4 Regulations 105 to114 Lord Young’s report (UK interpretation),</p> |   |                             |                            |
| For all electronic procurement process documents must be completed and available through the portal, prior to the OJEU notice publication.   |   |                             |                            |

## BASSETLAW DISTRICT COUNCIL CONSTITUTION PART 5 (DECEMBER 2022) PAGE 5.97

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| All procurement processes must be achieved via an electronic process by 2018.  |
| <b>Most Economically Advantageous Tender (MEAT)</b> will become the standard award criterion replacing the " <i>lowest price</i> "   |
| Preliminary market consultation between contracting authorities and suppliers is encouraged  |
| <b>Contract Procedure Rules - General Changes</b>  |
| Changes to reflect new job titles and roles.   |
| Amendments to reflect current terminology.   |
| For all procurement processes, the Procurement Unit must be consulted. All tenders and Quotations are to be recorded through the Procurement Unit, and a Tender/Quotation reference number issued accordingly. |
| Notification of revised EU Threshold values.   |
| Definition and Glossary of Terms moved to a new Appendix 'I'   |
| New section added – Financial Aspects of Contracts – Appendix 'J'  |
| New clause 3.6 added to cover the requirements of advertising contracts over £25,000   |
| New clause 3.7 added to cover the requirements of advertising ERDF contracts over £20,000  |
| New clause 11.7.2 added to provide clarification on e-Procurement  |
| New clause 12.1 added to provide clarification on receipt of electronic tenders through the e-Tendering system.  |
|  |

**CONTENTS**

|          |  |
|----------|--|
| <b>1</b> | <b>INTRODUCTION</b>  |
| <b>2</b> | <b>SCOPE OF THE CONTRACT PROCEDURE RULES</b>   |
| <b>3</b> | <b>HOW TO USE THE CONTRACT PROCEDURE RULES</b>   |
| <b>4</b> | <b>BEFORE STARTING</b>   |
|          | 4.1 The Council's Corporate Procurement Policy and Strategy<br>4.2 Defining the Requirement and Deciding How to Proceed<br>4.3 Whole Life Costings<br>4.4 Who Can Buy and Authorise Payment  |
| <b>5</b> | <b>ESTABLISHING A PROCUREMENT ROUTE</b>  |
|          | 5.1 Considering Procurement Options<br>5.2 Use of Lead Services and In-House Providers<br>5.3 Use of the Corporate Contracts Catalogue (CCC)<br>5.4 Use of Standing Lists<br>5.5 Use of Purchasing Consortia and Other Framework Arrangements<br>5.6 Use of Consultants to Provide Services<br>5.7 Use of Sub-Contractors/Suppliers  |
| <b>6</b> | <b>FACTORS TO TAKE INTO ACCOUNT/INCLUDE IN A PROCUREMENT EXERCISE</b>  |
|          | 6.1 Ethos of Procurement<br>6.2 Developing a Contract Strategy<br>6.3 Establishing a Procurement Timetable<br>6.4 Use of Project Teams<br>6.5 Risk Management in the Supply Chain<br>6.6 Aggregating Requirements and Purchases<br>6.7 Calculating Contract Values<br>6.8 Public Procurement, Legislation and Council Policy<br>6.9 Building Innovation into Contracts<br>6.10 e-Procurement<br>6.11 Standards<br>6.12 Bonds and Parent Company Guarantees<br>6.13 Insurance<br>6.14 Health and Safety<br>6.15 Income Generating Contracts<br>6.16 Prevention of Corruption and Collusion<br>6.17 Declaration of Interests<br>6.18 Value For Money |
| <b>7</b> | <b>OBTAINING AUTHORITY TO PROCEED WITH PROCUREMENT</b>   |
| <b>8</b> | <b>THE COMPETITIVE PROCUREMENT PROCESS</b>   |
| <b>9</b> | <b>SELECTION OF SUPPLIERS/CONTRACTORS</b>  |

|           |   |
|-----------|---|
| <b>10</b> | <b>LOW AND INTERMEDIATE VALUE PROCUREMENT PROCEDURES (BELOW £50,000)</b>  |
|           | <p>10.1 Low Value Transactions (Between £1 and £5,000)</p> <p>10.2 Low Value Transactions (Between £5,001 and £10,000)</p> <p>10.3 Intermediate Value Transactions (between £10,001 and below £50,000)</p> <p>10.4 Quotation Procedure</p>  |
| <b>11</b> | <b>HIGH VALUE PROCUREMENT PROCEDURES (ABOVE £50,000)</b>  |
|           | <p>11.1 Introduction</p> <p>11.2 The Tender Process</p> <p>11.3 Timetable</p> <p>11.4 Advertisements and EU Notices</p> <p>11.5 Pre-Qualification Questionnaires (PQQ)</p> <p>11.6 Invitation To Tender (ITT)</p> <p>11.7 Return of Invitations To Tender (ITT)</p>   |
| <b>12</b> | <b>RECEIVING AND OPENING TENDERS (ABOVE £50,000)</b>  |
| <b>13</b> | <b>SUBMITTED TENDERS – ERRORS AND VARIATIONS</b>  |
|           | <p>13.1 Clerical Errors (Other Than Errors Affecting the Tender Figures)</p> <p>13.2 Errors Affecting the Tender Figures</p> <p>13.3 Permitted Variations to Tenders</p> <p>13.4 Details to be Recorded</p>   |
| <b>14</b> | <b>EVALUATING TENDERS AND QUOTATIONS</b>  |
| <b>15</b> | <b>AWARDING CONTRACTS</b>   |
| <b>16</b> | <b>PLACING A PURCHASE ORDER</b>   |
| <b>17</b> | <b>AFTER THE PROCUREMENT EXERCISE</b>   |
|           | <p>17.1 Introduction</p> <p>17.2 Records and Documentation</p> <p>17.3 Contract Management</p> <p>17.4 Contracts Register</p> <p>17.5 Disposal of Assets, Land and Property</p> <p>17.6 Variations to Contracts</p> <p>17.7 Liquidated and Ascertained Damages</p> <p>17.8 Contract Extensions</p> <p>17.9 Transfer/Novation of Contracts</p> <p>17.10 Post Project Evaluation</p> <p>17.11 Determination of Whether a Contract has an Embedded Lease</p> |
| <b>18</b> | <b>WHEN THE CONTRACT PROCEDURE RULES DO NOT APPLY</b>   |
| <b>19</b> | <b>OBTAINING PERMISSION TO WAIVE THE CONTRACT PROCEDURE RULES – EXCEPTION REPORTS</b>   |
| <b>20</b> | <b>PROVIDING SERVICES TO EXTERNAL BODIES</b>  |
| <b>21</b> | <b>WHERE TO OBTAIN FURTHER GUIDANCE, INFORMATION AND TEMPLATES</b>  |



|           |  |
|-----------|--|
|           |  |
|           | <b>APPENDICES</b>  |
| <b>A</b>  | Procurement Below £10,000  |
| <b>B</b>  | Procurement Between £10,001 and £50,000                                  |
| <b>D</b>  | Procurement Between £50,001 and EU Threshold (Restricted Procedure)      |
| <b>E</b>  | Procurement Over EU Threshold (Open Procedure)                           |
| <b>F</b>  | Procurement Over EU Threshold (Restricted Procedure)                     |
| <b>G</b>  | Permission to Waive Contract Procedure Rules for Contracts over £5,000   |
| <b>H</b>  | Authorisation to Conduct EU Procurement Exercise                         |
| <b>I</b>  | Definitions and Glossary   |
| <b>J</b>  | Financial Aspects of Contracts   |
| <b>i</b>  | Determination of Whether a Contract has an Embedded Lease – Flow Chart A |
| <b>ii</b> | Assessment of Leased Assets - Flow Chart B                               |

## 1. **INTRODUCTION**

- 1.1. These Contract Procedure Rules (CPR's) set out the rules by which we spend money on the supplies (goods), services and works we need to deliver services to the citizens of Bassetlaw. They are an integral part of the Council's Constitution and must be used in line with the Council's Corporate Procurement Policy and Strategy for any purchase or procurement exercise by ALL employees of the Council or any authorised person buying on behalf of the Council.
- 1.2. As a public authority the Council has a duty to allow the market the freedom of opportunity to trade with it. If the Council fails in this duty, a potential supplier or contractor may have a legitimate cause for complaint.
- 1.3. The CPR's have seven main purposes:
- **To support the delivery** of the Council's Corporate Procurement Policy and Strategy;
  - **To provide a legal framework** for the Council's procurement activities;
  - **To provide an auditable framework** for the Council's procurement activities;
  - To help the Council **obtain value for money** so that in turn it may provide value for money services to the public;
  - To **comply with the UK law** governing spending of public money;
  - To **comply with EU law** as required through the EU Procurement Directives and
  - To **protect staff and members** of the Council from undue criticism or allegation of wrong doing.
- 1.4. Some of the rules set out in the document are required by law, others have to be put in place to provide a complete, clear and coherent framework in which people can work.
- 1.5. In producing these CPR's, it is recognised that they need to be written in plain English to reflect the fact that the great majority of spending is carried out by front-line services and, in line with the policy of the Council, they help ensure that decisions are made by the right people.
- 1.6. These CPR's recognise that the Council has certain responsibilities as a public authority for which it needs to act collectively:
- to make the best use of shared buying power;
  - to produce information to comply with the law; and
  - to understand the big picture of spending activity to allow the Council to plan, to measure and improve performance and to train and develop its people.
- 1.7. Further advice on any aspect of these CPR's and the Corporate Procurement Policy and Strategy can be obtained from:
- The Section 151 Officer (/Head of Finance & Property)
  - The Monitoring Officer (Director of Corporate Resources-)
  - The Council Solicitor
  - The Lead Service Procurement Manager (LSPM).

## **2. SCOPE OF THE CONTRACT PROCEDURE RULES**

- 2.1. The CPR's apply to all the goods, services and works the Council buys, and any supplies/assets it might dispose of. The terms of 'buy', 'purchase', 'procure' and 'commission' are to be interpreted as one and the same thing throughout the document, and the term describes any transaction where the Council is paying any provider for supplies, works or services.
- 2.2. The Section 151 Officer and the LSPM are the custodians of the CPR's and are responsible for keeping them under review. If the European Union (EU) Directives or any other law is changed in a way that affects these CPR's, then that change must be observed until the CPR's can be revised. If our CPR's appear to conflict with EU Directives or any other legislation, then the Directives and legislation take precedence. It is intended that any changes to EU or UK legislation will be notified to Directorates in addition to any necessary changes being made to these CPR's.
- 2.3. Directorates will have their own operational procedures to achieve compliance with these CPR's. The operation of and compliance with these CPR's are also subject to internal audit procedures and review.
- 2.4. Contract Officers responsible for purchasing or disposal must comply with these CPR's, Financial Procedure Rules, Officers Code of Conduct, and with all UK Government legislation and EU binding legal requirements. Contract Officers must ensure that any agents, consultants, and contractual partners acting on their behalf also comply. It is the responsibility of officers to ensure that they are aware of and fully understand these requirements.
- 2.5. Chief Officers must ensure that their staff comply with these CPR's and they are suitably trained. They must also ensure that details of all current contracts are recorded on the Council's Corporate Contract Register, and that all completed contracts are passed to Legal Services for safe keeping.
- 2.6. All relevant contracts must comply with these CPR's. A relevant contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. Relevant contracts do not include contracts of employment, interests in land, treasury management dealings, and the investment of assets of charities and trusts controlled by the Council.

## **3. HOW TO USE THE CONTRACT PROCEDURE RULES**

- 3.1. Throughout the CPR's, references are made to other relevant documents. Therefore, these CPR's should be read in conjunction with those documents, but more specifically, the Corporate Procurement Policy and Strategy.
- 3.2. These CPR's start with the decisions and considerations that need to be made before any procurement exercise can begin. The document then moves on to outline who can buy the things the Council needs, before describing how to establish a procurement route. The CPR's then detail the considerations that may need to be taken into account prior to starting a procurement exercise, along with information on obtaining the authority to proceed.
- 3.3. The competitive process is explained, followed by the procedures required at various levels of spend and for EU Directives. In principle, the rules and procedures for higher-value procurements are stricter than for those of lower value. This is so that the benefits of a more thorough, complex process are not outweighed by its cost relative to the value of the supplies, services or works in question. As the rules for supplies, services and works are similar but not

identical, they are set out as a unified set of procedures, indicating where the rules differ for each category as appropriate.

- 3.4. The tender process is explained, followed by the evaluation of bids and quotes and details regarding the award of contracts. The ensuing sections are concerned with issues such as documentation, contract management and disposal procedures. The remainder of the document gives the exceptions to the CPR's and the procedures to follow to approve an exception. The document ends with particulars on where to find further guidance and advice. Finally the document shows flow charts of the procurement process at each threshold level and provides definitions and a glossary.
- 3.5. The inherent theme throughout these CPR's is based on different rules for different financial values of contracts as follows:
- £1 to £1,000 – no restrictions within the requirements for quotations
  - £1,001 to £5,000 – a minimum of one quote;
  - £5,001 to £10,000 – a minimum of two competitive quotes;
  - £10,001 to £50,000 – a minimum of three competitive quotes;
  - £50,001 upwards – a formal tender process, with a minimum of three bids.
- 3.6 In all procurement processes over £25,000 they **must** be processed through the Procurement Unit to ensure that the procurement opportunity is processed and advertised on the Governments Contracts Finder (CF) portal.
- 3.7 For all ERDF funded projects over £20,000 they **must** be processed through the Procurement Unit to ensure that the procurement opportunity is processed and advertised on the Governments Contracts Finder (CF) portal.

#### **4. BEFORE STARTING**

##### **4.1 The Council's Corporate Procurement Policy and Strategy**

- 4.1.1 All purchasing must be undertaken in line with the Council's Corporate Procurement Policy and Strategy to ensure that all procurement activity contributes, as it should, to the delivery of the Council's Corporate Plan priorities, prevailing at the relevant time.

##### **4.2 Defining the Requirement and Deciding How to Proceed**

- 4.2.1 Before starting any procurement process, Contract Officers need to make sure that they have carefully identified the requirement and fully assessed the options for satisfying it. Additionally Contract Officers must check that there are no alternative procurement options already in place for fulfilling the requirement, which would remove the need for undertaking a separate procurement exercise. These can include but not necessarily be limited to:
- Use of In-house providers (see CPR 5.2);
  - Corporate Contracts (see CPR 5.3);
  - The use of Purchasing Consortia & Framework Arrangements (see CPR 5.4);
  - Utilising Framework Arrangements already set up by other Local Authorities and CCS which have already been exposed to EU competition and allow access to them by other Councils (see CPR 5.4); and
  - Collaborating with other Directorates and/or Local Authorities.

4.2.2 In line with best practice, Contract Officers should undertake a formal, evidence-based analysis when considering options for the delivery of a requirement (these principles should be applied equally to supplies, services or works). This is commonly referred to as an 'Options Appraisal'. Further guidance on conducting an Options Appraisal can be sought from the LSPM. The options include:

- Not providing the service/supplies/works at all;
- Alternative methods of providing the service/supplies/works;
- Providing the service/supplies/works in-house; or
- Utilising another method of provision (see CPR 5.1).

4.2.3 In advance of undertaking any procurement process it must be ensured that:

- the requirement being procured is in line with the Council's Corporate Procurement Policy and Strategy, and the Value for Money Strategy, and contributes towards the achievement of the Council's Corporate Plan priorities;
- an options appraisal has taken place (where appropriate given the requirement);
- the **budget is available**, and the business case established using whole life costings (see CPR 4.3);
- the project size, type and scope established (where appropriate in accordance with the Project Management Guidelines) (See CPR 6.4);
- Project team is established for contracts valued at £250,000 and over (see CPR 6.4), and where appropriate in accordance with - Project Management Guidelines;
- the size, scope, whole life costings and specification of the supplies, services or works required is established (although this may be in the most general terms where the negotiated or competitive dialogue procedures are being pursued); and
- The correct authority to proceed has been obtained (see CPR 4.4 and CPR 7).

### 4.3 Whole Life Costings

4.3.1 In order to establish the correct value of a procurement the 'whole life costing' needs to be taken into account. This means the value of the supplies, services or works over their lifetime from inception to disposal including any appropriate sustainability issues. For example in respect of vehicles:

- When purchasing vehicles, the whole life cost should include the cost of purchase, running and maintenance costs, training, environmental impact and residual values or opportunities for recycling at the end of the contract as well as any cost of disposal.
- For leasing vehicles, whole life costing can mean the costs of leasing including the cost of restoring the vehicle back to the condition required by the lessor prior to returning it, additional mileages etc.

4.3.2 Whole life costings should be used when informing the business case for undertaking procurement as well as any other decisions around options appraisal e.g. the decision whether to lease or buy, and provide in-house or buy in respect of supplies, services and works.

### 4.4 Who Can Buy and Authorise Payment

4.4.1 Each Director/Head of Service is responsible for carrying out their functions and providing services within the annual budget delegated to them. Authority is delegated by the Council's Constitution to the Chief Executive, Director/Head of Service to procure supplies, works and services in accordance with these CPR's.

- 4.4.2 To carry out their functions and to provide the relevant services, each Director/Head of Service will need to purchase various supplies, works and services. These supplies, works and services will be procured from a range of internal and external providers.
- 4.4.3 It is the responsibility of the Chief Executive and Director/Head of Service to ensure that all Council policies, strategies, procedures and good practice relating to procurement are understood and followed by staff.
- 4.4.4 Wherever possible each Director/Head of Service should delegate authority to appropriate Contract Officers within their Directorate/Service Area to procure on their behalf. It is the Director/Head of Service's responsibility to ensure that staff undertaking procurements have the necessary training and knowledge to undertake the procurement in line with CPR's.
- 4.4.5 Each Director/Head of Service must provide a list of Contract Officers who can buy and authorise payment on their behalf, specifying a maximum financial limit for each transaction to the Accountancy Section, who will update and maintain the list annually. Any starters/leavers during the year also need notifying to the Accountancy Section.
- 4.4.6 For any procurement of a value which exceeds the EU threshold, the 'Authority to Proceed' process detailed in CPR 7 must be followed. For procurement activity of a strategically important or politically sensitive nature\*, the Director/Head of Service must:
- Seek a decision from the Cabinet as to whether bids are to be invited under the Director/Head of Service's recommended strategy for procurement of the requirement; and
  - Once bids have been evaluated, seek a further decision from the Cabinet as to whether a contract is to be awarded.

\* Examples of 'politically sensitive' procurement can include but are not limited to:

- Disposal of significant assets;
  - Externalisation of major services or contracts;
  - Transfer of significant numbers of staff;
  - Procurement involving amendments to frontline service delivery; and
  - Any procurement which has the potential to result in adverse publicity for the Council.
- 4.4.7 Each Director/Head of Service must ensure that any staff with delegated authority to purchase complies with the Council's Corporate Procurement Policy and Strategy to ensure that:
- Any procurement activity carried out is in accordance with the Council's corporate objectives;
  - Information is provided quarterly to the LSPM of all contracts valued £5,000 and over to ensure that the Council's Corporate Contracts Register is kept up to date;
  - Advice is sought from the LSPM as appropriate.

## **5. ESTABLISHING A PROCUREMENT ROUTE**

### **5.1 Looking at Procurement Options**

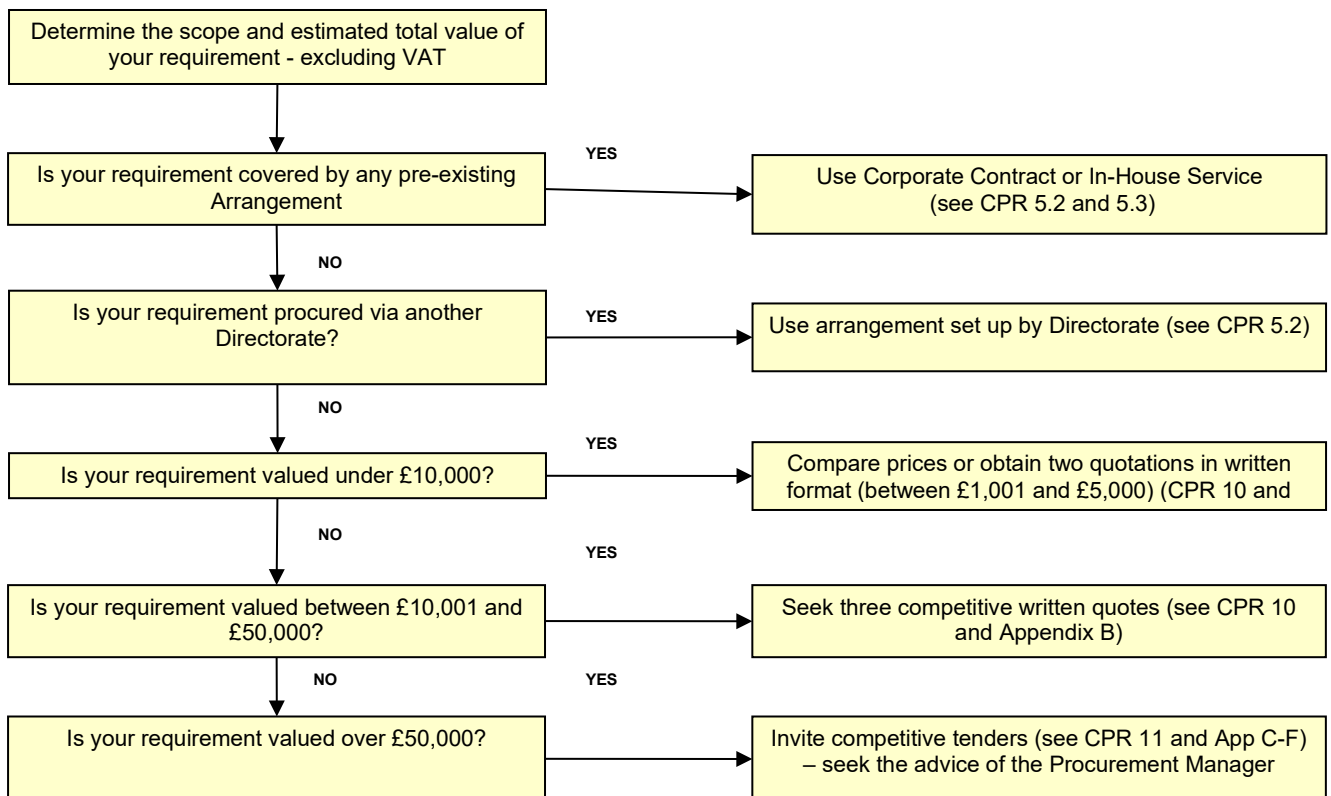
- 5.1.1 Once the need for conducting a procurement exercise has been established, consideration should be given to the most appropriate procurement routes to take, and it will be necessary to decide upon a strategy by which the supplies, works or services will be acquired. This means taking a step back from the traditional purchasing process and assessing the options, this applies

particularly to the provision of services. The LSPM can advise, but examples of procurement options available include, but are not limited to:

- provision via an existing corporate contract or framework arrangement;
- getting someone else to provide the service (“outsourcing”/ provision by the private or voluntary sector);
- providing the service in partnership with someone else (with the private or voluntary sector);
- by commissioning jointly with one or more other local authorities;
- through shared services arrangements.

5.1.2 These CPR’s govern any option that results in a contract.

5.1.3 Where an option to proceed with a competitive procurement exercise has been chosen, the following flow chart will determine the appropriate procedure to be used:



5.1.4 As an alternative to seeking individual quotations, expressions of interest can be sought from the *Source Nottinghamshire* website. Please contact the LSPM for further details.

**5.2 Use of Lead Services and In-House Providers**

5.2.1 The Council prescribes a number of Lead services, and any Directorate/Service Area undertaking procurement in these areas must be guided by that service. The Lead services are as follows:

- All Information Communication Technology (ICT) requirements/service - the Council’s ICT service;

- Specialist Services (Architects, Facilities and Estates Management Service etc) for the commissioning of building works, accommodation and facilities management. These works are where a permit for work **MUST** be obtained – Property Services;
- Engineering Services for the commissioning of engineering and non-building construction works – Property Services;
- Fleet Operations Manager, Environmental Services for the procurement of all vehicles/plant.

5.2.2 It should be noted that 'Procurement' is not the same as 'Commissioning', although you may hear them used interchangeably. Commissioning is the process of specifying, securing and monitoring services to meet people's needs at a strategic level. An ongoing process, it deals with whole groups of people, which distinguishes it from the process of buying individual services.

5.2.3 Where there is an in-house provider, they should be considered as potential providers of the required supplies, services or works, and should be invited to submit bids as part of the competitive process.

### **5.3 Use of the Corporate Contracts Catalogue (CCC)**

5.3.1 The use of the Council's Corporate Contracts Catalogue is **mandatory** and **must** be used unless the conditions existing in CPR 5.3.4 arise.

5.3.2 Corporate contracts are those where prices and terms are agreed with a supplier for an estimated quantity of supplies or services without commitment until confirmed by a separate purchase order. They offer benefits of bulk buying, improved service and reduced administration costs. Currently only a small number of corporate contracts are linked to the finance system. For details of corporate contracts please refer to the procurement Team at [procurement@bassetlaw.gov.uk](mailto:procurement@bassetlaw.gov.uk)

5.3.3 A corporate contract is where it has been competitively tendered in line and compliance with the Councils CPR's, and is appropriate to its estimated contract value.

5.3.4 Where, for reasons of specification, timescale or availability, a Directorate/Service Area needs to deviate from a corporate contract for the supplies or services that they require, then they must complete and submit an exception report to the Procurement Manager for consideration. (See CPR 19 and Appendix G).

### **5.4 Use of Purchasing Consortia and Other Framework Arrangements**

5.4.1 A Framework Arrangement is a general term for agreements with suppliers/contractors which set out terms and conditions under which specific purchases (or "call offs") can be made during the period of the Agreement, which must not exceed four years.

5.4.2 Some contracts and framework agreements have been negotiated by other Local Authorities, Local Authority Purchasing Consortia such as Eastern Shires Purchasing Organisation (ESPO), or Central Government agencies such as the Crown Commercial Services (CCS) e.g. Central Purchasing Bodies (CPB's) e.g. PRO5 or East Midlands Efficiency (EEM) Ltd. These may be used provided that the requirements of EU Regulations, these CPR's and Value for Money considerations have been taken into account. The Council may then benefit from using those contracts without entering into a separate procurement exercise. However, the terms of such Framework Arrangements and the appropriate Contract Award processes must be followed, including ALCATEL Standstill periods where appropriate. Advice will be sought as appropriate from the LSPM.



- 5.4.3 Framework Arrangements via Purchasing Consortia are used where the Council wishes to contract for the provision of supplies, services or works without conducting a new procurement exercise. However, the Framework Arrangement may include within its terms a requirement for a mini competition exercise between those suppliers/contractors who are parties to the Framework Arrangement.
- 5.4.4 The use of these are authorised, except where the Council's own corporate contracts exist for these supplies and services or a particular Consortia or Government contract has been specified for use within the CCC.
- 5.4.5 There are specific framework agreements that can be used by the Council as follows:
- Constructionline – This is an accreditation service previously maintained on behalf of the central government to pre-qualify companies in the construction sector rather than use a Pre-Qualification Questionnaire. It is not a Standing List, as it has already qualified companies for the elements required, such as financial standing, health and safety etc. It should **only** be used to extract a long list of pre-qualified suppliers/contractors for construction projects under the EU threshold.
  - It should be noted that Construction line **must not** be used where a scheme is to be funded through ERDF funding.
  - East Midlands Property Alliance (empa) – The Alliance has worked together to produce a number of Construction Frameworks for such examples as “Intermediate Construction Projects” up to £7.5 million, and “minor works projects” up to £2.5 million for small projects and refurbishments. The Council can use these Frameworks to avoid the Invitation To Tender process as it has already been undertaken by the Alliance in creating the Frameworks. Hence the Council would be able to run “mini-competition” from a number of construction companies. The existing Frameworks can be found on the EMPA website.

## **5.5 Use of Consultants to Provide Services**

- 5.5.1 Consultants, including technical and management consultants, shall be selected and commissions awarded in accordance with the procedures detailed in these CPR's.
- 5.5.2 The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.
- 5.5.3 Consultants shall be required to provide evidence of, and maintain professional indemnity (PI) insurance policies to the satisfaction of the Director/Head of Service after consultation with the Section 151 Officer, for the periods specified in the respective agreement and any subsequent liability.

## **5.6 Use of Sub-Contractors/Suppliers**

- 5.6.1 This section shall apply where a sub-contractor or a supplier is to be nominated to a main contractor.
- 5.6.2 The same principles that apply to all contracts under these CPR's shall apply to sub-contractors i.e. quotations for contracts under £50,000 and formal tender in excess of £50,000.
- 5.6.3 The terms of any invitation for nominated sub-contractors or suppliers must require that, if selected, the firms would be willing to enter into a contract with the main contractor on terms that indemnify both the main contractor and the Council on the areas of work or services that they undertake. We have a policy to achieve Payment Terms of, 10 days as standard.

## **6. FACTORS TO TAKE INTO ACCOUNT/INCLUDE IN A PROCUREMENT EXERCISE**

### **6.1 Ethos of Procurement**

- 6.1.1 The approach adopted by the Council in respect of undertaking procurement is one of adhering to the EU Directives, regardless of the value of the contract. This means that the process should be fair, open, transparent and auditable.
- 6.1.2 The Corporate Procurement Policy and Strategy aims to ensure that value for money or best value is achieved within all procurement activity. This may not necessarily mean choosing the cheapest option, as it also takes account of quality issues (see CPR 14 with regard to evaluating bids).
- 6.1.3 The Council aims to achieve sustainability wherever possible within its procurement activity. Sustainability is the term used to recognise that social, economic and environmental issues are linked and must be addressed together. Taking sustainability into account in the procurement process (within the constraints of achieving value for money) means:
- Ensuring that the needs of different local communities and service users are met when assessing the business need for a requirement, in writing specifications, evaluating tenders and throughout the delivery of the requirement.
  - Addressing environmental issues throughout the tender process, in the delivery and design of contracts, which continue to improve in quality and Value for Money.
  - Developing an approach to whole life costing for each requirement, including the life cycles from inception to final disposal.
  - Linking the whole process into the Equality and Diversity Strategy and compliance with the requirements of the Equality Act 2010.
- 6.1.4 The Council will ensure an equality of opportunity within its procurement activity by operating an open and transparent procurement process that is easily accessible to all (see CPR 6.8).
- 6.1.5 Consideration will be given to ethical sourcing e.g. 'fair trade' and Corporate Social Responsibility (CPR) issues through the procurement process, particularly in terms of the management of supply chains and labour sourcing.

### **6.2 Developing a Contract Strategy**

- 6.2.1 Directors/Heads of Service will ensure that adequate planning of all anticipated procurement projects within a financial year are submitted within their Directorate's Service Improvement Plan as part of the ongoing business planning process. The LSPM should be advised of any additional large-scale projects as soon as possible once the initial Directorate's Service Improvement Plan has been approved. This is to ensure that any collaborative opportunities can be identified and any necessary resources can be considered.
- 6.2.2 Once the decision has been taken to procure supplies, services or works, a contract strategy should be determined at the outset of the procurement exercise. This is particularly important when undertaking intermediate and high value procurement exercises. There are many areas that may need to be considered to ensure that the contract is beneficial both to the Council and the potential suppliers/contractors. As the strategy is developed a timetable will emerge, and it will be essential that Contract Officers allow enough time to comply with these CPR's (see CPR 6.3). If the contract is subject to EU Regulations the timetable will need to include mandatory minimum time periods e.g. 10 days Alcatel standstill period. Guidance from the LSPM should be sought.

### **6.3 Establishing a Procurement Timetable**

6.3.1 The timetable for a procurement exercise has many contributory factors. However the success or failure of a procurement exercise and delivery of the required supplies, services or works on time can be dependent upon understanding the factors that can influence the timetable for procurement, these can include but are not limited to:

- Use of pre-existing arrangements where available – useful when a requirement must be speedily procured. (See CPR 5.2 – 5.4);
- Size of the procurement exercise – which procedure must be followed. Higher value procurement exercises usually mean longer timescales are involved. EU procurement timetables can mean longer mandatory timescales that need taking into account. (See CPR 10 and 11 and Appendices A - F);
- Use of the Project Management Guidelines;
- Time to obtain approval to proceed;
- Time required to compile tender documents including specification, tender evaluation plans where appropriate etc;
- Time required for the advertisement and return of bids where applicable (see CPR's 11.4 and 11.6 and Appendices C-F);
- Time required for evaluation of bids received (including meetings of evaluation team, site visits, examination of technical/financial/reference data etc.);
- Time to obtain appropriate approval to proceed with award of contract (see CPR 15);
- Time to prepare the formal contract;
- Lead time needed for rolling out of the service, works or manufacture and supply of goods;
- The date by which an existing contractual arrangement will expire.

### **6.4 Use of Project Teams**

6.4.1 Directors/Heads of Service should ensure that any procurement is undertaken in line with the Project Management Guidelines, where appropriate. However, any procurement exercise for Services and Works likely to cost in excess of £250,000 will benefit from the formation of a Project Team established for that purpose.

6.4.2 A Project Team approach should also be considered where a purchase falls below £250,000, and any of the following criteria apply:

- Where the procurement is of a strategic or politically sensitive nature (see CPR 7.2);
- Where the procurement being undertaken is high risk or complex; and
- Where a Project Team approach would be beneficial to the Council.

6.4.3 The Project Team structure should be tailored to the procurement activity being undertaken. However it is recommended that a core team be recruited and in addition, specialist input and advice sought from the following:

- Finance;
- Human Resources (where there are TUPE, HR and Training implications);
- Legal Services (where specialist advice is required, including advice on the form of contracts prior to seeking tenders); and
- The LSPM (where specialist advice is required).

6.4.4 Wherever it is anticipated or there is a potential that Transfer of Undertakings (Protection of Employment) (TUPE) will be encountered as part of a procurement exercise, a Union representative should be recruited to the Project Team at its inception.

6.4.5 It should be noted that project members may not be required to attend every Project Team meeting, and instead should provide advice or attend at appropriate stages of a project. This is to ensure that officers provide their most effective and efficient contribution to the procurement project and best use is made of officer time.

6.4.6 Further guidance on projects and project teams can be found in the Project Management Guidelines.

## **6.5 Risk Management**

6.5.1 The Council is exposed to many types of risk, i.e. the probability of incurring misfortune or loss, and has developed a Risk Management Strategy to help staff assess the risks involved when conducting a procurement exercise. For further information please refer to the Risk Management Strategy which is published on the Council's intranet.

6.5.2 For all procurements, an appropriate level of risk assessment will be undertaken as part of the options appraisal and business case development, and shall be reviewed and updated as part of the procurement process. For the avoidance of doubt, it is a requirement of the Constitution that Directors/Heads of Service must be satisfied that an appropriate risk assessment has been undertaken when either (i) exercising delegated powers or (ii) submitting reports to Elected Members.

6.5.3 If an EU procurement exercise is contemplated, a risk assessment **must** be undertaken. In all cases, where the establishment of a Project Team is required by these CPR's, the Monitoring Officer as Corporate Risk Manager should be notified.

## **6.6 Aggregating Requirements and Purchases**

6.6.1 Whenever possible, requirements for supplies, services and works must be aggregated. On no account should any requirement be split in an attempt to avoid using the proper procedure under these CPR's or EU Directives.

6.6.2 Where a recurring pattern of purchases can be seen for supplies, services or works, consideration should be given as to whether one or more corporate contracts would represent better value in terms of price, service, invoicing or other administration costs. Where the aggregate annual spend on a given category of supplies or services exceeds the relevant EU threshold, all such requirements must be advertised under EU Directives (i.e. be published in the Official Journal of the European Union (OJEU) in conjunction with the LSPM).

## **6.7 Calculating Contract Values**

6.7.1 Future contract values should be calculated using estimated annual costs (taking into account whole life costings – see CPR 4.3). All periods of a future contract need to be taken into account including any proposed extensions. For example a two year contract with two 12 month extension periods (giving a total of 4 years) valued at £25,000 would mean an overall contract value of £25,000 x 4 years = £100,000. All calculations should be made exclusive of VAT.

6.7.2 When considering the value of a procurement requirement, and which procurement procedure to use, it is the contract value calculated as shown above at CPR 6.7.1 that should be used for informing decisions.

## **6.8 Public Procurement, Legislation and Council Policy**

### Equality and Diversity Legislation

- 6.8.1 The Council provides a wide range of services to the community and businesses in the District. In some cases these are provided directly by officers employed by the Council, but in other cases, contractors and partners may provide them on its behalf. Each year the Council enters into contracts worth many millions of pounds for buying goods, works and services on behalf of the Bassetlaw District community. Therefore, the services provided to the community should be geared towards their diverse needs and requirements. Spending by the Council sustains and maintains a significant number of jobs within the District, and the Council has a statutory duty to ensure that public money is spent in a way that ensures value for money and does not lead to unfair discrimination and social exclusion.
- 6.8.2 Much of the legislation around Equalities and Diversity was amalgamated within the Equality Act 2010. One of the Act's main objectives is "*to enable duties to be imposed in relation to the exercise of public procurement functions*". The Act and Codes of Practice do this by strengthening the Equality Statutory Duty on Public Bodies and their suppliers through Public Procurement (Equality Act 2010, Part II Advancement of Equality Chapter 1 Public Sector Equality Duty Clauses 149 to 157). The requirement requires that all public authorities must, in the exercise of their functions, have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality and foster good relations.

### Other Legislation to Consider

- 6.8.3 Along with the Equality and Diversity legislation, there are other legal requirements that must be considered when tendering for supplies, services and works. These include, but are not limited to: -
- Human Rights Act 1998;
  - Health & Safety Legislation;
  - Freedom of Information Act 2000;
  - Data Protection 1998;
  - 2006 Transfer of Undertakings (Protection of Employment) regulations known as 'TUPE'.

### Council Policies

- 6.8.4 All procurement activity must take place in line with Council policies and procedures, including the Council's Corporate Procurement Policy and Strategy and these CPR's. These are constantly being improved and amended, and it is important that those undertaking procurement do check to ensure which policies will apply to the procurement exercise and they are using the most up-to-date policy. These policies could include, but are not necessarily limited to:
- **The Corporate Plan;**
  - Corporate Equality Scheme;
  - Environmental Policies;
  - Value for Money Strategy;
  - Project Management Guidelines;
  - Risk Management Strategy;
  - Health and Safety Policy;
  - Whistleblowing Policy.

## **6.9 Building Innovation into Contracts**

- 6.9.1 When procuring a new requirement or re-tendering for an existing requirement, consideration should be given to allowing potential for innovation, such as the use of new technologies and different methods of delivery. It is not necessarily best value for money to continue to provide supplies, services or works in the manner they were provided previously. This requires re-assessment wherever possible before undertaking procurement.
- 6.9.2 When compiling specifications ready for undertaking procurement, consideration should be given to allowing bidders the latitude to introduce suggestions for innovation as well as bidding against the specification as laid out. Additionally, consideration should be given as to whether an 'outcome' based specification would be appropriate, which looks at the end results rather than the means of delivery, as opposed to a traditional 'input' based specification that needs to be prescriptive in all its aspects. A hybrid of these two approaches tends to be the most suitable.
- 6.9.3 In this regard, suitable and adequate controls need to be in place as part of the contracting procedure, and the evaluation model notified to potential bidders should clearly explain the scoring criteria.

## **6.10 E-Procurement**

- 6.10.1 Increasingly, E-Procurement methods are becoming more prevalent and accessible. With this in mind consideration should be given to usage of the following, either in the tender process, or the resultant contract:
- a) E-auctions;
  - b) E-tendering;
  - c) E-catalogues;
  - d) E-ordering and invoicing;
  - e) Web access;
  - f) Electronic contract monitoring and management (including web access).

6.10.2 Further advice on the above should be sought from the LSPM.

## **6.11 Standards**

- 6.11.1 Where an appropriate European or British Standard Specification or British Standard Code of Practice exists, this should be stated within the specification and the contract. This is to ensure that supplies, services or works are provided to a minimum acceptable standard, and ensure compliance with Council policies. For EU tenders the ISO standards should be specified.
- 6.11.2 Where standards do not exist, consideration should be given to using generally accepted and appropriate trade standards or their equivalent. Contracts shall contain all requirements and procedures that are necessary to ensure compliance with the Council's Health and Safety, and Environmental policies.

## **6.12 Bonds and Parent Company Guarantees**

- 6.12.1 The Contract Officer, when assessing the suppliers/contractors financial viability shall consider whether the Council requires security for due performance of the contract.
- 6.12.2 The Contract Officer **must** consult the Section 151 Officer about whether a Parent Company Guarantee is necessary when a candidate is a subsidiary of a parent company and the total value exceeds the EU threshold.

6.12.3 Where security is considered to be appropriate and required, the Contract Officer in consultation with the appropriate officers, shall specify in the tender the nature and amount of the security to be given. This shall apply to all works contracts in excess of £500,000, and as a minimum shall be at least 10% of the total value of the contract.

6.12.4 The security shall be obtained by the supplier/contractor from an institution or bank, and in the format approved by the Section 151 Officer. As an alternative, the supplier/contractor may deposit the equivalent sum of money with the Council.

6.12.5 In the case of works provided by other local authorities, a bond guarantee will not be required.

### **6.13 Insurance**

6.13.1 In connection with the carrying out of all works, irrespective of value, the supplier/contractor shall indemnify the Council and provide such insurance as may be required under the conditions of the contract. This shall, as a minimum, indemnify the Council against injury and damage to persons and property. The minimum value for any one occasion or series of occasions arising out of one event shall be based upon:

- a) Circumstances relevant to the particular contract in question;
- b) A minimum value periodically determined by the Section 151 Officer (currently £5,000,000 or a higher value where considered appropriate).

6.13.2 The Contract Officer shall ensure that the appropriate insurance documents have been submitted by the supplier/contractor in conjunction with the contract conditions.

6.13.3 The Contract Officer shall ensure that the adequacy of the submitted insurance documents is confirmed by the Council's Insurance Officer.

6.13.4 The Contract Officer shall ensure that insurance cover is maintained throughout both the period of the contract and the maintenance period, where appropriate.

### **6.14 Health and Safety**

6.14.1 In connection with the carrying out of all works, irrespective of value, the supplier/contractor shall provide to the Council all of the Health and Safety details as may be required by Statute and under the conditions of the contract.

### **6.15 Income Generating Contracts**

6.15.1 Contracts that generate income shall only be entered into if the relevant Director/Head of Service is satisfied that:

- The relevant power to provide a service (for a service contract) and the resources and time required have been properly identified and the proposed contract is in the best interest of the Council;
- Where the income is to be generated by the granting of a concession e.g. the opportunity to an external provider to provide an income generating service at Council events/premises, then the opportunity in terms of contract value should follow the guidance outlined in Section 8 of these CPR's. The offers submitted should be evaluated to assess which offer is most economically advantageous to the Council, and the terms of any contract shall be clearly set out in writing.

### **6.16 Prevention of Corruption and Collusion**

6.16.1 The Contract Officer must comply with the Council's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Contract Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory, and corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in CPR 6.16.2 below.

6.16.2 The following clause must be put in every written Council contract:

*"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the contractor's behalf do any of the following things:*

- a) *Offer, give, or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done), or*
- b) *Commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or*
- c) *Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contracts or employees.*

*Any clause limiting the contractor's liability shall not apply to this clause."*

6.16.3 The LSPM, Section 151 Officer, and the Monitoring Officer shall undertake periodic reviews of tenders submitted by successful suppliers/contractors to consider the potential for tenderer collusion and cartels.

6.16.4 All officers, Members, and potential and existing suppliers/contractors must be aware of the Council's Whistleblowing policy.

## **6.17 Declaration of Interests**

6.17.1 If it comes to the knowledge of a Member or an employee of the Council that a contract in which they have a personal or prejudicial interest that has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer, who will report such declarations to the Audit and Risk Scrutiny Committee.

## **6.18 Value For Money**

6.18.1 All purchasing procedures should ensure that value for money in terms of spending public money is achieved. Value for money is not always the lowest possible price. For goods and services it is a combination of the price and quality aspects of the bid that identifies the highest overall combined score. The quality aspect can be a combination of requirements to meet the Council's needs, including but not limited to quality management systems, compliance with the specification, project plan, health & safety aspects, environmental, on-time delivery, previous experience, references, etc. The winning bid should be demonstrated through the evaluation matrix, with the winning score being the highest overall combined score for price and quality,

## **7 OBTAINING AUTHORITY TO PROCEED WITH PROCUREMENT**

7.1 Having obtained approval for the business case and budget, a procurement process must only be undertaken once the approval has been obtained as described in the table and having considered CPR 7.2 below.



| <b>Authority Levels to Proceed with Procurement – Below EU Threshold Levels</b> |  |
|---|--|
| A)  | Where the contract is for a <b>Services / Supplies</b> contract below the EU Threshold and is: <ol style="list-style-type: none"> <li>i) below £10,000 approval to proceed with procurement must be obtained from the relevant Service Manager.</li> <li>ii) above £10,000 and below £50,000 approval to proceed with procurement must be obtained from the relevant Director/Head of Service or their nominee.</li> <li>iii) exceeds £50,000 and is below the EU Threshold approval to proceed with procurement must be obtained from the relevant Director/Head of Service in consultation with their Portfolio Holder.</li> </ol>   |
| B)  | Where the Contract is a <b>Works</b> contract below the EU Threshold and is: <ol style="list-style-type: none"> <li>i) below £10,000 approval to proceed with procurement must be obtained from the relevant Service Manager.</li> <li>ii) above £10,000 and below £50,000 approval to proceed with procurement must be obtained from the relevant Director/Head of Service or their nominee.</li> <li>iii) exceeds £50,000 and is below the EU Threshold approval to proceed with procurement must be obtained from the relevant Director/Head of Service in consultation with their Portfolio Holder.</li> </ol>   |
| <b>Authority Levels to Proceed with Procurement – Above EU Threshold Levels</b> |  |
| C)  | Where the proposed contract value exceeds the relevant EU threshold and the EU procurement legislation applies, no procurement should be undertaken until approvals have been obtained using the ' <i>Authorisation to Conduct EU Procurement Exercise</i> ' form (see Appendix H). Additionally: <ol style="list-style-type: none"> <li>i. In the first instance advice must be obtained from the Procurement Manager;</li> <li>ii. Provided advice has been obtained from the Procurement Manager, initial approval must be sought from the relevant Director in consultation with the relevant Portfolio Holder;</li> <li>iii. The request for an EU procurement must then be forwarded to the Monitoring Officer for final approval as to whether the procurement process is required to be approved by Cabinet, or may proceed under delegated powers;</li> <li>iv. The final completed form must be copied to the Procurement Manager who will retain the copy and assist in placing any notices in the Official Journal of the European Union and advise on how the procurement should proceed e.g. the establishment of a Project Team as set out in CPR 6.4.</li> </ol> |

7.2 For procurement activity of a strategically important or politically sensitive nature\*, Directors/Heads of Service must:

- Seek a decision from the Cabinet as to whether bids are to be invited under the Directors/Head of Service's recommended strategy for procuring the requirement; and
- Once bids have been evaluated, seek a further decision from the Cabinet as to whether a contract is to be awarded.

\* Examples of 'politically sensitive' procurement can include but are not limited to:

- Disposal of significant assets;

- Externalisation of major services or contracts;
- Transfer of significant numbers of staff;
- Procurement involving amendments to frontline service delivery; and
- Any procurement, which has the potential to result in adverse publicity for the Council.

## 8. **THE COMPETITIVE PROCUREMENT PROCESS**

8.1 Having calculated the value of the contract (see CPR 6.7), the most appropriate procurement route must be established. In principle, the rules for higher-value orders and contracts are stricter than those for lower-value ones. This is so that the benefits of a more thorough, complex process are not outweighed by its cost relative to the value of the supplies, services or works in question.

8.2 Contract values will fall into different threshold levels, and this will determine which procurement procedure is to be followed. In brief the procedures are outlined below:

|                             |   |
|-----------------------------|---|
| Between £0 and £1,000       | No restrictions and no requirement to get quotations  |
| Between £1,001 and £5,000   | One quote required (see CPR 10.1).  |
| Between £5,001 and £10,000  | Compare prices or seek two comparable quotations (see CPR 10.2). Alternatively, expressions of interest can be attained through the <i>Source Nottinghamshire or Derbyshire</i> website for a competitive process - contact the LSPM for further advice). |
| Between £10,001 and £50,000 | Obtain a minimum of three written quotations (see CPR 10.3)   |
| Above £50,000               | Formal tender process (see CPR 11)  |

8.3 The above thresholds are subject to a tolerance of 5% where the value of any quotation exceeds the original estimate and is below the EU thresholds.

8.4 Directors/Heads of Service or their nominees must be aware that when selecting suppliers/contractors, a single company is not consistently favoured at the detriment of others. This means that the shortlisted companies should be varied between individual contracts to avoid the over-use of a single supplier/contractor.

## 9. **SELECTION OF SUPPLIERS/CONTRACTORS**

9.1 For contracts under £50,000, these Contract Procedure Rules expect that a number of quotations are sought before selecting a successful supplier/contractor.

9.2 These quotations can be sought from local suppliers/contractors at the discretion of the -Head of Service or their nominee.

9.3 For contracts in excess of £50,000, Contract Officers must consider the following process in conjunction with guidance from the LSPM:

- i) Publish/advertise requirement;
- ii) Suppliers respond to advert;
- iii) Council issues tender documents through the Due-North e-Tendering system [www.eastmidstenders.org](http://www.eastmidstenders.org)
- iv) Suppliers submit their tender bid and associated documentation through the system

## 10 **LOW AND INTERMEDIATE VALUE PROCUREMENT PROCEDURES (BELOW £50,000)**

### **10.1 Low-Value Transactions (Between £0 and £1,000)**

10.1.1 For transactions between £0 and £1,000 there are no restrictions and no requirement to obtain competitive prices

10.1.2 In all cases, a formal purchase order shall be shall be issued (see CPR 16).

### **10.2 Low-Value Transactions (Between £1,001 and £5,000)**

10.2.1 For transactions valued between £1,001 and £5,000 only a single quote is required. **Written formats may include**, e-mail, catalogue and website pages or copies, advertisements or marketing material, price lists, letters, etc. A formal purchase order shall be issued specifying the supplies, services or works and setting out prices and terms of payment.

10.2.2 In all cases, the successful quotation shall be accepted by means of a formal purchase order (see CPR 16).

### **10.3 Low-Value Transactions (Between £5,001 and £10,000)**

10.3.1 For transactions valued between £5,001 and £10,000 where a Directorate/Service Area does not elect to pursue a purchase using a pre-existing arrangement in accordance with CPR 5.2 to CPR 5.5, prices should be compared or two quotations should be sought. **Written formats may include** fax, e-mail, catalogue and website pages or copies, advertisements or marketing material, price lists, letters, etc. A formal purchase order shall be issued specifying the supplies, services or works and setting out prices and terms of payment. See Appendix A for a diagram of the procurement procedure for purchases below £10,000.

10.3.2 In all cases, the successful quotation shall be accepted by means of a formal purchase order (see CPR 16).

10.3.3. All such purchases **must** be recorded and noted as a purchase which should be reported as required by the Transparency Code 2014.

### **10.4 Intermediate-Value Transactions (Between £10,001 and £50,000)**

10.4.1 For transactions valued between £10,001 and £50,000 that cannot be satisfied using a pre-existing arrangement in accordance with CPR 5.2 to CPR 5.4, ordinarily a minimum of 3 written competitive quotations i.e. e-mail or letter to a designated officer and address, must be sought (or 4 if inviting an in-house provider). See Appendix B for a diagram of the procurement procedure for purchases between £10,001 and £50,000. Additionally, where appropriate, an advertisement may be placed on the Council website and/or on *SourceNottinghamshire* (or *Source Derbyshire*) website if appropriate.

10.4.2 In all cases, the successful quotation shall be accepted by means of a formal purchase order (see CPR 16).

## 10.5 Quotation Procedure

10.5.1 Quotations in a non-electronic format should be returned in a plain sealed envelope bearing the words “quotation for...” but with no other name or mark identifying the sender. The quotations must remain in the custody of the Director/Head of Service or their nominee until the date and time specified for the opening. All quotations (including electronic submissions) should be opened and recorded at the same time in the presence of two officers designated by the Director/Head of Service, and these officers must sign and date each individual quotation at the time of opening, plus the summary list.

## 11 HIGH-VALUE PROCUREMENT PROCEDURES (ABOVE £50,000)

### 11.1 Introduction

11.1.1 For transactions valued over £50,000 that cannot be satisfied using a pre-existing arrangement in accordance with CPR 5.2 to CPR 5.4, a formal tender process must be conducted and tenders must be sought and obtained using a formal Invitation to Tender (ITT) process.

11.1.2 An advertisement must be placed on the Council’s and *SourceNottinghamshire* or *SourceDerbyshire* websites (see CPR 11.4).

11.1.3 As previously indicated all procurement activity should be conducted so that it contributes to the achievement of the priorities within the Council’s Corporate Plan. When conducting a procurement exercise, a ‘contract strategy’ should be developed to assist in the decision making process.

11.1.4 It is recommended that a Project Team be established for all procurement exercises where the contract value exceeds £250,000 (see CPR 6.4).

### 11.2 The Tender Process

11.2.1 In line with the EU Consolidated Directives there are a range of procurement processes available for Tenders over £50,000. The ones most appropriate to the Council are listed below:

1. Open Procedure;
2. Restricted Procedure (an accelerated version of this procedure may be available in extreme circumstances – contact the LSPM for further information);
3. Negotiated Procedure (In all circumstances the use of the Negotiated Procedure must be approved by Cabinet);
4. Competitive Dialogue (In all circumstances the use of the Competitive Dialogue Procedure **must** be approved by Cabinet); and
5. E-auctions (It should be noted that e-auctions are a tool that can be used if appropriate as one of the final processes of a procurement exercise, and it is not a ‘standalone’ procurement procedure).
6. Modify to reflect new procedures

11.2.2 The first two procedures are usually the most appropriate for the majority of procurement exercises.

11.2.3 The same general procedures will apply to all procurements over £50,000. However, different approval levels, different minimum timescales, and additional steps apply for procurement exercises that are above the EU threshold level. The table on page three (3) shows the contract values at which the different approval levels, timescales and steps apply.

11.2.4 The EU Directives have been implemented into UK law by the Public Contracts Regulations 2015 (SI 2015/102). There are additional requirements for procurement projects valued above the EU threshold levels.

11.2.5 The EU thresholds are subject to review and change on a Bi-Annual period. The thresholds that apply will be those advised from time to time by the Crown Commercial Services (CCS) and shall supersede those detailed in these CPR's (where they differ as noted on page 3 of this document).

11.2.6 Please refer to Appendices C - F for process maps showing the procedures and time guidelines to follow for both open and restricted procedures above and below EU threshold levels. For additional information on the procedures please contact the LSPM.

### 11.3 Timetable

11.3.1 As indicated in CPR 6.3 it is important to establish a procurement timetable at the commencement of a procurement exercise. These differ dependent on the tender process being used (see CPR 11.2), and if EU procurement thresholds apply, additional mandatory timescales come into play. Please refer to Appendices C - F for examples of differing timescales.

### 11.4 Advertisements and EU Notices

11.4.1 Advertisements can be used to generate expressions of interest (in the case of the restricted procedure), or requests for Invitations To Tender documents (in the case of the open procedure).

11.4.2 All procurements over the EU threshold must be published in the Official Journal of the European Union (OJEU). This can only be conducted via the LSPM whose assistance must be sought. **NB - No advertisement should be placed in any other publication or format prior to the OJEU notice being published.** It is also important to note that only information published on the OJEU notice can be included in any subsequent advertisements placed.

11.4.3 In all circumstances, an advertisement for contracts over £25,000 should be published in the:

- Tender pages ([www.bassetlaw.gov.uk](http://www.bassetlaw.gov.uk));
- Council's Buy Local Bulletin Board;
- [SourceNottinghamshire.co.uk](http://SourceNottinghamshire.co.uk) or [Sourcederbyshire.co.uk](http://Sourcederbyshire.co.uk);
- Tenders Electronic Daily (TED) {OJEU}
- Contracts Finder (particularly for EDRF funded schemes)
- SIMAP (OJEU site), and
- Where appropriate trade journals in order to target the appropriate market.

(Please note that all advertisements and Notices should be made in conjunction with the LSPM).

11.4.4 In addition to the formal advertising, direct marketing of the tender is permissible to include suppliers/contractors that may not see the opportunity to ensure local / regional / national competition. This should be documented as to who and the reasons why.

11.4.5 The advertisement or notice should specify a deadline by which bids or notifications of interest should be submitted. This deadline should be appropriate to the complexity of the tender opportunity. Please refer to the Appendices C to F for the specific deadlines involved in each different procedure.

### 11.5 Pre-Qualification Questionnaires (PQQ)

11.5.1 The new Public Contracts Regulations 2015 have resulted in a profound change in the use of Restricted (2-Stage) process.

Contracting Authorities (CA) may **not** include a Pre-Qualification Questionnaire (PQQ) stage in any procurement process where the value of the procurement is below the OJEU threshold for goods and services. This therefore precludes the use of the 2-Stage process.

This also applies for tenders for Works where the threshold value is significantly higher. PQQs are not permitted, but CA may ask questions relating to potential suppliers providing that the questions are relevant to the subject matter of the procurement and proportionate.

11.5.2 A Restricted tendering procedure, Pre-Qualification Questionnaires may be used where the value is greater than the specified threshold to ascertain certain information from potential suppliers/contractors.

11.5.3 Where a restricted tender process is used it should be noted that Company information requested in the 1<sup>st</sup> stage PQQ process, cannot be asked for in the resulting ITT process.

11.5.4 If successful after the shortlisting process has been concluded, suppliers/contractors will be given an Invitation to Tender (see CPR 11.6). If unsuccessful, a formal letter should be issued to inform them that they have not been successful on this occasion. The letter should identify their scores in relation to the cut off which should have been noted in the PQQ document.

## 11.6 Invitation To Tender (ITT)

11.6.1 The Invitation To Tender must state that no tenders will be considered unless it is received by the date and time stipulated in the tender documentation. No tender delivered in contravention of this CPR shall be considered.

11.6.2 All Invitations To Tender should include a prescribed address label or pre-printed envelope that **must** include the date and time of the deadline for the return of tenders.

11.6.3 Tenders may be invited for submission by electronic methods. Contract Officers wishing to conduct electronic tender exercises should contact the LSPM. Only portals approved by the Monitoring Officer may be used. This is currently the Due-North system [www.eastmidstenders.org](http://www.eastmidstenders.org)

## 11.7 Return of Invitations To Tender (ITT)

11.7.1 Every Invitation to Tender for a transaction valued over £50,000 should state that:

11.7.2 For e-Tenders

- a) Where possible and practical **all** bids (tenders, Quotations and RFQs), correspondence, clarifications and dialogue **must** be processed through the e-Tendering system (Due-North).
- b) Bids must be received through the e-Tendering system, by the return date and time identified through the system. The e-Tendering system operated a locked vault which will close at the precise date and time. Therefore late bids will **not** be accepted by the system.
- c) Any bid received from outside the e-Tendering system through e-mails, post or other means **must** be rejected and **not** evaluated. In this situation suppliers should be informed accordingly as a matter of priority.
- d) Certain Framework agreements only allow for the mini-competition to be run as paper exercises. This requirement will be set out in the Terms and Conditions of the Originator of the Framework agreement, e.g. ESPO, etc.

11.7.3 For paper processed tenders

- a) The prescribed address label must be affixed to the outside of the envelope/package containing the bid, or use the pre-printed envelope provided;
- b) All contract bids shall be addressed to the Council Solicitor, Queen’s Buildings, Potter Street, Worksop, S80 2AH;
- c) All returned tenders will be recorded with the date and time received, along with the name of the receiving officer. No late receipts can be considered and will be disqualified.

11.7.4 The Council Solicitor should be informed that tenders are due to be received by them in respect of CPR 11.7.2 (b) and 11.7.3 (b), and that commensurate tender opening arrangements must be organised and conducted by them. (See CPR 12.1).

**12 RECEIVING AND OPENING TENDERS (ABOVE £50,000)**

12.1 All tenders and bids received, including any electronic tenders, should be opened and receipted using the following protocols.

**Receiving and Opening Tenders and Bids – Above £50,000**

All tenders over £50,000 should be addressed to the Council Solicitor (see CPR 11.7.3 (b)) and arrangements made to record their receipt and arrange the opening of bids.

| <b>Receiving and Opening Tenders and Bids – Above £50,000</b>   |
|---|
| <p>All tenders over £50,000 should be addressed to the Council Solicitor (see CPR 11.7.3 (b)) and arrangements made to record their receipt and arrange the opening of bids.</p> <p><b>e-Tenders</b></p> <ul style="list-style-type: none"> <li>i. For Electronic processed tenders and quotations, the bid documents will only be received through the e-Tendering system.</li> <li>ii. Through the system the complete electronic procurement process will be auditable, though actions, names, dates, times, etc. of people involved in the process. This information will be available to all relevant parties through the system, providing they are set up with the appropriate access by the Contracts Manager.</li> </ul> <p><b>Paper based tenders</b></p> <ul style="list-style-type: none"> <li>iii. For all paper based tenders they must be suitably recorded upon receipt by signature and time/date stamp so as to verify the date and time it was received. This information should be recorded on the package’s exterior on its arrival at the Council.</li> <li>iv. Any tender which is received after the date and time appointed for the receipt of bids, shall not be considered but shall be retained unopened by the Council Solicitor.</li> <li>v. All tenders must be adequately protected upon receipt to guard against amendment of their contents.</li> <li>vi. All tenders shall be opened at the same time by the Council Solicitor or legal representative, and all officers present at the opening of tenders should each sign</li> </ul> |

every tender at the time of opening and should sign and date a list of tenders received.

vii. The recorded information must include:

- (a) the nature of the supplies, works or services to be provided;
- (b) the name of the supplier/contractor submitting the tender;
- (c) the name of any supplier/contractor submitting an invalid tender with brief details of the reasons for the tender's invalidity;
- (d) where practicable, the amount of the tender. All officers present should initial the amount on the tender document. Where it is not possible to insert the amount of each tender at the time of opening, this information shall be added, as soon as possible;
- (e) the date and time of opening the tenders;
- (f) the names and signatures of all persons present at the opening of the tenders; excluding observers; and
- (g) when a tender has been marked with additional information (e.g. reason for non-validity), the date and time and name and signature of the officer making the insertion should be recorded.

### **13 SUBMITTED TENDERS – ERRORS AND VARIATIONS**

#### **13.1 Clerical Errors (Other Than Errors Affecting the Tender Figures)**

13.1.1 Where it is apparent that there is a clerical error in the tender and the error makes the terms of the tender unclear, the tender shall be considered by the Director/Head of Service in consultation with the Council Solicitor as to its validity. Where, despite the error, the terms of the tender are still clear, the tender shall be considered, as if the error has been corrected.

#### **13.2 Errors Affecting the Tender Figures**

13.2.1 Where examination of tenders reveals an error or discrepancy, which would affect the tender figure(s) in an otherwise successful tender, the supplier/contractor shall be offered the opportunity of continuing or withdrawing the tender. Following any withdrawal, the next lowest tender may be dealt with in the same manner as if the tender in question was the lowest that had been received. The supplier/contractor shall not be given any opportunity to amend his tender once it is submitted (except under CPR 13.3.1 below) and, in the event of his electing to stand by his offer, the tender, quotation, priced Bill of Quantities, priced Specification or priced Schedule of Rates or other relevant document, the tender shall be endorsed to that effect by the supplier/contractor with the correct prices. The application of this CPR shall be in consultation with the Council Solicitor in order to ensure that any supplier/contractor does not secure an unfair competitive advantage through using either contrived or deliberate errors within their tender.

#### **13.3 Permitted Variations to Tenders**

13.3.1 If variations to tenders are required by the Cabinet or the Director/Head of Service, such alterations may be negotiated by the Director/Head of Service with the supplier/contractor **submitting the lowest** (or highest scoring) bid. **Only** if those negotiations fail, shall the supplier/contractor who has submitted the next lowest valid tender in respect of that Contract be approached with a view to negotiating those variations.

#### **13.4 Details to be Recorded**

13.4.1 All variations made under this CPR shall be recorded in writing.



## **14 EVALUATING TENDERS AND QUOTATIONS**

14.1 The award of any contract as an outcome of the evaluation of a quotation or tender should reflect value for money and the most economical use of resources in furtherance of the Council's corporate priorities.

14.2 The method used to achieve this outcome can be an evaluation using either: -

- the Most Economically Advantageous Tender (MEAT) to the Council, or
- the lowest compliant price (but also taking into account all quality criterion considerations within the specification, including whole life costing, etc).

14.3 The method of evaluation and relevant weightings **must** be made clear in the Request For Quotation (RFQ) or Invitation To Tender (ITT) documentation.

Further to this, where MEAT is selected, the individual criteria should also be included in the RFQ or tender documentation. These evaluation criteria **cannot** be changed once it is declared in the adverts/documents, and no variations of such can be made. Therefore it is important that all areas of the tender are addressed in the evaluation criteria to assess a successful tender.

For OJEU tender if any changes are made to the evaluation criteria and/or scoring methodology, post tender notice advert this **will** lead to challenges through the tender award process. Therefore, once an OJEU notice has been publish **no** changes should be made or considered.

14.4 Where MEAT is chosen, the individual criteria should be translated into a formal tender evaluation plan, which must be finalised in advance of the deadline for the receipt of quotations or tenders.

14.5 For OJEU tenders the evaluation process, Team and timescales should be set prior to the OJEU tender notice being published through Tenders Electronic Daily (TED).

14.6 For contracts of a value below £250,000 the evaluation should be conducted within the lead procuring Directorate/Service Area, using officers from other Directorates as appropriate (including Finance). For contracts above £250,000 evaluations should be conducted by the Project Team (see the Project Management Guidelines) with the procuring Directorate taking the lead.

14.7 All decisions and outcomes of the quotation or tender evaluation must be recorded in writing and maintained for the audit trail. It is seen as good practice to use an evaluation matrix.

14.8 Negotiations with potential suppliers/contractors or successful suppliers/contractors are permitted provided they are carried out in accordance with the agreed protocols.

14.9 Where lowest price has been selected as the basis for contract award, and the Director/Head of Service is not satisfied that they can accept it, they may accept the next lowest tender with the agreement of either the Chief Executive or Monitoring Officer. Reasons for doing this must be recorded for the audit trail (See CPR 17.2).

## **15 AWARDING CONTRACTS**

15.1 The results of the tender evaluation process must be recorded in writing.

15.2 A contract may only be awarded and signed by a person(s) authorised to do so, who should ensure, prior to any award, that the budget holder has the funds in place to sustain the contract. Persons authorised to award contracts are as follows:

| <b>Procurements below the EU Directive Threshold Value<br/>(Non- EU procurement)</b> |   |
|--|---|
| A)   | A procurement process must only be undertaken once the approval has been obtained in accordance with CPR 7 – <i>Obtaining Authority to Proceed with Procurement</i> .   |
| B)   | Where the contract is for a <b>Services / Supplies</b> contract below the EU Threshold and is: <ul style="list-style-type: none"> <li>i) below £10,000 an award of contract shall be approved by the relevant Service Manager;</li> <li>ii) above £10,000 and below £50,000 an award of contract shall be approved by the relevant Director/Head of Service or their nominee;</li> <li>iii) exceeds £50,000 and is below the EU Threshold an award of contract shall be approved by the relevant Director/Head of Service in consultation with their Portfolio Holder.</li> </ul> |
| C)   | Where the Contract is a <b>Works</b> contract below the EU Threshold and is: <ul style="list-style-type: none"> <li>i) below £10,000 an award of contract shall be approved by the relevant Service Manager;</li> <li>ii) above £10,000 and below £50,000 an award of contract shall be approved by the relevant Director/Head of Service or their nominee;</li> <li>iii) exceeds £50,000 and is below the EU Threshold an award of contract shall be approved by the relevant Director/Head of Service in consultation with their Portfolio Holder.</li> </ul>                   |
| D)   | Once approval to award a contract has been obtained as per above, <b>all contracts</b> over £50,000 must be executed under the hand of the Council Solicitor, by attesting the Common Seal of the Council. Legal Services will also retain a copy of the sealed contract.   |
| <b>Procurements above the EU Directive Threshold Value<br/>(EU procurement)</b>      |   |
| E)   | A procurement process must only be undertaken once the approval has been obtained in accordance with CPR 7 – <i>Obtaining Authority to Proceed with Procurement</i> .   |
| F)   | A Contract Award Recommendation for the outcome of an EU procurement exercise must follow the same approval process as per CPR 7 for the Approval to Proceed obtained for that exercise (i.e. if the approval to proceed was obtained via Cabinet, the  |

|    |   |
|----|---|
|    | Contract Award Recommendation must be likewise approved by Cabinet) <b>prior</b> to that contract being awarded.  |
| G) | Once approval to award a contract has been obtained as per above, <b><u>all contracts</u></b> must be executed under the hand of the Council Solicitor, by attesting the Common Seal of the Council. Legal Services will also retain a copy of the sealed contract. |

- 15.3 **PLEASE NOTE:** The above list is indicative and contracts should be authorised at a level appropriate to their value, strategic and political sensitivity (see CPR 7).
- 15.4 All contracts awarded under EU Directives must include a mandatory minimum ten (10) day standstill period (commonly known as Alcatel) following the announcement of the preferred bidder status to all suppliers/contractors. All letters to the suppliers must be in accordance with the requirements of the Remedies Directive (2009). The advice of the LSPM must be obtained regarding the content and application of the “Alcatel” process.
- 15.5 All contracts awarded under EU Directives, including contracts for Residual Services – Part B, must be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of award. (No Part ‘B’ Service in latest EU Regulations)
- 15.6 All contracts over a value of £50,000 must be executed under the Common Seal of the Council and the successful supplier/contractor(s). (The standard period for restitution in respect of contractual arrangements is ordinarily limited to 6 years; this period may be extended to 12 years where a contract is made under Seal). Copies of all contracts over £50,000 (i.e. those signed under Seal) will be retained by Legal Services, and the contract detail should be provided to the LSPM by the relevant Directorate/Service Area for inclusion within the Council’s Corporate Contracts Register.
- 15.7 Regardless of value, where a contract is of a strategically important or politically sensitive nature, or where the extended limitation period mentioned in CPR 15.6 above would be of value, consideration should be given to execution under Seal. The advice of the Council Solicitor must be sought.
- 15.8 All suppliers/contractors should be advised of the outcome of the tender exercise by means of writing. The acceptance of the successful supplier/contractor should be obtained in writing prior to sending the notification to unsuccessful suppliers/contractors, unless it is an EU procurement exercise and Alcatel procedures are being used (see CPR 15.4 above).
- 15.9 All unsuccessful suppliers/contractors should be given the opportunity to receive a debriefing.
- 15.10 Standard templates for intention to award and final award letters, together with letters for unsuccessful tenders are available from the LSPM.

**16 PLACING A PURCHASE ORDER**

- 16.1 Wherever possible, purchase orders should always be placed in accordance with existing protocols.
- 16.2 As part of the finance system, all purchase orders will be submitted electronically. The only exception to this is where the system is unavailable to satisfy the request, and an emergency order is required. Please contact the Accountancy Section for further information.

**17 AFTER THE PROCUREMENT EXERCISE**

## **17.1 Introduction**

17.1.1 A useful test of the outcome of a procurement exercise is the achievement of the seven “Rights” to help in evaluating, monitoring and managing the contract. This will contribute to ensuring that the procurement exercise has been effective, and contributed to the achievement of the Council’s priorities. It will also assist when preparing the business case for the renewal of the contract. The seven ‘rights’ are:

- Right Product/Service;
- Right Price;
- Right Time;
- Right Place;
- Right Quality;
- Right Quantity;
- Right Provider.

## **17.2 Records and Documentation**

17.2.1 Clear and comprehensive records of the procurement process should be maintained as it may be subject to internal or external audit. Legal should be contacted for any point of clarification on this matter.

For e-tenders the information will be available through the Due-North system for any Audit requirements.

The original signed copy of the contract should be kept with the rest of the procurement documents unless:

- The contract has been signed under seal;
- The contract value is above the EU threshold level;
- The contract is of political sensitivity.

17.2.2 All documents should be stored in accordance with the Council’s approved document retention policy, prevailing at the relevant time.

## **17.3 Contract Management**

17.3.1 For contracts valued over £10,000 the Director/Head of Service must designate a Contract Manager, whose name should be notified to the contractor and whose responsibilities should include:

- (a) Monitoring performance of the supplier/contractor against the agreed programme or service level, as appropriate;
- (b) Monitoring the continuing level of operational and financial risk (including the risk of fraud) to which the Council may be exposed;
- (c) Facilitating the resolution of issues between the supplier/contractor and the key user(s); and
- (d) Ensuring the prompt settlement of invoices / payments correctly and properly submitted by the supplier/contractor in accordance with the contract.

## **17.4 Contracts Register**

17.4.1 Each Director/Head of Service shall maintain a Contracts Register in line with the Council's Corporate Procurement Strategy.

17.4.2 For all transactions valued over £10,000 details of the contract must be sent to the LSPM.

## **17.5 Disposal of Assets, Land and Property**

17.5.1 The same competitive process for buying supplies, services and works must also be applied to the disposal of supplies and assets, though separate procedures apply to the sale of land and/or property. For further information regarding disposals please refer to the Financial Procedure Rules, or take advice from the Section 151 Officer, or Property Manager.

## **17.6 Variations to Contracts**

17.6.1 Instructions requiring the supplier/contractor to vary the specification of a written contract shall be made in writing, a copy of which will be retained by the Director/Head of Service or their nominee.

17.6.2 Instructions for the variation of a contract shall, wherever possible, include an estimate of the price which is to be added or deducted from the total price paid under the contract. Where a supplier/contractor is instructed to act in an emergency, or where he makes emergency variations in accordance with the conditions of a contract, a suitable written and priced instruction shall be created at the earliest opportunity.

17.6.3 Major changes which would have substantial financial implications for which no budgetary provision exists shall not be commenced until approval has been obtained from the Cabinet in line with the Financial Procedure Rules. As an exception, the relevant Director may make written authorisation of major changes to a project where the changes are urgent in nature because of unforeseen ground conditions; health and safety considerations; or some other genuine emergency that requires immediate action.

## **17.7 Liquidated and Ascertained Damages**

17.7.1 Every contract for works or services shall provide, where practicable, for Liquidated Ascertained damages (LADs) to be withheld from the supplier/contractor if the terms of the contract are not duly performed. This action must be taken in conjunction with the Council Solicitor.

## **17.8 Contract Extensions**

17.8.1 Subject to any statutory restrictions and compliance with these Contract Procedure Rules, a Director/Head of Service may authorise an extension to a supplies/services contract for a particular period providing that it was included within the original terms and conditions of the contract. This will naturally be subject to satisfactory outcomes of contract monitoring during the primary period. Any contract extension shall only be allowable up to the maximum extension period specified in the contract and shall be subject to satisfactory performance by the contractor / supplier.

17.8.2 Any request for contract extensions where they did not exist in the initial contract must be discussed with the Council Solicitor.

## **17.9 Transfer/Novation of Contracts**

17.9.1 In appropriate circumstances the Council may agree to transfer/novate/assign a contract. This decision must be taken in conjunction with the Council Solicitor.

## **17.10 Post Project Evaluation**

17.10.1 It is regarded as good practice if the Contract Officer undertakes post project evaluation within six months of the end of the contract. Any lessons learnt must then be forwarded to the LSPM to advise and influence any future projects.

## **17.11 Determination of Whether a Contract has an Embedded Lease**

17.11.1 Accounting policies now require that for each new contract over £10,000 and greater than one year in length, these must be assessed to determine if there is an embedded lease that needs to be declared within the Annual Statement of Accounts.

17.11.2 A flowchart that must be followed by the Contract Officer is provided at Appendix I. If this process identifies that there is an embedded lease within the contract, then a further flowchart is provided at Appendix J. Please contact the Finance Manager for any further information and assistance with this part of the CPR's.

## **18 WHEN THE CONTRACT PROCEDURE RULES DO NOT APPLY**

18.1 These CPR's apply to all the supplies, services and works the Council buys, with the following exclusions:

- a. Where important urgent repairs are necessitated by breakdown or other failure of buildings, plant, appliances, machinery or ICT equipment or software, necessary to maintain and ensure efficient and continuous service delivery. (This is particularly aimed at peacetime emergency situations and situations of reactive maintenance and emergency repair type work, where service delivery would be adversely affected).
  - i. The EU definition of 'emergency' or 'urgent', which applies to these CPR's, describes 'urgency' as "brought about by events unforeseeable by, and not attributable to the contracting authority".
  - ii. Any expenditure over £10,000 must be reported to the next appropriate meeting of the Corporate Management Team.
  - iii. Any other matters in relation to merely "urgent situations" shall be dealt with by exception report (see CPR 19 and Appendix G).
  - iv. The application of this CPR is always subject to compliance with the EU Directives, should they apply.
- b. Where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ICT equipment or software can only be efficiently carried out and most economically supplied with regards to time, cost and speed of delivery, by the original contractor or supplier, or their successors or other sole specialists, subject to it not exceeding the EU thresholds when aggregated.
- c. Where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier.
- d. Where an emergency situation exists as defined in the Council's Emergency Plan and Disaster Recovery Strategy.
- e. Activities when the Council is required to adopt other procedures by a government body. Also where the Council is operating as a partner in any joint arrangement with other outside bodies, then any contracts procured on behalf of the partnership may be undertaken under the auspices of the lead partner's Contract Procedure Rules. Equally where the Council is acting as an agent

in the procuring of contracts for any outside body, then the CPR's of that organisation may be adopted in place of these CPR's. This can apply to any shared service or consortia arrangement.

- f. Contracts for supplies, works or services, where a related contract award following a competitive tender exercise was made during the previous twelve months, up to a maximum of 50% of the value of the original contract subject to it not exceeding EU thresholds. Where a supplier/contractor will not maintain the original tender price in respect of such additional contracts, any variation in such price shall be reported to the Section 151 Officer for his approval. "Related" shall be defined as having a direct relationship to the original project in the case of works, or, for additional quantities of the services or supplies (or associated components) previously delivered in the case of services and supplies.
- g. Works orders placed with utility companies (e.g. for re-routing cables or pipework).
- h. Orders placed against corporate contracts or other approved standing arrangements.
- i. Where the Section 151 Officer, Monitoring Officer and LSPM are satisfied that there is only one potential supplier of the required supplies, services or goods.
- j. Where the Section 151 Officer, Monitoring Officer and LSPM are satisfied that the use of a recognised regional or national framework arrangement will provide the most cost effective procurement solution.
- k. Contracts for the acquisition or disposal of land and/or property.
- l. Contracts of Employment.
- m. Where the supplies, works or services are purchased for testing, assessment or research and development purposes (this provision is intended to cover ascertaining whether particular products or services are fit for future purpose).
- n. Contracts for Legal Counsel and other legal and financial advisers (excluding consultants).
- o. Where there are other exceptional circumstances, and then only with the approval of the Section 151 Officer and Monitoring Officer.

## **19 OBTAINING PERMISSION TO WAIVE THE CONTRACT PROCEDURE RULES – EXCEPTION REPORTS**

- 19.1 An Exception Report must be submitted to the Section 151 Officer and Monitoring Officer in the following circumstances.
  - (i) Where any of the exclusions listed in CPR 18 apply;
  - (ii) Where there is no genuine market/competition for the proposed contract/procurement (with supporting evidence);
  - (iii) Where the proposed contract/procurement is of a specialist nature.
- 19.2 Where the requirement for supplies, works or services meets the criteria identified at CPR 19.1, an exception report (see Appendix G) must be completed and approved **prior to that procurement exercise commencing**. A copy of the approval will be provided to the originator.
  - i. Report to be signed by a Director/Head of Service in consultation with their portfolio holder.
  - ii. Submit signed report to LSPM, who will register the report and forward it on to the

Section 151 Officer and Monitoring Officer for consideration and approval.

| <b>Procurements between £5,001 and £50,000</b>        |   |
|---|---|
| A)  | <p>Exception report to be completed and evidenced.</p> <ul style="list-style-type: none"> <li>i. Report to be signed by a Director/Head of Service.</li> <li>ii. Submit signed report to LSPM, who will register the report and forward it on to the Section 151 Officer and Monitoring Officer for consideration and approval.</li> <li>iii. Once approved, the Exception Report shall be passed to the LSPM for retention, and a copy to the relevant Director/Head of Service.</li> </ul>  |
| <b>Procurements between £50,000 and EU Thresholds</b> |   |
| B)  | <p>Exception report to be completed and evidenced.</p> <ul style="list-style-type: none"> <li>i. Report to be signed by a Director/Head of Service in consultation with their portfolio holder.</li> <li>ii. Submit signed report to LSPM, who will register the report and forward it on to the Section 151 Officer and Monitoring Officer for consideration and approval.</li> <li>iii. If there are any issues (e.g. political sensitivity), which require the attention of a higher-level approval (e.g. Cabinet), then the submitted Exception Report shall be processed as appropriate.</li> <li>iv. All requests in excess of £250,000 are a key decision and must be reported to Cabinet for consideration and approval.</li> <li>v. Once approved, the Exception Report shall be passed to the LSPM for retention, and a copy to the relevant Director/Head of Service.</li> </ul> |

19.3 No Exception Report can be approved that would contravene EU Directives or any other relevant legislation.

**20 PROVIDING SERVICES TO EXTERNAL BODIES**

20.1 Where the Council proposes to supply services or to carry out work for external bodies, prior written advice should be obtained from the Monitoring Officer. The proposed contract should be assessed to ensure that the required standards of financial and business efficacy are met. The advice given will determine if the outside body is one to which the Council can provide the service or conduct work and whether a charge can be lawfully made.

**21 WHERE TO OBTAIN FURTHER GUIDANCE, INFORMATION AND TEMPLATES**

21.1 A number of documents are being developed by the LSPM to assist with the procurement of supplies, services and works, and these are readily accessible on the Council's intranet.

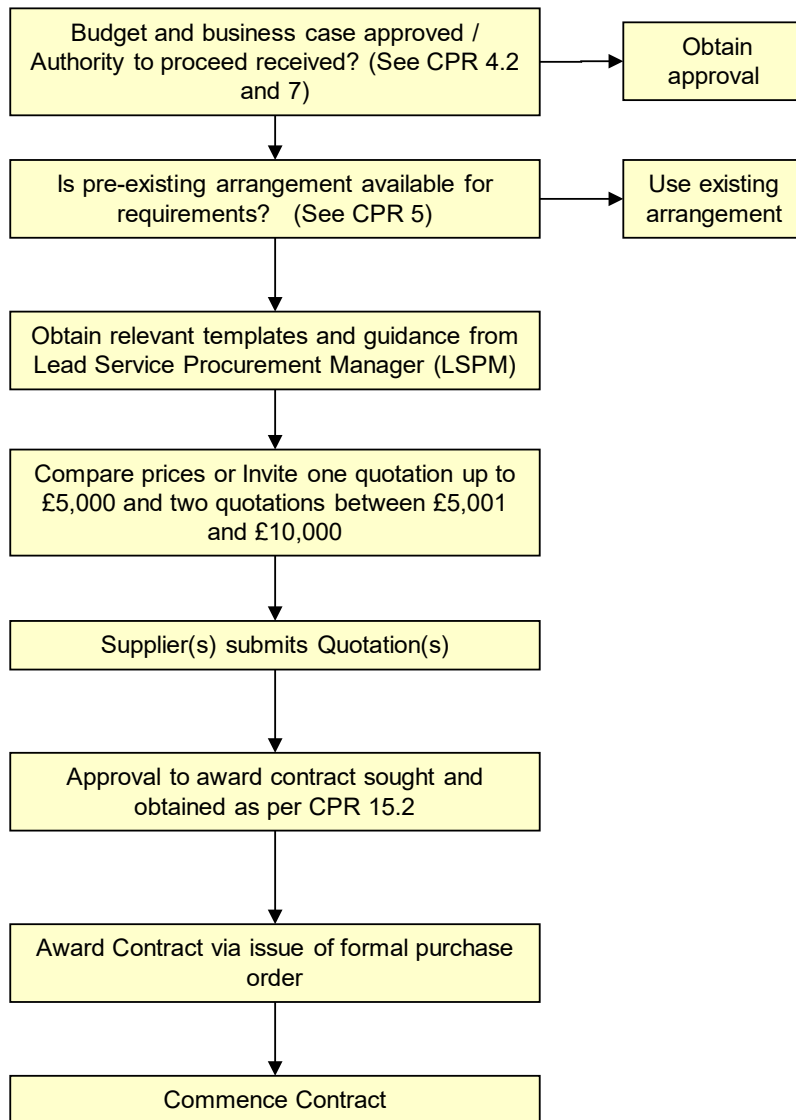
21.2 Documents that are required to be distributed to potential suppliers/contractors are also available on the Council's internet.

21.3 Any additional advice can be obtained from the LSPM, Section 151 Officer, and the Monitoring Officer.



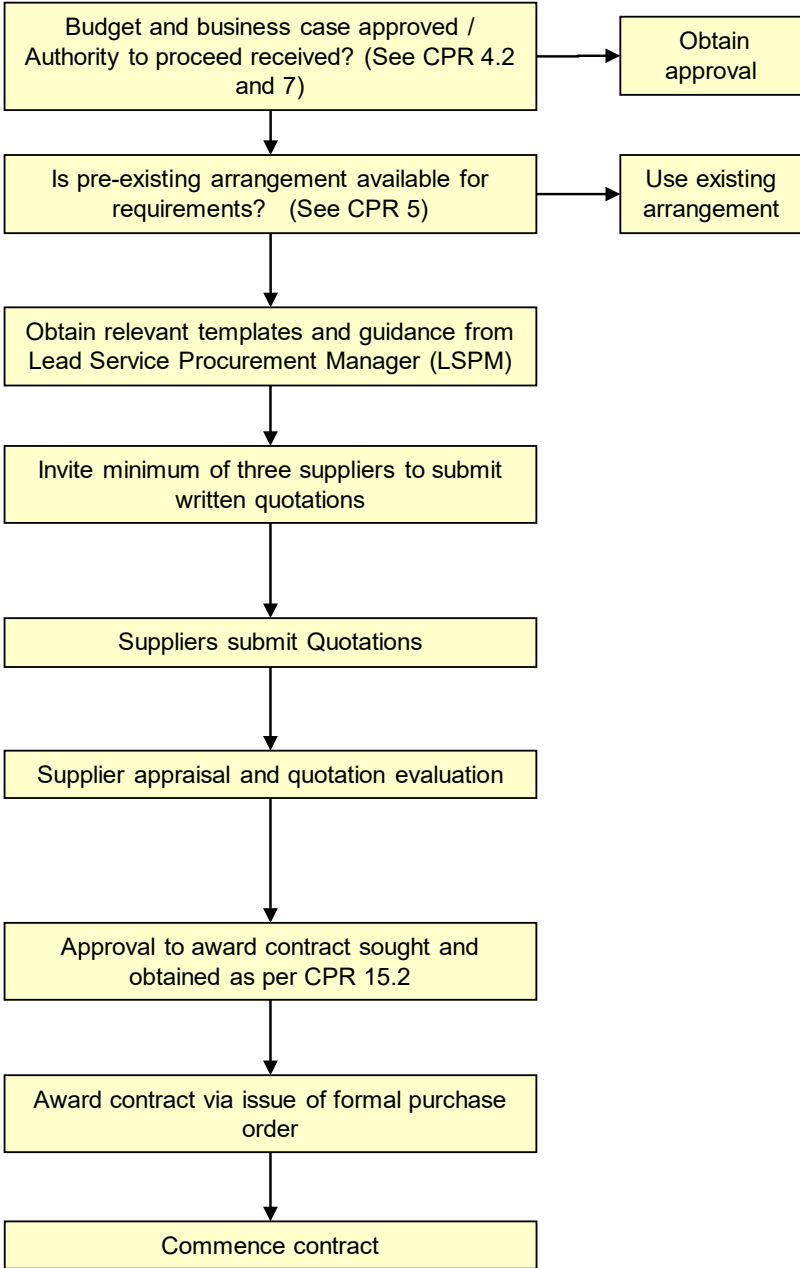
APPENDIX A

**Contracts Below £10,000**



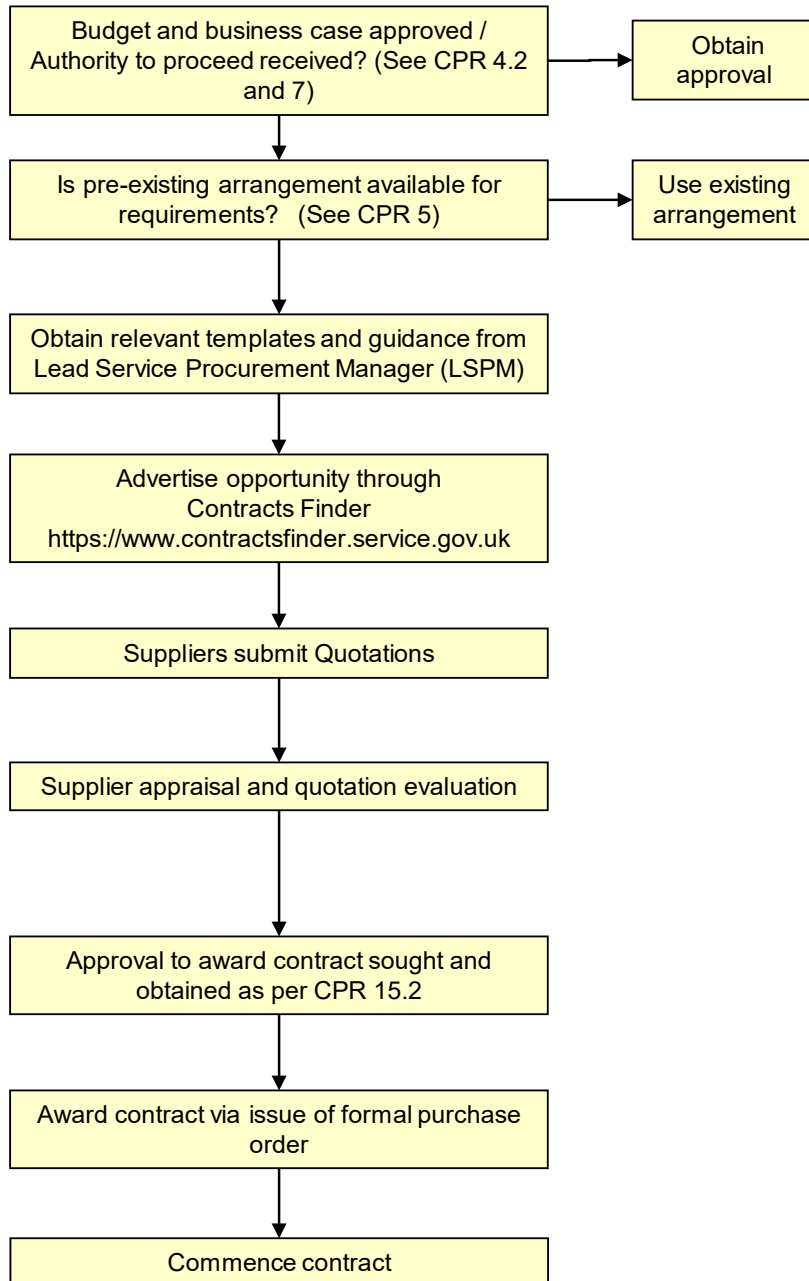
An alternative exists whereby Contract officers could follow a competitive process via expressions of interest on the Source Nottinghamshire website. Restricted timescales can then apply for evaluation and award.

**APPENDIX B – Contracts Between £10,000 and £24,000**



An alternative exists whereby Contract officers could follow a competitive process via expressions of interest on the Source Nottinghamshire website. Restricted timescales can then apply for evaluation and award.

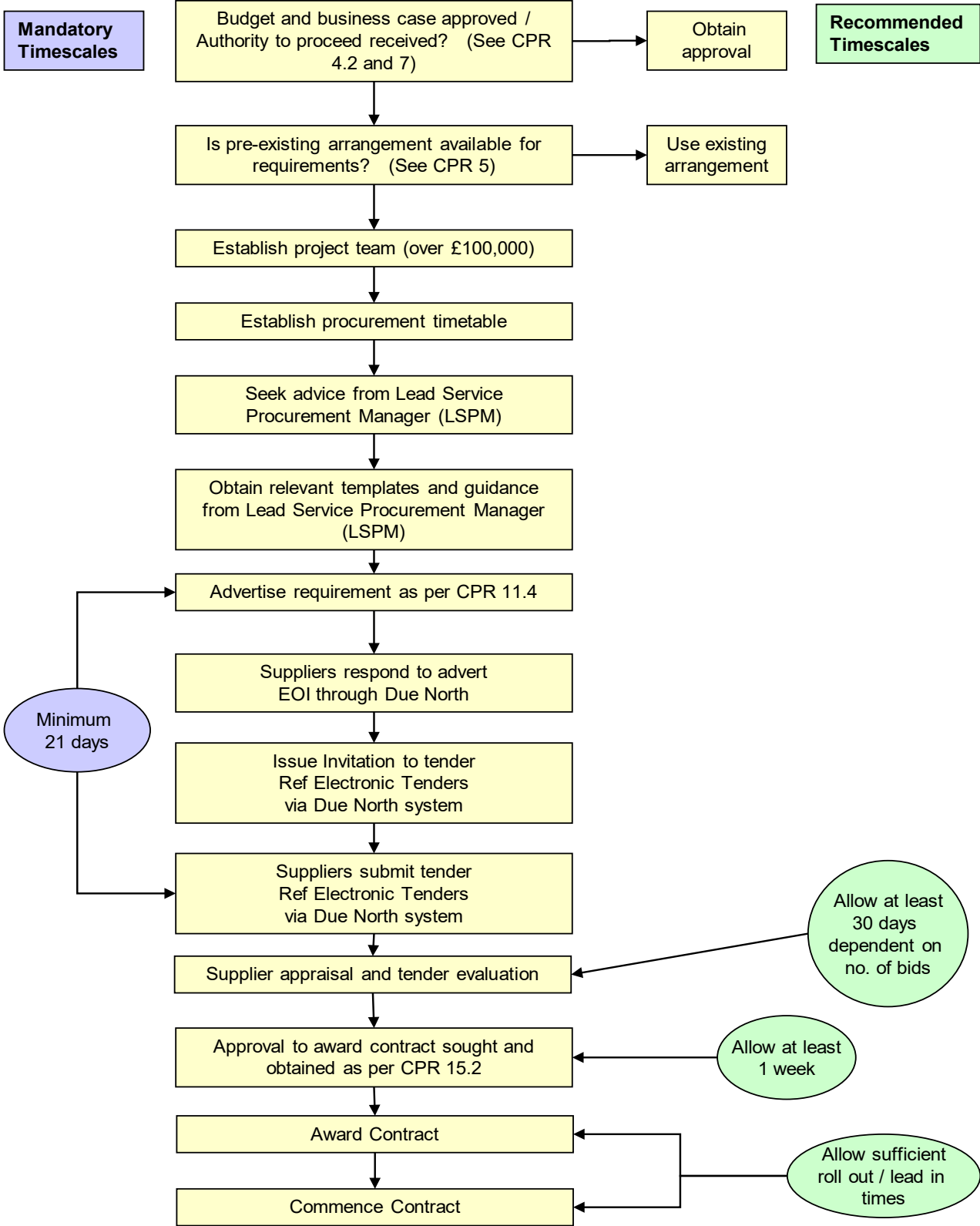
**Contracts between £25,000 and £50,000**



An alternative exists whereby Contract officers could follow a competitive process via expressions of interest on the Source Nottinghamshire website. Restricted timescales can then apply for evaluation and award.

APPENDIX D

Contracts Between £50,000 and EU threshold (Open Procedure)



BASSETLAW DISTRICT COUNCIL CONSTITUTION PART 5 (DECEMBER 2022) PAGE 5.140  
APPENDIX E - Contracts Between £50,000 and EU threshold (Open Procedure)

Mandatory Timescales

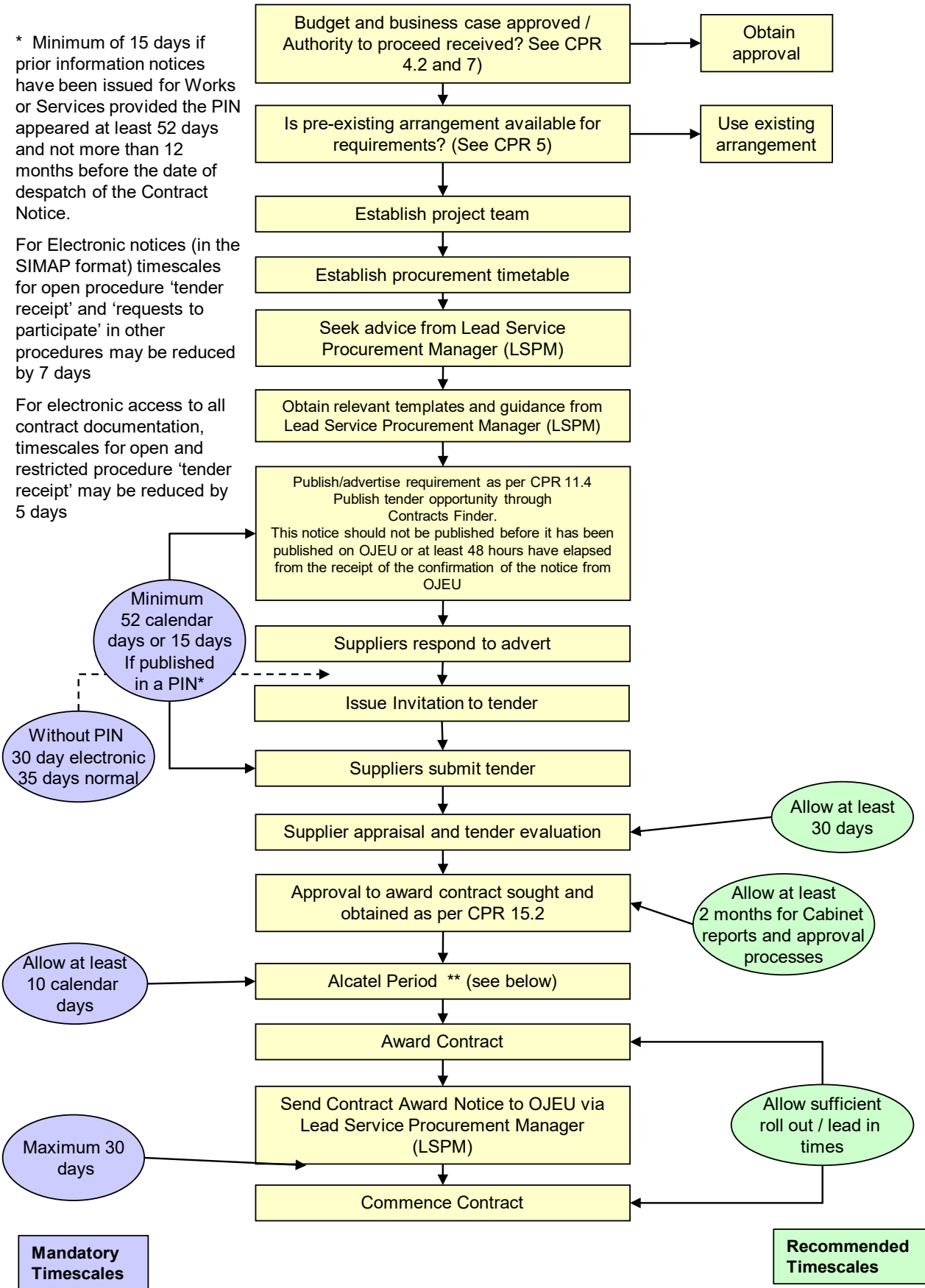
Recommended Timescales

Contracts Over EU Threshold (Open Procedure)

\* Minimum of 15 days if prior information notices have been issued for Works or Services provided the PIN appeared at least 52 days and not more than 12 months before the date of despatch of the Contract Notice.

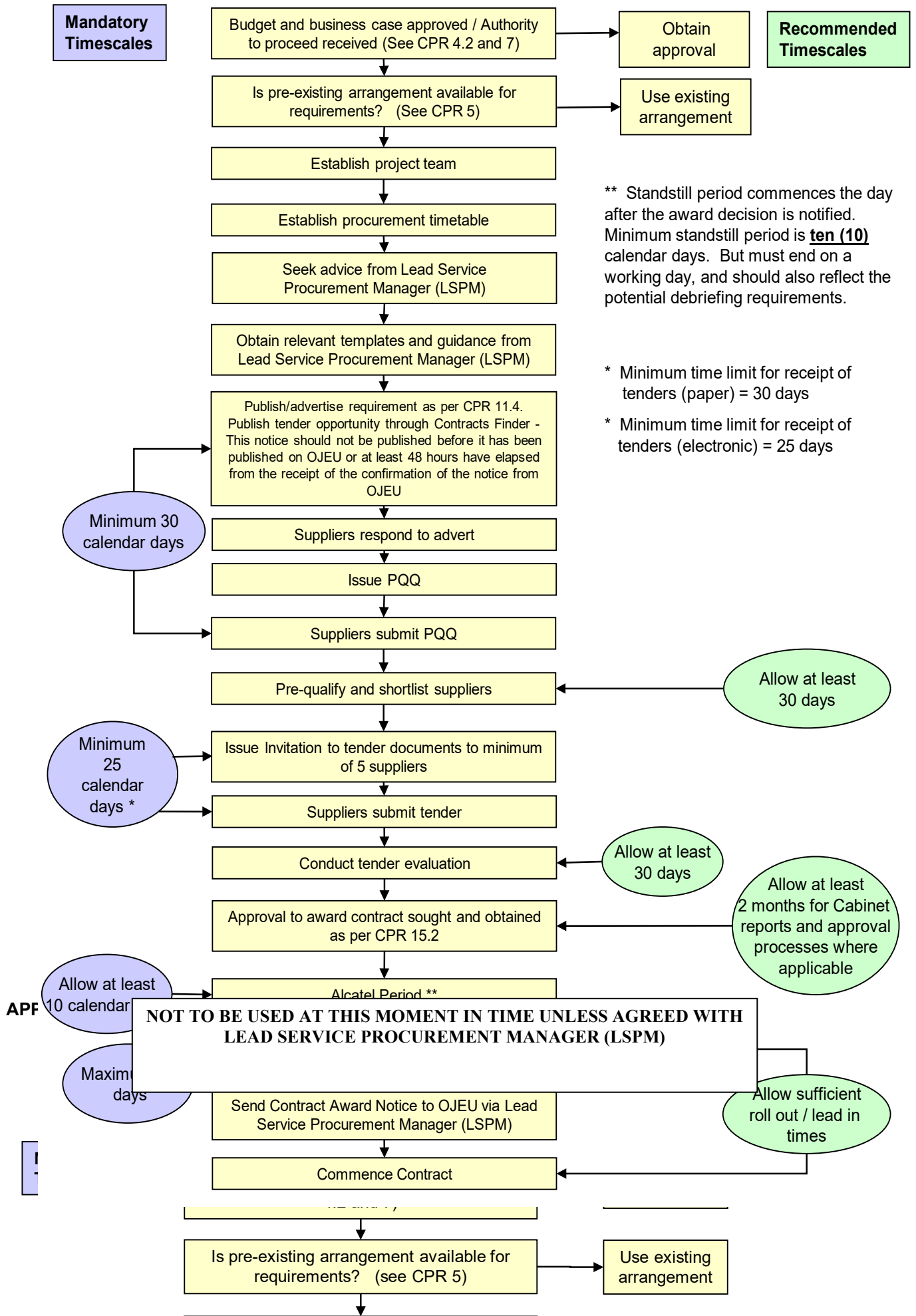
For Electronic notices (in the SIMAP format) timescales for open procedure 'tender receipt' and 'requests to participate' in other procedures may be reduced by 7 days

For electronic access to all contract documentation, timescales for open and restricted procedure 'tender receipt' may be reduced by 5 days



APPENDIX F

**Contracts Over EU Threshold (Restricted Procedure)**



**APPENDIX G  
PERMISSION TO WAIVE CONTRACT PROCEDURE RULES FOR CONTRACTS OVER £5,000**

|   |      |
|---|------|
| CONTACT NAME:   | Tel: |
| HEAD OF SERVICE:  |      |
| DIRECTOR:   |      |
| <p><b>DESCRIPTION OF CONTRACT</b> (Including Estimated Value) – You should include full background/details of the intended contract or procurement, including contract duration.</p><br><p>Value (£) _____ (<i>Please state total contract value - aggregated</i>)</p>  |      |
| <p><b>REASONS FOR REQUEST</b> – You should identify the CPR against which you are seeking an Exception (see CPR 18), together with full supporting information.</p><br><br><p>(the space provided is not indicative of the information required – please use another sheet if required)</p>   |      |
| <p>HEAD OF SERVICE: _____ DATED _____</p> <p>DIRECTOR: _____ DATED _____</p> <p>PORTFOLIO HOLDER: _____ DATED: _____</p> <p>(in excess of £50,000)</p>  |      |
| <p>RECORDED BY:</p> <p>PROCUREMENT UNIT: _____ DATED: _____</p>   |      |
| <p>APPROVED BY:</p> <p>MONITORING OFFICER: _____ DATED: _____</p> <p>SECTION 151 OFFICER: _____ DATED: _____</p>  |      |
| <p><u>NOTE1:</u> Where the Contract Officer considers the waiving of CPR's to be appropriate, this form must be completed and approved <b>prior to that procurement exercise commencing</b>.</p> <p><u>NOTE2:</u> All requests for waiving of CPR's over a value of <b>£250,000 (key decision)</b> must be reported to Cabinet for consideration and approval first (exception being urgent works as defined under CPR 18.1, which will require a Cabinet report afterwards).</p> |      |





**APPENDIX H (Continued).**

**Approval Process:**

- (a) Initial Advice obtained from (LSPM)? (Please attach any written comments provided by the LSPM on a separate sheet)

| Date advice obtained from LSPM: | LSPM recommend proceeding with procurement?<br>Yes/No: | Cabinet approval recommended by LSPM?<br>Yes/ No: |
|---------------------------------|--|---|
|                                 |  |   |

- (b) Approval obtained from Director and Portfolio Holder? (Please attach any written comments provided by Director and Portfolio Holder on a separate sheet)

| Name | Position         | Refer procurement request to Cabinet? - Yes/No | Signature | Date |
|------|------------------|--|-----------|------|
|      | Director         |  |           |      |
|      | Portfolio Holder |  |           |      |

- (c) Approval obtained from Monitoring Officer:

| Name               | Position | Refer procurement request to Cabinet? - Yes/No | Signature | Date |
|--------------------|----------|--|-----------|------|
| Monitoring Officer |          |  |           |      |

- (d) Form forwarded to LSPM?                      Yes

Date: \_\_\_\_\_

\_\_\_\_\_

**APPENDIX I**

**Definition and Glossary of Terms**

**Definitions**

|   |   |
|---|---|
| Aggregation                               | The identification of similar purchases made and combined aggregated requirements over a specified period of time.  |
| Appropriate Officer                       | Member of staff who has delegated authority to conduct procurement exercises.   |
| Cabinet Member                            | Elected member of the Council who is responsible for the Cabinet Portfolio under which the service area sits.   |
| Commissioning                             | Is the process of specifying, securing and monitoring services to meet people’s needs at a strategic level.   |
| Competitive Dialogue                      | This is used when the Council is unable to provide a precise specification and where there is scope to negotiate about what services a contractor can provide. The purpose of this procedure is to negotiate on the specification of the project and not on the price. Contractors are allowed to individually discuss all aspects of the contract with the Council, and workable solutions are built up with each contractor. Once this process is completed, then all contractors are invited to tender based on their individual and unique solutions. |
| ++++<br>++++<br>++++                      | The set of legal, administrative and legislative principles by which the Council is governed, especially in relation to the rights of the people it governs.  |
| Contract                                  | Document setting out various particulars for the provision of supplies, services and works.   |
| Corporate Plan                            | The document by which the Council sets out its priorities and objectives, and how it will achieve them.   |
| Corporate Procurement Strategy and Policy | The document by which the Council sets out its procurement priorities and objectives, and how it will achieve them.   |
| Council                                   | Bassetlaw District Council.   |
| CPR’s                                     | Contract Procedure Rules.   |
| Directorate                               | An area of the Council that is responsible for specific service delivery.   |
| Director/Head of Service                  | Member of staff who is responsible for a Directorate/Service Area of the Council.   |
| Framework Arrangement                     | An overarching agreement with a supplier where prices, specifications and terms are pre-agreed, but where there is no obligation to purchase.   |
| Project Management Guidelines             | The Project Management Methodology employed by the Council for the management and delivery of all projects.   |
| Manual of Guidance                        | Document giving further advice and clarification regarding procurement and templates for use within the procurement process.  |
| Monitoring Officer                        | The Monitoring Officer ensures the lawfulness and fairness of Council decision making and serves as the guardian of   |

|                      |   |
|----------------------|---|
|                      | the Council's Constitution and the decision making process. Responsibilities include advising the Council on the legality of its decisions, providing guidance to Councillors and Officers on the Council's Constitution and its powers, and assisting the Standards Committee in its role of promoting and maintaining high standards of conduct and probity within the Council. |
| Negotiated Procedure | This allows for negotiations to be undertaken with contractors on the advertised terms of the contract, but only in restricted circumstances.   |
| Open Procedure       | An advert will be placed in OJEU, the relevant press and trade journals. The tender is open to all interested parties who submit an expression of interest.   |
| Option Appraisal     | The assessment of options in order to establish the most viable or feasible course of action.   |
| Priorities           | The areas that the Council believes are important in order to deliver services to citizens.   |
| Procurement          | The process of acquiring supplies, services and goods from third parties.   |
| Purchasing Consortia | A group of organisations joining together for the shared purpose of purchasing supplies, services or works.   |
| Restricted Procedure | An advert will be placed in OJEU, the relevant press and trade journals. Interested parties which express an interest will be required to complete a Pre-Qualification Questionnaire, and the Council will evaluate these and produce a shortlist of suitable organisations which will then be invited to tender.   |
| Risk Management      | The identification of potential risks and the arrangement of contingency plans to manage or minimise those risks.   |
| Standing List        | A list of suppliers/providers who have already been approved as suppliers to the Council.   |
| Threshold Level      | Sets out the amount of money (or contract value) by which different procurement procedures are followed.  |
| Value for Money      | Obtaining the most economical, efficient, and effective solution.   |

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### **Glossary of Terms**

|       |                                       |
|-------|---------------------------------------|
| CCC   | Corporate Contracts Catalogue         |
| CPR's | Contract Procedure Rules              |
| EU    | European Union                        |
| ITT   | Invitation to Tender                  |
| MEAT  | Most Economically Advantageous Tender |

|      |  |
|------|--|
| OJEU | Official Journal of the European Union |
| PIN  | Prior Information Notice               |
| PQQ  | Pre-Qualification Questionnaire        |
| RFQ  | Request For Quotation                  |

APPENDIX K (Continued).

Flow Chart B – Assessment of Leased Assets

**1. Is the transaction in substance a purchase or disposal?**

If a premium lump sum has been paid upfront for the lease, and the amount of the premium is approximately equal to what the asset being leased could be purchased for on the market – answer “Yes”. Other indicators of a “Yes” answer are a peppercorn rent thereafter the premium, and a rental period of material length e.g. 50 years or more. E.g. you pay £25k up front to hire a piece of equipment for five years, and then don’t make any (or only very small e.g. £1 per year) further rentals over the five year period. If this is the case, please complete the Leased Asset recording sheet and forward with a copy of the lease agreement to the Accountancy Section.

**3. Is the lease term for more than 50% of the economic life of the asset?**

The economic life of an asset is the lifetime of the asset over which it could be leased out or used internally by the lessor, which may be more than the length of time that we are leasing it for. E.g. if a vehicle will be not fit for purpose in 10 years’ time and we are leasing/hiring it for 5 or more of those years then the answer to this question is “yes”.

**4. Does the lessee have the option to purchase the asset at a price that is less than what it is really worth at the end of the lease?**

The value of the asset is the value that an equivalent asset e.g. in type, age, condition, could be purchased for, in an open market transaction. E.g. If you hire a cherry picker for 5 years, and in 5 years time you have the option to purchase that picker (instead of returning it to the hire company), for much less money than you could if you went out and bought one in the same condition - answer “Yes”.

**5. Are the leased assets of a specialised nature so that only the lessee can use them without major modifications?**

For example, trade marks, or assets in locations where other entities couldn’t use them. E.g. if you hire a piece of equipment that no one else could use, or would want to use, without major modifications being done to it as it is specialised to a function that only the council carries out, then the answer to this question is “Yes”.

**7. Will the gains and losses from the fluctuation in the fair value of the residual value fall to the lessee?**

For example, if the lessor sells the asset to a third party at the end of the lease for less than the expected residual value, the former lessee will make up the difference, or if it is sold for more, then the former lessee receives the ‘profit’. The residual value is the value that an asset of equivalent type, age, condition etc that the asset is expected to be in at the end of the lease, could be purchased for, in an open market transaction, at the beginning of the lease. E.g. if the company we hire a vehicle from intends to sell the vehicle on when we have finished with it, and it is sold for less than it should be worth when we hand it back, and we promise to make up the shortfall between what it was sold for and what it should be worth then the answer to the question is “Yes”.  
++++  
++++  
++++  
++++  
++++ Similarly if the company sells the vehicle on for more than what it is worth, and the agreement is that we receive the profit they make, then again the answer to the question is “Yes”.

## OFFICER EMPLOYMENT PROCEDURE RULES

### 1. **Statutory Rules**

#### 1.1 In these rules–

“the 1989 Act “ means the Local Government and Housing Act 1989;

“disciplinary action” has the same meaning as in the Local Authorities (Standing) Orders (England) Regulations 2001;

“member of staff” means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part, which shall be the Chief Executive.

#### 1.2 Subject to paragraphs 1.3 and 1.8, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act as the head of the authority’s paid service or by an officer nominated by him.

#### 1.3 Paragraph 1.2 shall not apply to the appointment or dismissal of, or disciplinary action against –

(a) the officer designated as the head of the authority’s paid service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

#### 1.4 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal.

Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c), or (d) of paragraph 1.3, at least one member of the Cabinet must be a member of that committee or sub-committee.

#### 1.5 In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until –

(a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment

(b) the proper officer has notified every member of the Cabinet of the authority of–

- (i) the name of the person to whom the appointor wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- (c) either –
- (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the cabinet has any objection to the making of the offer;
  - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or
  - (iii) the appointor is satisfied that any objection received from the Cabinet Leader within that period is not material or is not well-founded.

1.6 In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) or paragraph 1.3 must not be given by the dismissor until –

- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the Cabinet of the authority of–
  - (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- (c) either –
  - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
  - (ii) the proper officer has notified the dismissor that no objection was received

by him within that period from the Leader; or

- (iii) the dismissor is satisfied that any objection received from the Cabinet Leader within that period is not material or is not well founded.

1.7. No disciplinary action in respect of the head of the authority's paid service, its Monitoring Officer or its Chief Finance Officer, except action described in paragraph 1.7.1, may be taken by the authority, or by a committee, a sub-committee, on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).

1.7.1 The action mentioned in paragraph 1.7 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

1.7.2 Councillors will not be involved in the dismissal of any officer below heads of service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

1.8 Nothing in paragraph 1.2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **2 Local Rules**

### **2.1 Discussion in Public**

If any question arises at a meeting as to the appointment, promotion, dismissal, salary, pension or conditions of service, or as to the conduct of any person employed by the Council, such questions shall not be the subject of discussion until the meeting has decided whether to exercise the power to exclude the public under Section 100A of the Local Government Act 1972.

### **2.2 Recruitment and appointment**

- (a) Declarations
  - (i) The Council will draw up a statement requiring any candidate for appointment as an officer 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 officer of the Council; or of the partner of such persons.
  - (ii) No candidate so related to a councillor or an officer will be appointed



without the authority of the relevant Head of Service or an officer nominated by them.

- (b) Seeking support for appointment.
  - (i) Subject to paragraph (iii), 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) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
  - (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

### 2.3 **Recruitment of Head of Paid Service and Directors and Heads of Service**

Where the Council proposes to appoint a head of paid service, a director or a head of service and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

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

### 2.4 **Other appointments**

#### a) **Officers below heads of service.**

Appointment of officers below heads of service, (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.

#### b) **Assistants to political groups**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.