

Part 4

Rules of Procedure

Part 4 – Council Procedure Rules

COUNCIL PROCEDURE RULES

C O N T E N T S

Rule No

- 1 Meetings of the Council
- 2 Time and place and notice and summons to meetings
- 3 Chairman and Vice-Chairman
4. Chairman of Meeting
- 5 Quorum - Council Meetings
- 6 Order of Business at Council Meetings
7. Order of Business at Annual Council Meetings
- 8 Minutes of the Council
- 9 Record of attendance
- 10 Exclusion of public
- 11 Notices of motion
- 12 Motions and amendments which may be moved without notice
- 13 Leader's report – **No longer in use**
- 14 Reports from and questions to the Leader of the Council and Lead Members
Reports from and questions to the Chairmen of Audit, Planning, Licensing and
Regulatory Services Committees
- 15 Questions from the public
- 16 Rules of debate for Council meetings
- 17 Procedure Rules for Budget Setting
- 18 Petitions
- 19 Motions affecting persons employed by the Council
- 20 Disorderly conduct
- 21 Disturbance by members of the public
- 22 Rescission of preceding resolution by Council

Rule No

- 23 Voting
- 24 Voting on appointments
- 25 Disclosable pecuniary and non-pecuniary interests
- 26 Appointment of Committees etc
- 27 Proceedings of Committees etc to be confidential
- 28 Constitution of Committees etc
- 29 Chairmen and Vice-Chairmen of Committees etc
- 30 Meetings of Committees etc
- 31 Quorum – Committees etc
- 32 Suspension and amendment of rules at council meetings
- 33 Interpretation of Rules
- 34 Validity of proceedings
- 35 (A) Councillors and other elected representatives may attend Committee or Sub-Committee Meetings
(B) Representations at Committees etc
- 36 External filming of Council or Committee meetings
- 37 Application to Committees and Sub-Committees

THREE RIVERS DISTRICT COUNCIL

PROCEDURE RULES THE PROCEEDINGS AND BUSINESS OF THE COUNCIL

RULE 1

MEETINGS OF THE COUNCIL

- (1) The Council shall in every year hold an annual meeting.
- (2) The annual meeting of the Council shall be held -
 - (a) in a year of ordinary elections of Councillors to the Council, on the eighth day after the day of retirement of Councillors or such other Tuesday within the 21 days immediately following the day of retirement as the Council may fix;
 - (b) in any other year, on such Tuesday in the month of March, April or May as the Council may fix;
 - (c) for the purpose of determining the order of business at the annual meeting, Rule 6 shall not apply.
- (3) Ordinary meetings of the Council shall be held in each year on such days as the Council shall determine.
- (4) An extraordinary meeting of the Council may be called at any time by the Chairman and/or the Monitoring Officer.
- (5) If the Chairman refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five Members of the Council, has been passed to him, or if, without so refusing, the Chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then any five Members of the Council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Council.
- (6) No business shall be transacted at a meeting of the Council other than that specified in the Agenda relating thereto, except as required by an enactment or as a matter of urgency in accordance with these Rules.
- (7) All meetings of the Council shall be held at such place or places as the Council may from time to time determine. Full Council meetings shall not start earlier than 7.30pm although extraordinary meetings may commence earlier. Meetings shall be concluded by 10pm with the exception of the Council Budget meeting, which shall conclude not later than 10.30pm.

RULE 2

TIME AND PLACE AND NOTICE OF SUMMONS TO MEETINGS

- (1) The time and place of meetings will be determined by the Chief Executive and notified in the summons.
- (2) The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Chief Executive will issue a summons, signed by him, to every Member of the Council. The Summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such electronic reports as are available.

RULE 3

CHAIRMAN AND VICE-CHAIRMAN

- (1) **Chairman.** The first business to be transacted at the annual meeting of the Council shall be the election of the Chairman who shall, unless s/he resigns or becomes disqualified, hold office until his/her successor becomes entitled to act as Chairman at the next annual meeting of the Council.
- (2) **Vice-Chairman.** The Council shall at the annual meeting appoint a Vice-Chairman who shall, unless s/he resigns or becomes disqualified, hold office until immediately after the election of a Chairman at the next annual meeting of the Council.

RULE 4

CHAIRMAN OF MEETING

- (1) The Chairman, if present, shall preside at meetings of the Council.
- (2) If the Chairman is absent from a meeting of the Council the Vice-Chairman, if present, shall preside.
- (3) If both the Chairman and Vice-Chairman are absent from a meeting of the Council, another Member chosen by the Members present shall preside. This Member shall not be the Leader or a Lead Member.
- (4) Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the Member presiding at the meeting.
- (5) The Chairman may postpone or adjourn a meeting to a later date with less than the required notice period of five working days with the agreement of Group Spokespersons or with the consent of the Council as appropriate, for example if an item on a published agenda is not available for consideration.
- (6) This Rule shall, with any necessary modification, apply to Committee and Sub-Committee meetings.

RULE 5

QUORUM - COUNCIL MEETINGS

- (1) No business shall be transacted at a meeting of the Council unless at least one quarter of the whole number of Members is present.
- (2) If during any meeting of the Council the Chairman after counting the number of Members present declares that there is not a quorum present, the meeting shall stand adjourned, and the names of those Members who are present at that time shall be recorded in the Minutes.
- (3) The consideration of any business not transacted shall be adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or, if s/he does not fix a time, to the next ordinary meeting of the Council.

RULE 6

ORDER OF BUSINESS AT COUNCIL MEETINGS

- (1) The order of business at every ordinary meeting shall be:-
 - (a) To choose a Member to preside if the Chairman and Vice-Chairman be absent.
 - (b) Apologies for absence.
 - (c) To confirm as a correct record the Minutes of the previous meeting of the Council which shall then be signed by the Member presiding at the meeting.
 - (d) Business required by statute to be dealt with before any other business.
 - (e) To deal with any other business specifically required by law.
 - (f) Recommendations of the Policy & Resources Committee (including budget-setting recommendations).
 - (g) To deal with any other recommendations.
 - (h) To receive any petitions (Rule 19).
 - (i) Questions from the public (Rule 16).
 - (j) Chairman's announcements.
 - (k) Reports from the Leader of the Council and Lead Members and questions to each of the above (Rules 14 and 15)
 - (l) Reports from and questions to the Chairmen of the Audit, Planning, Licensing and Regulatory Services Committees (Rule 14).

- (m) To consider notices of motion (Rule 11).
- (n) To deal with any other business specified in the Summons.
- (2) The order of business under Items (h) – (n) can be changed by the Chairman or by a resolution passed on a motion (which need not be in writing) duly moved and seconded and put without discussion.

RULE 7

ORDER OF BUSINESS AT ANNUAL COUNCIL MEETINGS

The order of business at the Annual Council meeting shall be:-

- (a) to elect the Chairman of the Council for the forthcoming municipal year;
- (b) to elect the Vice-Chairman of the Council for the forthcoming municipal year;
- (c) to deal with any item of business required by law to be transacted before any other item;
- (d) to approve the Minutes of the last meeting of the Council;
- (e) to receive any announcements from the Chairman and/or Head of Paid Service;
- (f) to appoint the Leader, Deputy Leader, and Lead Members.
- (g) to establish, subject to Articles 6 and 9 of Part 2 of the Constitution, the Policy and Resources and Service Committees for the municipal year;
- (h) to establish, subject to Article 8 of Part 2 of the Constitution, such regulatory and other Committees as the Council considers appropriate to deal with matters which by law or by the Constitution are not reserved to full Council;
- (i) to determine, subject to Articles, 6, 8 and 9 of Part 2 of the Constitution the size and terms of reference of the Committees referred to in paragraphs (g) and (h) above;
- (j) to determine the allocation of seats to political groups in accordance with Sections 15 to 17 inclusive of the Local Government and Housing Act 1989 (the political balance rules);
- (k) to receive nominations of Councillors to serve on each Committee and appoint the Members thereto;
- (l) to appoint the Chairmen and Vice-Chairmen of the Committees;
- (m) to receive nominations of Councillors to serve on outside bodies and appoint to those bodies;
- (n) to approve, if necessary, a scheme of allowances for the municipal year having regard to the reports and recommendations of the Independent Panel on Members' allowances established by the Council to advise in this respect;
- (o) to approve, if necessary, the appointment and terms of reference of the Independent Panel on Members' Allowances for such term as it thinks fit;

- (p) to approve, if necessary, a programme of ordinary meetings of the Council for the municipal year; and
- (q) to consider any other items of business set out in the summons concerning the meeting.

RULE 8

MINUTES OF THE COUNCIL

- (1) Minutes of the proceedings of meetings of the Council shall be drawn up by the Chief Executive and presented at the next following ordinary meeting of the Council to be signed by the Member presiding thereat.
- (2) The Chairman, or Member presiding at the meeting, shall put the question that the Minutes of the previous meeting be confirmed as a correct record.
- (3) No discussion shall take place upon the Minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of the Chairman shall sign the Minutes.
- (4) This Rule shall, with any necessary modification, apply to Committee and Sub-Committee meetings.

RULE 9

RECORD OF ATTENDANCE

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

RULE 10

EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution or Rule 21 (Disturbance by Members of the Public).

RULE 11

NOTICES OF MOTION

- (1) Notice of every motion, other than a motion under Rule 12, shall be given in writing, signed by the Member or Members of the Council giving the notice and delivered by noon on the first working day of the week prior to the meeting at the office of the Chief Executive by whom it shall be dated and numbered in the order in which it is received and entered in a book which shall be open to the inspection of every Member of the Council.
- (2) The Chief Executive shall set out in the Agenda for every meeting of the Council all motions of which notice has been duly given in the order in which they have been

received, unless the Member giving such a notice intimated in writing, when giving it, that s/he proposed to move it at some later meeting or has since withdrawn it in writing.

- (3) If a motion thus set out in the Agenda be not moved either by a Member who gave notice thereof or by some other Member on his/her behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- (4) The Chief Executive, in consultation with the Chairman of the Council, shall decide whether the motion should be more appropriately referred to a Committee. Otherwise, motions will be dealt with at the Council meeting to which they are submitted.
- (5) Every notice of motion shall be relevant to some matter in relation to which the Council has powers or duties, or which affects the District.
- (6) A motion of which notice has been duly given in accordance with the foregoing shall not be amended or varied at any time except in accordance with the following:-

A Member who had given notice of the motion may, with the consent of the Council signified without discussion –

- (a) alter the motion; or
- (b) with the further consent of his/her seconder alter a motion which s/he has moved;

provided (in either case) the alteration is one which could be made as an amendment thereto.

- (7) A Member of the Council who has moved a motion which has been referred to any Committee shall have notice of the meeting of the Committee at which it is proposed to consider the motion. S/he shall have the right to attend the meeting and if s/he attends shall have an opportunity of explaining the motion.
- (8) The rules of debate, contained in Rule 16 shall, with any necessary modification, apply to this Rule.

RULE 12

MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE

- (1) Appointment of a Chairman of the meeting at which the motion is moved.
- (2) Motion relating to the accuracy of the Minutes.
- (3) That an item of business specified in the Agenda has precedence.
- (4) To refer back to a Committee a matter dealt with under delegated powers but only when additional material facts, not available at the meeting, were forthcoming.
- (5) Appointment of a Committee or Members thereof, occasioned by an item mentioned in the Agenda for the meeting.
- (6) Adoption of recommendations of the Committees or officers.
- (7) That leave be given to withdraw a motion.

- (8) Extending the time limit for speeches.
- (9) Amendments to motions.
- (10) That the Council proceed to the next business.
- (11) That the question be now put.
- (12) That the debate be now adjourned.
- (13) That the Council do now adjourn.
- (14) Suspending Council Procedure Rules, in accordance with Rule 33.
- (15) Motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public.
- (16) That a Member named under Rule 21 be not further heard or do leave the meeting.
- (17) Giving the consent of the Council where the consent of the Council is required by these Rules.
- (18) Paragraphs (1)-(3), (7)-(13), (15)-(16) of this Rule shall, with any necessary modification, apply to the Committee and Sub-Committee meetings.
- (19) Paragraph (5) of this Rule shall, with any necessary modification, apply to the Committee meetings.

RULE 13 – NO LONGER IN USE

LEADER’S REPORT – NO LONGER IN USE

RULE 14

REPORTS FROM AND QUESTIONS TO LEADER OF THE COUNCIL AND LEAD MEMBERS

REPORTS FROM AND QUESTIONS TO CHAIRMEN OF AUDIT, PLANNING, LICENSING, AND REGULATORY SERVICES COMMITTEES

- (1) The Chairman of the Council has discretion to accept questions to the Leader of the Council, Chairmen of Audit, Planning, Licensing, Regulatory Services and Lead Members of Service Committees, which are directly related to their areas of responsibility. S/he also has discretion to direct any question to the appropriate Committee for answer.
- (2) Members must submit questions and amendments to motions in writing by noon of the day before the Council meeting.
- (3) Full versions of the questions shall be displayed on a projector at Council meetings and shall also be available at the meeting.
- (4) With the Chairman's permission, the Member who submitted the question may ask one supplementary question about the answer. There is a one-minute limit per supplementary question.

- (5) At all ordinary meetings of the Council, the Leader of the Council, Lead Members and Chairmen of Audit, Planning, Licensing and Regulatory Services Committees may report on matters relevant to their areas of responsibility, which have arisen since their last report. **Each report shall be time limited to five minutes.**
- (6) Any Member of the Council may ask a question on the report followed by one supplementary question.
- (7) In addition, if a Member has an urgent question that has arisen since the question deadline, with the Chairman's permission s/he may ask it of one of the Members covered by this rule. This must be submitted in writing to the Committee Section by noon before the meeting.
- (8) Normally every question (written or oral) must be asked and answered without discussion but, at the Chairman's discretion, there can be a debate on the issue in question. A Member who has been asked a question can decline to answer, or may name an appropriate person to answer for him/her.

RULE 15

QUESTIONS FROM THE PUBLIC

- (1) At any ordinary meeting of the Council, a member of the public may ask a question which is relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority or part of it, or the inhabitants of that area or some of them.
- (2) Questions must be submitted in writing to the Chief Executive by noon on the Monday of the week prior to the meeting.
- (3) The Council Chairman will determine which questions are to be accepted for answers at Council and which will be dealt with in other ways following consultation with the Leader, and relevant Lead Member. The Chief Executive will notify intending questioners whether or not their question has been selected. All questions will be included on the agenda for Council. The agenda will also indicate how questions not being dealt with at Council will be progressed.
- (4) A maximum of eight questions will be allowed at each meeting. Questioners may put the questions themselves or ask that they be read out by the Chairman. With the Chairman's permission, the questioner may ask a supplementary question about the answer.
- (5) Answers will be given by the Leader or by the Lead Member or by a Member nominated by the Leader/relevant Committee Chairman if that Member agrees. An answer may be:-
 - (a) an oral answer lasting no more than three minutes; or
 - (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
 - (c) where the information required can more conveniently be given in writing, a written answer; or
 - (d) a combination of the above.

- (6) Except in extraordinary circumstances notified to the Chairman prior to the meeting, other members of the public may not ask supplementary questions.

RULE 16

RULES OF DEBATE FOR COUNCIL MEETINGS

- (1) A motion or amendment shall be stated and moved by the proposer thereof as soon as s/he indicates a wish to address the Council and before making any speech, and unless notice has already been given in accordance with Rule 11 it shall, if required by the Chairman, be put in writing and handed to the Chairman before it is further discussed or put to the meeting.
- (2) A Member when seconding a motion or amendment may, if s/he then declares his/her intention to do so, reserve his/her speech until any point later in the debate.
- (3) Where possible a Member when speaking shall stand and address the Chairman. If two or more Members rise, the Chairman shall call on one to speak; the other or others shall then sit. While a Member is speaking the other Members shall remain seated, unless rising to a point of order or in personal explanation.
- (4) A Member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order. Except with the consent of the Council **a Member moving a motion (other than a motion under paragraph (13) of this Rule) shall be entitled to speak for not more than ten minutes, but, except as aforesaid, no Member shall speak for more than five minutes.**
- (5) A Member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-
- (a) to speak once on an amendment moved by another Member;
 - (b) if the motion has been amended since s/he last spoke, to move a further amendment;
 - (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which s/he spoke was carried;
 - (d) in exercise of a right of reply given by paragraph (11) or (13) of this Rule;
 - (e) on a point of order; and
 - (f) by way of personal explanation.
- (6) An amendment shall be relevant to the motion and shall be either:-
- (a) to refer a subject of debate to a Committee for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others;
 - (d) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.

- (7) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing that the Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.
- (8) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
- (9) A Member may, with the further consent of his/her seconder and with the consent of the Council, alter a motion which s/he has moved provided the alteration is one which could be made as an amendment thereto.
- (10) A motion or amendment may be withdrawn by the mover with the consent of his/her seconder and of the Council, which shall be signified without discussion, and no Member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.
- (11) The mover of a motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote but be time limited to five minutes. If an amendment is moved, the mover of the original motion shall also have the right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his/her amendment.
- (12) When a motion is under debate no other motion shall be moved except the following:-
 - (a) to amend the motion;
 - (b) to adjourn the meeting;
 - (c) to adjourn the debate;
 - (d) to proceed to the next business;
 - (e) that the question be now put;
 - (f) that a Member be not further heard;
 - (g) by the Chairman under Rule 21(2) that a Member do leave the meeting;
 - (h) a motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the public;
 - (i) to postpone consideration of the motion.
- (13) Subject to the provisions of paragraph (5) of this Rule and paragraph (3) of Rule 33, a Member may move without comment at the conclusion of a speech of another Member, "That the Council proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Council do now adjourn", on the seconding of which the Chairman shall proceed as follows:-

- (a) on a motion to proceed to next business; unless in his/her opinion the matter before the meeting has been insufficiently discussed s/he shall first give the mover of the original motion a right of reply and then put to the vote the motion to proceed to next business;
 - (b) on a motion that the question be now put; unless in his/her opinion the matter before the meeting has been insufficiently discussed s/he shall first put to the vote the motion that the question be now put and if it is passed then proceed in accordance with paragraph (11) of this Rule;
 - (c) on a motion to adjourn the debate or the meeting; if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion s/he shall put the adjournment motion to the vote without giving the mover of the original motion his/her right of reply on that occasion.
- (14) A Member may rise on a point of order or in personal explanation and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Rule or statutory provision and the Member shall specify the Rule or statutory provision and the way in which s/he considers it has been broken. A personal explanation shall be confined to some material part of a former speech by him in the present debate which may appear to have been misunderstood.
- (15) The ruling of the Chairman on a point of order or on the admissibility of a personal explanation shall not be open for discussion.
- (16) Whenever the Chairman rises during a debate a Member then standing shall resume his/her seat and the Council shall be silent.
- (17) Smoking shall not be permitted.
- (18) This Rule, except those parts which relate to standing and speaking more than once, shall, with any necessary modification, also apply to Committee and Sub-Committee meetings.

RULE 17

PROCEDURE RULES FOR BUDGET SETTING

- (1) The budget shall be proposed by a member of the Administration who will be allowed a maximum of ten minutes to present the budget.
- (Electronic copies of the budget proposal and of any related visual presentation must be circulated electronically to all Councillors 5 working days before the meeting. The proposal must be accompanied by a statement from the Council's Chief Financial Officer as to the robustness of any estimates used and the adequacy of the financial reserves resulting from the budget proposal, in accordance with Section 25 of the Local Government Act 2003. The proposals must also be agreed by the Chief Executive or relevant Director to ensure that they are deliverable and that any associated risks are identified. Electronic Copies of all budget proposals must have been supplied to the Chief Financial Officer 10 working days prior to the meeting.
- (2) The Leaders of other parties (or nominated Member) or any individual Member may each propose an alternative budget and will be allowed a maximum of ten minutes to present their budget. These proposals will be circulated electronically to all Councillors

5 working days prior to the meeting and must be accompanied by a statement from the Council's Chief Financial Officer as to the robustness of any estimates used and the adequacy of the financial reserves resulting from the budget proposal, in accordance with Section 25 of the Local Government Act 2003. The proposals must also be agreed by the Chief Executive or relevant Director to ensure that they are deliverable and that any associated risks are identified. Electronic Copies of all budget proposals must have been supplied to the Chief Financial Officer 10 working days prior to the meeting.

- (3) Each budget will be seconded and the seconder may reserve the right to speak later in the debate for up to five minutes.
- (4) After all budgets have been proposed, there will be one debate covering all the propositions,
- (5) All other Members may have the opportunity to comment/ask questions but they may only speak once during the debate and for no longer than five minutes, apart from points of order.
- (6) The proposer of each budget may sum up/answer questions for no more than ten minutes each, in the reverse order of being proposed.
- (7) A vote will be taken in reverse order of being proposed until a majority of Members present vote in favour of one budget.”
- (8) In accordance with regulations, voting on resolutions setting the budget and Council Tax shall be by means of recorded vote.

RULE 18

PETITIONS

- (1) Any member of the public may ask to present a petition, either electronically or in paper form, signed by at least 25 residents other than Members of the Council. It must be relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority or part of it, or the inhabitants of that area or some of them. Subject to the provisions of the Petitions Scheme governing responses to ordinary petitions, the Group Leaders shall determine which ordinary petitions shall be presented to a Committee or to Council. A petition which asks for the Chief Executive or a Director to give evidence to a public meeting of a Committee must have a minimum of 100 signatures. A planning or licensing objection signed by more than 25 residents should not be deemed a petition for the purpose of this Rule. The Chairman and Spokespersons of Planning or Licensing Committee (as appropriate) shall be notified of its receipt and can exercise their right to require the matter to be determined by the appropriate Committee.
- (2) The terms of the petition and signatures shall be submitted in writing by noon on the Monday of the week prior to the meeting.
- (3) A maximum of three petitions shall be received at any meeting. Petitions shall be taken in the order of receipt.
- (4) The Group Leaders will determine which petitions should be presented to a Committee and will have discretion over where a petition should go, to ensure that it goes to the most appropriate committee. Exceptionally, a petition might be referred to Council. The title and subject matter of every petition received will be included on the agenda for

the relevant Committee. The agenda will also indicate how petitions not being received at that meeting will be progressed.

- (5) One representative of the petitioners shall be allowed to address the meeting **for not more than three minutes**.
- (6) After the petition has been presented, the appropriate Member shall have the right to respond. The response shall be limited to no more than three minutes.
- (7) Except in extraordinary circumstances notified to the Chairman prior to the meeting, members of the public may not ask questions or make statements in relation to the subject matter of the petition. No member of the public may speak more than once and no speech shall last longer than three minutes.
- (8) A decision will be made on how to respond to the petition and a written reply with details of any action proposed will be sent to the representative of the petitioners.
- (9) No petition shall be considered within six months of a petition with the same or likewise objective.
- (10) **E-Petitions**
 - (a) E-Petitions, created and submitted through the Council's website, shall follow the same guidelines as paper petitions, as above.
 - (b) The petition organiser shall provide his/her name, postal address and email address.
 - (c) The E-Petition shall remain open for a maximum of three months.

RULE 19

MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If at a meeting of the Council (or a Committee or Sub-Committee) to which Sections 100A to 100D of the Local Government Act 1972 apply, any question arises as to the staff employed by the Council, such question shall not be the subject of discussion until the Council or Committee, as the case may be, has decided whether or not the power of exclusion of the public under Section 100A(4) of the Local Government Act 1972 shall be exercised.

RULE 20

DISORDERLY CONDUCT

- (1) If at a meeting any Member of the Council, in the opinion of the Chairman notified to the Council, misconducts himself by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Chairman or any other Member may move "That the Member named be not further heard" and the motion if seconded shall be put and determined without discussion.
- (2) If the Member named continues his/her misconduct after a motion under the foregoing paragraph has been carried, the Chairman shall:

EITHER move "That the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion);

OR adjourn the meeting of the Council for such period as s/he in his/her discretion shall consider expedient.

- (3) In the event of general disturbance which in the opinion of the Chairman renders the due and orderly dispatch of business impossible, the Chairman in addition to any other power vested in him may, without question put, adjourn the meeting of the Council for such period as s/he in his/her discretion shall consider expedient.
- (4) This Rule shall, with any necessary modification, apply to all meetings of the Committees and Sub-Committees.

RULE 21

DISTURBANCE BY MEMBERS OF THE PUBLIC

- (1) If a member of the public interrupts the proceedings at any meeting, the Chairman shall warn him. If s/he continues the interruption the Chairman shall order his/her removal from the Council Chamber. In cases of general disturbance in any part of the Chamber open to the public, the Chairman shall order that part to be cleared.
- (2) This Rule shall, with any necessary modification, apply to all meetings of the Committees and Sub-Committees.

RULE 22

RESCISSION OF PRECEDING RESOLUTION BY COUNCIL

- (1) No motion to rescind any resolution of Council or a Committee within the preceding six months and no motion or amendment to the same effect as one which has been rejected within the preceding six months shall be proposed at a meeting of the Council unless -
 - (a) due notice has been given in accordance with Rule 11 and such Notice bears the names of at least ten Members of the Council; or
 - (b) it is moved as a report or recommendation of a Committee.
- (2) In submitting a motion within the terms of part (1)(a) of this Rule, the Member shall enclose a written assurance that the consent of the Members listed has been obtained.
- (3) Once a motion or amendment under (1)(a) above has been determined by the Council, it shall not be open to any Member to propose a similar motion or amendment within a further period of six months, notwithstanding the foregoing provisions of this Rule.

RULE 23

VOTING

- (1) Except where otherwise required by an enactment, all questions coming before the Council shall be decided by a majority of the Members present and voting thereon at a meeting and in the event of an equality of votes the Member presiding at the meeting shall have a second or casting vote.
- (2) The mode of voting shall be by show of hands, provided that on the requisition of not less than six Members of the Council made before the vote is taken the voting on any

question shall be recorded so as to show how each Member present and voting gave his/her vote, or that s/he abstained from voting.

- (3) This Rule shall also apply to meetings of the Committees and Sub-Committees, save that a recorded vote shall be taken upon the requisition of not less than two Members.
- (4) Except for recorded votes, immediately after a vote is taken any Member who so requires may have recorded in the minutes whether s/he voted for the question or against the question or whether s/he abstained from voting.

RULE 24

VOTING ON APPOINTMENTS

Where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

RULE 25

DISCLOSABLE PECUNIARY and NON-PECUNIARY INTERESTS

The Three Rivers District Council Code of Conduct (appended) defines pecuniary and non-pecuniary interests which Members are required to declare. Normally, where a pecuniary interest in a matter is declared, a Member is unable to participate in the meeting when the item is under discussion.

RULE 26

APPOINTMENT OF COMMITTEES ETC

The Council shall at the annual meeting appoint such Committees as it is required to appoint by or under any statute and may at any time appoint such other Committees as are necessary to carry out the work of the Council but, subject to any statutory provisions in that behalf:-

- (a) shall not appoint any Member of a Committee so as to hold office later than the next annual meeting of the Council;
- (b) may at any time dissolve a Committee or alter its membership.

RULE 27

PROCEEDINGS OF COMMITTEES ETC TO BE CONFIDENTIAL

All agenda, reports and other documents and all proceedings relating to Part II of the Committee and Sub-Committee agenda shall be treated as confidential unless and until they become public in the ordinary course of the Council's business or the Council or Committee authorises their publication.

RULE 28

CONSTITUTION OF COMMITTEES ETC

- (1) The number of seats on each Committee will be allocated in accordance with the Local Government (Committees and Political Groups) Regulations 1990.
- (2) Membership of a Committee dealing with staff negotiations is subject to the restrictions imposed by Section 12 of the Local Government and Housing Act 1989 designed to prevent conflict of interest.
- (3) The appointment of substitute members on Committees will be as follows:-
 - (a) If a member is not able to attend a meeting, his or her group may arrange a substitute, by the Group Leader giving appropriate notice to the Committee Manager or his or her representative at the meeting in writing or email, including the name of the member to be appointed in his or her place. The original member will regain his or her place on the Committee immediately after the meeting unless otherwise notified.
 - (b) The notice should be given by the appropriate Group Leader to the Committee Manager at the meeting by 12 noon on the day of the meeting; with exception of the Planning Committee whereby notice should be given by the appropriate Group Leader to the Committee Manager at the meeting by 12 noon on the Monday before the Planning Committee (i.e. 72 hours).
 - (c) Members appointed as substitutes are in the same position in terms of responsibilities and duties as any other member, for example in relation to the declaration of any interest they may have.
 - (d) A valid notice of substitution, once given in respect of a meeting of a Committee may not be revoked in respect of such meeting or any adjournment of it.
 - (f) The Committee Manager (or his/her representative) shall announce the appointment of any substitute members made in accordance with this procedural rule at the commencement of the meeting.
 - (g) In the event of the Chairman or the Vice-Chairman of a Committee being substituted, the substitute member may only act as an ordinary member.

The normal rules as to the Vice-Chairman taking the chair will apply. In the absence of both the Chairman and Vice-Chairman from a meeting, the meeting shall appoint a Chairman for that meeting who shall be drawn from any members present and with voting rights, including any substitute members.

RULE 29

CHAIRMEN AND VICE-CHAIRMEN OF COMMITTEES ETC

- (1) The Chairmen and Vice-Chairmen of the Committees and the Chairmen of all standing Committees shall be appointed at the annual meeting of the Council unless, owing to special circumstances, the Council decides otherwise.
- (2) In the absence from a meeting of the Chairman and Vice-Chairman, a Chairman for that meeting may be appointed from those Members present at the meeting.

- (3) In the event of a casual vacancy occurring in the Chairmanship of a Committee, an appointment shall be made at the next ordinary meeting of the Council.

RULE 30

MEETINGS OF COMMITTEES ETC

- (1) Ordinary meetings of the Committees shall be held in each year on such days as the Council shall determine unless amended by the Chief Executive with the agreement of the appropriate Chairman and the nominated representatives of each of the minority groups.
- (2) Ordinary meetings shall normally commence at 7.30pm unless altered in special circumstances by the Chief Executive with the agreement of the Chairman of the appropriate Committee and the nominated representatives of each of the minority groups. The Chairman shall draw to the attention of Members both before the meeting commences and before 10.00pm that the meeting must close no later than 10.00pm.
- (3) The Agenda for the meeting shall set out the business to be considered thereat and no other business shall be considered at that meeting unless notice thereof shall have been given to the Chief Executive no later than noon on the day of the meeting and which the Chairman of the meeting may agree is an urgent matter within the terms of Section 100B(4) of the Local Government Act 1972.
- (4) In the case of urgency the Chief Executive may call a special meeting of a Committee at any time. In consultation with the Chief Executive and subject to this Procedure Rule, the Chairman of the Council, the Chairman of a Committee or of a Sub-Committee may call a special meeting of that body at any time. A special meeting shall also be called on the requisition of no fewer than four Members of a Committee or three Members of the Sub-Committee delivered to the Chief Executive. The Agenda for the special meeting shall set out the business to be considered thereat and no other business other than that set out therein shall be considered at the meeting. Should the Chairmen of two or more bodies consider that it would be in the best interest of the Council that a joint meeting of these respective bodies be held, they may, after informing the Chairman of the Council, instruct the Chief Executive to convene such a joint meeting. The business to be transacted shall only be such as specified on the Agenda.
- (5) Paragraphs (2) and (3) of this Rule shall, with any necessary modification, apply to Sub-Committee meetings.

RULE 31

QUORUM - COMMITTEES ETC

- (1) Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of any Committee unless at least one-third of the whole number is present, provided that in no case shall the quorum be fewer than three Members.
- (2) Business shall not be transacted at a Sub-Committee unless at least one-third of the whole number of the Sub-Committee is present, provided that in no case shall the quorum of a Sub-Committee be less than two Members.

RULE 32

SUSPENSION AND AMENDMENT OF RULES AT COUNCIL MEETINGS

- (1) Subject to paragraph (2) of this Rule, any of the preceding Rules, with the exception of those parts comprising statutory requirements, may be suspended so far as regards any business at the meeting where its suspension is moved.
- (2) A motion to suspend Rules shall not be moved without notice (ie under Rule 12) unless there shall be present at least two-thirds of the whole number of the Members of the Council.
- (3) A Member who has spoken in a debate shall not be permitted to move the suspension of Rules in relation to that motion nor to move a motion under Rule 18(13).
- (4) Rules can be suspended only at Council meetings.
- (5) Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

RULE 33

INTERPRETATION OF RULES

- (1) The ruling of the Chairman as to the construction or application of any of these Rules, or as to any proceedings of the Council, shall be final, without setting any precedent.
- (2) In these Rules, "the Chairman" means the Chairman of the Council for the time being. Any power or duty assigned to the Chairman in relation to the conduct of a meeting may be exercised by the Member presiding at the meeting.
- (3) In computing time under these Rules, Saturday and Sunday shall be counted as ordinary days.
- (4) In these Rules, the masculine gender shall be taken to include the feminine, unless the context otherwise requires.
- (5) Paragraphs (1)-(2) of this Rule shall, with any necessary modification, apply to Committee and Sub-Committee meetings.

RULE 34

VALIDITY OF PROCEEDINGS

The proceedings of the Council or of a Committee or Sub-Committee shall not be invalidated by an inadvertent contravention or non-compliance with the provisions of these Rules relating to the convening of meetings and the constitution and terms of reference of Committees or Sub-Committees.

RULE 35

(A) COUNCILLORS AND OTHER ELECTED REPRESENTATIVES MAY ATTEND COMMITTEE OR SUB-COMMITTEE MEETINGS

Any Member of the Council is entitled to attend a Committee, or Sub-Committee of which s/he is not a Member but s/he shall not be entitled to vote, s/he shall not take part in the consideration or discussion of any business, save by leave of the Chairman of the body and his/her comments will be recorded only on the direction of the Chairman.

This Rule also applies to –

Members of Parish Councils within the District

Members of the Hertfordshire County Council representing Divisions within the District

Members of Parliament for the residents of the District

Members of the European Parliament for the residents of the District.

(B) REPRESENTATIONS AT COMMITTEES ETC

Members of the public wishing to address a Committee or Sub-Committee on Part I reports contained within the agenda for the meeting shall be given the opportunity to do so subject to:-

- (a) the opportunity being extended to one person to speak in support of each agenda item and one person to speak against each agenda item when called to do so by the Chairman;
- (b) an indication of the desire to speak on the agenda item being made by the person wishing to address the Committee or Sub-Committee just prior to the meeting and the name supplied to the Committee Manager in attendance (by means of the register), the first person registering to have precedence in the event of more than one person wishing to speak either for or against the agenda item;
- (c) each person addressing the Committee or Sub-Committee being limited to **three minutes' speech**;
- (d) an opportunity being provided for an expression of a contrary view, even though no prior notice has been given, when a member of the public has spoken for or against the item;
- (e) in the event of the person having registered to speak on an agenda item not wishing to take up their right to speak on the agenda item because it was deferred, that person will automatically be given the right to speak on the agenda item at the next meeting of the Committee or Sub-Committee;
- (f) the Chairman of the meeting having discretion to rule that a person wishing to address the meeting shall not be heard if, in his/her opinion, that issue or the organisation or the person wishing to make representation on that issue has received an adequate hearing.

RULE 36

EXTERNAL FILMING OF COUNCIL AND COMMITTEE MEETINGS

In accordance with the provisions of the Openness of Local Government Bodies Regulations 2014, any person attending a Council meeting which is open to the public may report on proceedings and publish or disseminate the results. "Reporting" includes filming, recording and providing comments on proceedings and the 2014 Regulations allow for the use of a

wide range of methods including social media, in accordance with the protocol and guidance set out in Appendix 1.

RULE 37

APPLICATION TO COMMITTEES AND SUB-COMMITTEES

- (1) All of the Council Rules of Procedure apply to meetings of full Council.
- (2) Rules 2, 4, 5, 8, 9, 10, 12, 16, 18, 19, 20, 21, 22, 23, 25, 27, 28, 29, 30, 31, 33, 34, 35 and 36 of these Procedural Rules apply to meetings of Committees and Sub-Committees of the Council.

APPENDIX 1

Rule 36 - Filming or Recording of Meetings

Protocol for members of the public wishing to report on meetings of Three Rivers District Council.

Members of the public are entitled to report on meetings of Council, Committees and Sub-Committees, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is permitted to provide a commentary or report in writing as the meeting takes place. He/she is not permitted to carry out an oral commentary or report while the meeting takes place, but may do so after or outside the meeting. This is to prevent the business of the meeting being disrupted.

The Chairman of the meeting has powers under Procedure Rule 21 to warn anyone who interrupts its proceedings. If interruptions persist, he/she may order their removal. If there is general disturbance by members of the public, he/she may order that part of the public gallery to be cleared.

In the event of proceedings being filmed, Members of the public who do not wish to be filmed will be invited to occupy a defined area within the public gallery for which permission to film will not be given.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

Anyone attending a meeting is asked to advise Committee Services staff on 01923 727251, or email enquiries@threerivers.gov.uk that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

In order to avoid accidents, the Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation.

Part 4 - Access to Information Procedure Rules

1. Scope

These rules apply to all meetings of the Council, the Regulatory and Planning Committees and other Council Committees or Sub-Committees (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.budget

4. Notices of Meeting

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the District Council Offices, Three Rivers House, Northway, Rickmansworth, Herts WD3 1RL.

5. Access to Agenda and Reports Before the Meeting

The Council will make a copy of the agenda and reports which are open to the public available for inspection at the Designated Office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent electronically to councillors) will be open to inspection from the time the item was added to the agenda.

6. General Rights

6.1 In addition to the above rights of access to material and documents, all Members of the Council shall have the following rights:

- (i) to inspect any documents or have access to other information of the following description:
 - (a) any Member of the Council or other Member (whether voting or not) of any Committee or Sub-Committee may have access to:
 - (1) any document in the possession, or under the control of the Council which relates to any matter in relation to which a Committee or Sub-Committee of which s/he is a member may discharge a function of the Council or advise the body which appointed them;
 - (2) any other recorded information, not in the form of a document, in the possession, or under the control, of the Council which is necessary for the proper discharge of

his/her functions as a member of such a Committee or Sub-Committee.

- (b) any Member of the Council may have access to any document or other recorded information in the possession of, or under the control of the Authority, access to which is necessary for the proper discharge of his/her functions as a member of the Council;

Provided that:

- (1) no person shall be entitled to inspect any document or have access to any information relating to a matter in which s/he has a disclosable pecuniary interest;
- (2) a person may be refused the right to inspect a document within paragraph (a) (i) which is not necessary for him/her to inspect for the purposes of the proper discharge of his/her functions as a Member of the Committee or Sub-Committee in question if there is good reason why such inspection should be refused;
- (3) access to information not in the form of a document need not be given where the cost of providing the access is unreasonably high, or during such period as the giving of access would unreasonably disrupt the work of the Council.

6.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply, and in any case of information which is not in the form of a document, if the Proper Officer considers that access to any document or other information is not necessary for the proper discharge of the functions (as a Member of the Council or as a Member of a Committee or Sub-Committee, as the case may be) of the person requesting such access, and there is good reason why access should be refused, s/he may refuse the person concerned access to the document or information in question.

6.3 Where a person inspects a document under the rights conferred by Section 100F of the 1972 Act or this paragraph, and the Council may lawfully make a copy of that document, s/he shall be entitled, on request, to be given a copy of that document provided that:

- (a) a reasonable charge shall be made for the copy unless the Proper Officer otherwise directs;
- (b) a copy may be refused if the Proper Officer considers that it is impracticable to make a copy.

6.4 If any Member of the Council or any other Member of a Committee or Sub-Committee is dissatisfied with any determination of the Proper Officer under Section 100F of the 1972 Act or under this paragraph, s/he may refer the question to the Council, who shall, after considering any representations that that person or the Proper Officer may wish to make, determine whether or not to uphold the Proper Officer's determination.

6.5 No Member of the Council and no other Member (whether voting or non-voting) of a Committee or Sub-Committee shall have any claim by virtue of his/her position:

- (a) to enter any land or buildings occupied by the Council to which the public do not have access or to which Members of the Council do not regularly have access except with the permission of the Chief Officer responsible for the services of the Council for which the land or buildings are occupied;
- (b) to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised to do so by the Council;
- (c) to exercise any other power of the Council;
- (d) to issue any order with respect to any works which are being carried out by, or on behalf of, the Authority, or with respect to any goods or services which are being, or might be, purchased by the Authority.

6.6 The Proper Officer for the purposes of Section 100F (2) of the 1972 Act and for the purposes of the paragraph is the Chief Executive.

6.7 For the purposes of this paragraph a person has a disclosable pecuniary interest in a matter if, on the assumption that s/he were a Member of the Council, and that the matter were to be considered by the Council, s/he would have to declare the interest under the Local Code of Member Conduct.

6.8 Where any information is given to any person (including a Member of the Council or any other Member of a Committee or Sub-Committee) by the Council or by one of its employees in the course of transacting any business of the Council, and it is made clear (in whatever way) that the information is given in confidence, that person is not entitled to make that information public without the consent of the Council.

7. **Supply of Copies**

The Council will supply electronic copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

8. **Access to Minutes etc after the Meeting**

8.1 The Council will make available copies of the following after a meeting:

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record without disclosing the exempt information;

For six years following a meeting, the Council will also make available:

- (a) the agenda for the meeting; and
- (b) reports relating to items when the meeting was open to the public.

8.2 Recording of Meetings

The Council will make audio recordings of full Council meetings and such recordings to be maintained for a period of 10 years.

9. **Background Papers**

9.1 ***List of background papers***

The Chief Executive 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 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).

9.2 ***Public inspection of background papers***

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

10. **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 at and available to the public at the Designated Office. These rules constitute such written summary.

11. **Exclusion of Access by the Public to Meetings**

11.1 ***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.

11.2 ***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 which cannot be publicly disclosed by Court Order.

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.

11.3 **Exempt information - discretion to exclude public**

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

11.4 **Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to qualifications as set out below after the listed categories):

1. information relating to any individual
2. information which is likely to reveal the identity of an individual
3. information relating to the financial or business affairs of any particular person (including the authority holding that information)
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 officer holders under, the Authority
5. information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
6. information which reveals that the authority proposes -
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment
- (7) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications/Public Interest Test

Before deciding if any item can be dealt with in Part II under one of the seven paragraphs above there are some Qualifications and a Public Interest Test that will need to be considered.

Qualifications

Information under Paragraph 3 above will not be exempt information if is required to be registered under:-

The Companies Act 1985
The Friendly Societies Acts 1974 and 1992
The Industrial and Provident Societies Acts 1965 to 1978
The Building Societies Act 1986
The Charities Act 1993

Information will not be exempt if it relates to proposed development for which the local planning authority may grant itself planning permission.

Public Interest Test

Information under 1-7 above is exempt information if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Each report will be looked at on its merits and the more answers Yes to the following the more likely that the report should be open to the public:-

Does or would the information:-

Further the understanding of and participation in the public debate of issues of the day?

Promote the accountability and transparency of the Council's decisions?

Promote accountability and transparency in the spending of public money?

Help individuals understand the Council's decisions affecting their lives and/or assist to challenge such a decision?

Relate to Public Health and Safety?

Relate to Government information which the Public would want to see?

Disclose reasons for a decision made by the Council?

Enhance scrutiny of the government decision-making process?

Some relevant factors against the disclosure of information could include

Distinguishing between things which are of public interest from things which merely interest the public.

Situations where the information includes details of third parties:-

If disclosure would affect the Public Authority's commercial interests, this would cover Council contracts

Impact of the European Convention on Human Rights, principally the right to a private life.

Factors which should not be taken into account

Possible embarrassment of the authority/other organisations

Possible loss of confidence in public authorities

The seniority of persons involved

The risk of the applicant misinterpreting the information

Committee Resolution

When a Committee etc wishes to consider an item in Part II the following resolution will need to be passed:-

That under Section 100A of the Local government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined under paragraphs (1-7) of Part I of Schedule 21A to the Act. It has been decided by the Council that in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

12. **Exclusion of Access by the Public to Reports**

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

13. **Record of Decisions**

After any meeting of a Committee or Sub-Committee, whether held in public or private, the Proper Officer or, where no such 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, as well as particulars of any conflict of interest declared and any dispensation granted.

Part 4 – Budget and Policy Framework Procedure Rules

1. The Framework for Decision-Making

- 1.2 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 Policy & Resources Committee to implement it.

2. Process for Developing the Budget and Policy Framework

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

- 2.2 Each year the Policy & Resources Committee will agree the budget & policy framework for the following year. The purpose of the framework is to establish the process whereby the Council will determine its three-year medium-term strategic plan, the related service plans, and the allocation of financial resources to achieve them.

2.3 *The process for agreeing the strategic, service and financial plans relies upon the principles that:*

- The Policy & Resources Committee concentrates at a strategic level on how the council allocates resources between its key objectives, the level of council tax to be set, and the financial reserves to be held.
- Service committees formulate recommendations to the Policy and Resources Committee on the provision and level of services within their remit and validate the details of the budget to achieve this.
- Officers prepare savings & growth proposals for consideration by the service committees.

- 2.4 The Policy & Resources Committee will recommend the policy & budget framework to Council for approval as part of the budget setting process.

- 2.5 The Council will approve the Policy & Resources Committee recommendation subject to any amendments it agrees upon.

3. The Budget Setting Process

- 3.1 Officers will formulate their budgets and resources based on the strategic and individual service plans and submit a revised budget for the current year and draft budgets for the next 3 years for consideration by the Policy & Resources Committee in January in accordance with the policy and budget framework.

- 3.2 The Policy & Resources Committee may agree and recommend to Council the revised budget and the draft revenue estimates for the forthcoming 3 years.

Or

- 3.3 The Policy & Resources Committee notes that the Administration will present its recommendations on strategic, service and financial planning to the Council meeting in February.

4. Legal Issues

- 4.1 The Council is required to set its budget before 11 March each year.

- 4.2 The Council's Chief Finance Officer (Director of Finance) has a statutory duty to report to the Council if it is likely to incur expenditure that is unlawful or likely to exceed its resources. Section 25 of the Local Government Act 2003 places a duty on the Chief Finance Officer to report on the robustness of the estimates and the adequacy of the financial reserves.

Part 4 - Financial Procedure Rules

Introduction

- 1.1 To conduct its business efficiently, the Council needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of Financial Procedure Rules that set out the financial policies of the Council. As a Council we are committed to innovation, within the regulatory framework, providing that the necessary risk assessment and approval safeguards are in place.
- 1.2 These Financial Procedure Rules provide clarity about the financial accountabilities of individuals – Policy and Resources Committee Members, the Head of Paid Service, the Monitoring Officer, the Chief Financial Officer and Chief Officers.
- 1.3 The Council's governance structure is laid down in its constitution, which sets out how the Council operates, how decisions are made and the procedures that are followed.

Financial Procedure Rules

- 2.1 The following pages set out how we intend to interpret these Financial Procedure Rules. Both Members and Chief Officers may have delegated powers and functions mentioned in this document.
- 2.2 Each section of the financial procedures follows the format set out below:-
 - **why is this important?**
this sets the context for the financial procedures and accountability
 - **key controls**
this explains the key internal controls that set the framework for ensuring Financial Procedure Rules are operating effectively
 - **responsibilities of the Chief Financial Officer**
 - **responsibilities of Chief Officers.**

Status of Financial Procedure Rules

- 2.3 Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to all services, every member and officer of the Council and anyone acting on its behalf.
- 2.4 The Rules identify the financial responsibilities of the Council, Council Committees and Chief Officers, the Head of Paid Service (Chief Executive), the Monitoring Officer (Solicitor to the Council) and the Chief Financial Officer (Shared Director of Finance). Chief Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Chief Officer in the Rules should be read as referring to them.
- 2.5 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

- 2.6 The Council's detailed financial procedures, setting out how the Rules will be implemented, are contained in separate guidance and do not form part of the Constitution.
- 2.7 The Chief Financial Officer is responsible for issuing advice, guidance and accounting instructions to underpin the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.

Financial Roles and Responsibilities

Introduction

- 3.1 The roles and responsibilities of Members and Officers are set out in the Council's Constitution. The purpose of Financial Procedure Rules is to provide an overview of the respective roles and responsibilities of Members and Officers within the Council. Specific financial responsibilities are set out in more detail throughout the subsequent sections.

The Council

- 3.2 The Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Policy and Resources Committee and other Council Committees operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Committee decisions.
- 3.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes decisions taken by Committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

Policy and Resources Committee

- 3.4 The Policy and Resources Committee is responsible for proposing the policy framework and budget to the Council,

Committees

- 3.5 All functions are exercised through relevant Committees under powers delegated by the Council. The Council has appointed the following Committees: Audit, Planning, Regulatory Services Licensing and Service Committees.

The Statutory Officers

Head of Paid Service (Chief Executive)

- 3.6 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. S/he must report to and provide information for the Council, the Policy and Resources Committee and other Committees. S/he is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions (see below).

Monitoring Officer (Solicitor to the Council)

- 3.7 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct . The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council
- 3.8 The Monitoring Officer is responsible for advising all Councillors and officers about who has authority to take a particular decision.
- 3.9 The Monitoring Officer (together with the Chief Financial Officer) is responsible for advising Council and Committees about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be ‘contrary to the budget’ include:
- initiating a new policy
 - committing expenditure in future years to above the
 - budget level
 - transfers above virement limits
 - causing the total expenditure financed from Council tax,
 - grants and corporately held reserves to increase.
- 3.10 The Monitoring Officer is responsible for maintaining an up-to-date constitution.

Chief Financial Officer (Director of Finance)

- 3.11 The Director of Finance, as the Council's Chief Finance Officer, has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
 - The Local Government Finance Act 1988
 - The Local Government and Housing Act 1989
 - The Accounts and Audit Regulations 1996 (as amended)
- 3.12 The Chief Financial Officer is responsible for:
- the proper administration of the Council's financial affairs
 - setting and monitoring compliance with financial management standards, advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
 - providing financial information
 - preparing the revenue budget and capital programme
 - treasury management.
- 3.13 Section 114 of the Local Government Finance Act 1988 requires the Chief Financial Officer to report to the Council, Policy and Resources Committee 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 Chief Financial Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the Council to provide the Chief Financial Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

Chief Officers

- 3.14 Chief Officers are individually responsible for the proper financial management of resources allocated to their services through the budget process and for the identification of and accounting for income which falls due within their area. This includes control of staff and the security, custody and control of all other resources including plant, buildings, material, cash, stores and equipment.
- 3.15 Chief Officers shall ensure that their staff receive sufficient training to enable them to be aware of and comply with the requirements of these Financial Procedure Rules and The Constitution.
- 3.16 Chief Officers are responsible for ensuring that members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer
- 3.17 It is the responsibility of Chief Officers to consult with the Chief Financial Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

Financial Regulations A

Financial Planning and Financial Management

- 4.1 The Council is responsible for agreeing the Council's policy and budget, which will be proposed by Policy and Resources Committee. In terms of financial planning, the key elements are: the corporate plan · the budget · the capital programme.
- 4.2 The Council is responsible for approving policy and budget. The policy comprises those statutory plans and strategies set out in the Council's Constitution.
- 4.3 The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Such decisions should be referred to the Council by the Monitoring Officer or Chief Financial Officer.
- 4.4 The Council is responsible for setting the level at which the Policy and Resources Committee may reallocate budget funds from one service to another. The Policy and Resources Committee is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- 4.5 The Head of Paid Service is responsible for proposing the corporate plan to the Policy and Resources Committee for consideration before its submission to the Council for approval.

Financial Regulations B

Risk Management and Control of Resources

- 4.6 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- 4.7 Internal control refers to the systems of control devised by the Council's Management Board 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.
- 4.8 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.
- 4.9 The Council is responsible for determining how officer support for Committee roles within the Council will be organised.
- 4.10 The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there are agreed systems for determining the remuneration of a job.

4.11 Chief Officers are responsible for controlling total staff numbers by:

- advising the Policy and Resources Committee 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.
- the proper use of appointment procedures.

Financial Regulations C

Financial Systems and Procedures

4.12 Sound financial systems and procedures are essential to an effective framework of accountability and control.

Financial Regulations D

External Arrangements

4.13 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 and improvement of the economic, social or environmental well-being of its area.

Financial Procedure Rules

A: Financial Management and Planning

1 Financial management standards

- (a) The Chief Financial Officer is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. The Chief Financial Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Policy and Resources Committee and/or Council.
- (b) Chief Officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's Financial Procedure Rules and that they comply with them.

Context

All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

Key Controls

The key control and control objective for financial management standards are that they are promoted throughout the Council

Responsibilities of the Chief Financial Officer

To ensure the proper administration of the financial affairs of the Council.

To set the financial management standards and to monitor compliance with them.

To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.

To advise on the key strategic controls necessary to secure sound financial management.

Responsibilities of Chief Officers

To promote the financial management standards in their services and to monitor adherence to the standards and practices, liaising as necessary with the Chief Financial Officer.

To promote sound financial practices in relation to the standards, performance and development of staff in their services.

2. Budgeting – Budget Format

- (a) The Council's capital and revenue budgets shall be prepared in a form consistent with the requirements of Local Government Act 2003 and CIPFA's Service Reporting –

Code of Practice. The budget should include allocation to different services and projects, proposed taxation levels, balances and reserves.

Context

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, and sets the level at which funds may be reallocated within budgets.

Key controls

The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with CIPFA's *Service Reporting – Code of Practice*
- (c) the format reflects the accountabilities of service delivery.

Responsibilities of the Chief Financial Officer

To advise the Policy and Resources Committee on the format of the budget that is approved by the Council.

Responsibilities of Chief Officers

To comply with accounting guidance provided by the Chief Financial Officer.

3. Budgeting – resource allocation

- (a) The Chief Financial Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's policy framework.

Context

A mismatch often exists between available resources and required resources. Available resources are not always adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

Key controls

The key controls for resource allocation are:

- (a) resources are acquired in accordance with the law and using an approved authorisation process
- (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
- (c) resources are securely held for use when required
- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

Responsibilities of the Chief Financial Officer

To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

To assist in the allocation of resources to cost centre managers.

Responsibilities of Chief Officers

To work within budget limits and to utilise resources allocated in the most efficient, effective and economic way.

To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

4. Budgeting – budget preparation – revenue budget

The Policy and Resources Committee is responsible for issuing guidance on the general content of the budget in consultation with the Chief Financial Officer as soon as possible following approval by the Council.

- (a) Reports to Members must include, where appropriate, any revenue and capital implications, including any longer term financial commitments at current prices, of the recommendation or options upon which decisions are sought.
- (b) Each Chief Officer shall consult the Chief Financial Officer with respect to any matter which is liable to materially affect the Council's finances before any provisional or other commitment is incurred or before reporting thereon to Members.
- (c) As near as possible to the 30 September each year the Chief Financial Officer shall submit to the Policy and Resources Committee a financial review of the prospects for the ensuing year.
- (d) The Chief Financial Officer shall submit to the Policy and Resources Committee before the end of December in each year an estimate of the Council's revenue budget for the ensuing financial year and a medium term (three year) financial plan. The Policy and Resources Committee shall recommend to the Council its statutory 'Budget Requirement' having sought the views of the Committees.

Context

The Council is responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

Any report on new proposals should explain the full financial implications. Unless the Council has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within existing budgets.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a Council to budget for a deficit.

Medium-term planning (a four year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

Key Controls

The key controls for budgets and medium-term planning are:

- (a) specific budget approval for all expenditure

- (b) cost centre managers are responsible for the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Policy and Resources Committee for their budgets and the level of service to be delivered
- (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of the Chief Financial Officer

To prepare and submit reports on budget prospects for the Policy and Resources Committee including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

The Chief Financial Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis as part of the financial strategy for consideration by the Policy and Resources Committee, before submission to the Council . The Council may amend the budget or ask the Policy and Resources Committee to reconsider it before approving it.

To prepare and submit reports to the Policy and Resources Committee on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council tax to be levied.

To advise on the medium-term implications of spending decisions.

To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

Responsibilities of Chief Officers

To prepare estimates of income and expenditure, in consultation with the Chief Financial Officer, to be submitted to the Policy and Resources Committee.

To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

In consultation with the Chief Financial Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Policy and Resources Committee and other Committees .

It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Policy and Resources Committee and to the relevant Committees and that these estimates are prepared in line with guidance issued by the Policy and Resources Committee .

When drawing up draft budget requirements, to have regard to:

- (a) spending patterns and pressures revealed through the budget monitoring process
- (b) legal requirements
- (c) policy requirements as defined by the Council in the approved policy framework
- (d) initiatives already under way.

5. Budgeting - budget preparation – capital investment programme

- (a) The officers shall submit to the Policy and Resources Committee before the end of December in each year a prioritised programme of the Council's proposed capital investment for the ensuing four financial years.
- (b) The Policy and Resources Committee, having sought the views of the other Committees shall recommend to the Council those schemes that should be included in the capital investment programme for the ensuing years at the meeting of the Council called for the consideration of the Council's Budget Requirement. The Policy and Resources Committee shall also, at that time, recommend to the Council the method of financing the capital investment programme.

Context

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

Key Controls

The key controls for capital programmes are:

- (a) specific approval by the Council for the programme of capital expenditure
- (b) a scheme and estimate, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Policy and Resources Committee.
- (c) the development and implementation of an asset management plan
- (d) accountability for each proposal is accepted by a named manager
- (e) monitoring of progress in conjunction with expenditure and comparison with approved budget.

Responsibilities of the Chief Financial Officer

To prepare capital estimates jointly with Chief Officers and to report them to the Policy and Resources Committee. The Policy and Resources Committee will make recommendations on the capital estimates and on any associated financing requirements to the Council.

To prepare and submit reports to the Policy and Resources Committee on the projected income, expenditure and resources compared with the approved estimates.

To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Chief Financial Officer, having regard to government regulations and accounting requirements.

Responsibilities of Chief Officers

To ensure that all capital proposals have undergone a project appraisal.

To prepare regular reports reviewing the capital programme provisions for their services.

To ensure that adequate records are maintained for all capital contracts.

To proceed with projects only when there is adequate provision in the capital programme.

To prepare and submit reports, jointly with the Chief Financial Officer, to the Policy and Resources Committee, of any variation in contract costs greater than the approved limits

To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Financial Officer and, if applicable, approval of the scheme through the capital programme.

6. Managing expenditure - budget monitoring and control

- (a) The Chief Financial Officer shall ensure that each Chief Officer has access to information showing, for the cost centres for which that officer is responsible, the sums specified in the approved budgets, the income receivable, and the payments actually made against those budgets.
- (b) Each Chief Officer shall make arrangements for regularly reviewing the progress of income and expenditure, including commitments, against the approved budgets/latest approved estimates and shall report thereon to the Policy and Resources Committee together with projections of the out-turn figures.

Context

Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Chief Officer.

Key controls

The key controls for managing and controlling the revenue budget are:

- (a) budget managers should be responsible only for income and expenditure that they can influence
- (b) there is a nominated cost centre manager for each cost centre heading
- (c) cost centre managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) cost centre managers follow an approved certification process for all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

Responsibilities of the Chief Financial Officer

To establish an appropriate framework of budgetary management and control that ensures that:

- (a) budget management is exercised within budgets unless the Council agrees otherwise

- (b) each Chief Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- (c) expenditure is committed only against an approved budget head
- (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial procedure rules
- (e) each cost centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- (f) significant variances from approved budgets are investigated and reported by budget managers regularly.

To submit reports to the Policy and Resources Committee and to the Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his/her or her control.

To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

Responsibilities of Chief Officers

To maintain budgetary control within their departments, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for.

To ensure that an accountable cost centre manager is identified for each item of income and expenditure under the control of the Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

To ensure that spending remains within the service's overall budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

To prepare and submit to the Policy and Resources Committee reports on the service's projected expenditure compared with its budget, in consultation with the Chief Financial Officer.

To ensure prior approval by the Council or Policy and Resources Committee (as appropriate) for new proposals, of whatever amount, that:

- (a) create financial commitments in future years
- (b) change existing policies, initiate new policies or cease existing policies
- (c) materially extend or reduce the Council's services.

To agree with the relevant Chief Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service activity.

7. Managing expenditure – virement and carry forward of underspends

- (a) The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- (b) Both revenue and capital accounts shall be analysed and reported to the Policy and Resources Committee by cost centre. If a projection of net income or expenditure to the year end is likely to vary from an approved budget/latest approved estimate by more than the tolerances set by the Council, then the Chief Officer shall provide an explanation. Reports must include significant items of unbudgeted income and underspends and may make requests for their utilisation. Whenever possible equivalent savings should be identified to avoid a projected overspend.
- (c) If the Policy and Resources Committee, having considered the report of a Chief Officer under this Rule, identifies a likely overspend in the total revenue budget, for which no corresponding saving can be identified, it shall recommend a supplementary revenue estimate for approval by the Council.
- (d) If the Policy and Resources Committee, having considered the report of a Chief Officer under this Rule, identifies a likely underspend in the total revenue budget, it may, if it so wishes, agree additional items of expenditure up to the amount of such underspend, providing the Council's budget in future years would not be increased.
- (e) If the Policy and Resources Committee, having considered the report of a Chief Officer under this Rule, identifies a likely overspend in the total capital investment programme, for which no corresponding saving can be identified, it shall recommend a supplementary estimate for approval by the Council.
- (f) If the Policy and Resources Committee, having considered the report of a Chief Officer under this Rule, identifies a likely underspend in the total capital investment programme, it may, if it so wishes, agree additional items of capital expenditure up to the amount of such underspend, providing the Council's budget in future years would not be increased.
- (g) The Chief Financial Officer shall prepare for the Policy and Resources Committee immediately prior to each Council meeting a summary of the Council's overall financial position.
- (h) A change to the Council's budget agreed in accordance with this Financial Procedure Rule shall become the "Latest Approved Estimate" against which, for the purposes of this Rule, all further variations must be compared. The Latest Approved Estimate agreed as a result of the meeting of the Council for the consideration of the Budget Requirement shall be termed its "Revised Budget" for the current year.
- (i) If a motion is moved at Council which would increase the net revenue or capital budget of the Council, it shall when proposed and seconded stand adjourned without discussion to the next meeting of the Policy and Resources Committee (if appointed) unless either:-
 - (i) there is a new statutory obligation to incur expenditure; or
 - (ii) the Policy and Resources Committee has already considered the matter and the recommendations are before the Council.

Context

The scheme of virement is intended to enable the Policy and Resources Committee, chief officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources.

Key controls

Key controls for the scheme of virement are:

- (a) it is administered within guidelines set by the Council. Any variation from this scheme requires the approval of the Council
- (b) the overall budget is recommended by the Policy and Resources Committee and approved by the Council. Policy and Resources Committee may approve variations within the overall budget only if they have no affect on the plans and strategies approved by the Council within its policy framework (see Article 4). Chief officers and cost centre managers are authorised to incur expenditure in accordance with the estimates that make up the budget. These Financial Procedure Rules cover virement; that is, switching resources between cost centres. For the purposes of this scheme, a cost centre is considered to be a line in the approved estimates report, equivalent to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis
- (c) virement does not create additional overall budget liability. Chief officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief officers must plan to fund such commitments from within their own budgets.
- (d) no underspend or overspend is carried forward to the following year.

Responsibilities of the Chief Financial Officer

To prepare jointly with the chief officers regular reports to the Policy and Resources Committee detailing changes in cost centre budgets.

Responsibilities of chief officers

A chief officer or delegated cost centre manager may exercise virement within cost centres under his/her or her control.

Virements between cost centres require the approval of the Policy and Resources Committee, following a joint report by the Chief Financial Officer and the chief officer, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Proposals to increase overall expenditure require approval of the Council on recommendation of the Policy and Resources Committee.

Where an approved budget is an amount intended for allocation during the year, its allocation will not be treated as a virement, provided that the amount is used in accordance with the purposes for which it has been established.

8. The annual statement of accounts

- (a) The 'Annual Statement of Accounts' shall be prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*
- (b) The Chief Financial Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.
- (c) As soon as it is practicable after the end of the financial year, and before 1 July, the Chief Financial Officer shall prepare the 'Annual Statement of Accounts' for the preceding year.

Context

The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit Committee is responsible for approving the audited statutory annual statement of accounts.

Key controls

The key controls for the annual statement of accounts are:

the Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the Chief Financial Officer

the Council's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom*.

The accounting policies are set out in the statement of accounts and cover such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) work in progress
- (g) stocks and stores
- (h) government grants
- (i) leasing

Responsibilities of the Chief Financial Officer

To select suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Audit Committee to approve the statement of accounts before 30 September.

To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March 20xx.

To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

Responsibilities of Chief Officers

To comply with accounting guidance provided by the Chief Financial Officer and to supply the Chief Financial Officer with information when required.

9. Maintenance of reserves

- (a) The Chief Financial Officer shall advise the Policy and Resources Committee and the Council on prudent levels of reserves for the Council.

Context

The Council must decide the level of general reserves it wishes to maintain before it can decide the level of Council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items. The Use Earmarked Reserves is covered in Part 4 – Budget and Policy Rules.

Key controls

To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* and agreed accounting policies.

For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

Authorisation and expenditure from reserves by the Council.

Responsibilities of the Chief Financial Officer

To advise the Policy and Resources Committee and the Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.

Responsibilities of Chief Officers

To ensure that when reserves are likely to be required to meet unforeseen expenditure, decisions are taken in accordance with these Financial Procedure Rules.

B: Risk Management and Control of Resources

10. Risk management

- (a) The Chief Financial Officer is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council. The Chief Financial Officer is responsible for advising the Policy and Resources Committee on proper insurance cover where appropriate.
- (b) The Chief Financial Officer shall negotiate and effect all insurances by the Council and s/he shall maintain a register of all insurances effected by the Council, showing the property and/or risks covered. Chief Officers shall notify the Chief Financial Officer of:-
 - (i) New risks which come to their knowledge with estimates of value in the case of property, vehicles, plant or other tangible assets.
 - (ii) Information coming to their knowledge which can have a bearing on existing risks.
- (c) Any accident or other incident which may result in a claim against the Council, or by the Council under a policy of insurance or otherwise shall be notified to the Chief Financial Officer.
- (d) All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- (e) Chief Officers shall consult the Chief Financial Officer in respect of the terms of any indemnity which the Council is requested to give.
- (f) The Chief Financial Officer shall annually, or at such other period as s/he may consider necessary, review all insurances in consultation with other Chief Officers as appropriate.
- (g) If any question arises as to the operation of the Council's insurances or as to taking out a new or amended policy which requires a decision of the Council, it shall be reported to the Policy and Resources Committee.
- (h) All officers who use private cars on the Council's business shall produce current Insurance Policies and/or renewal receipts as required by the Chief Financial Officer.

Context

All organisations face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Chief Financial Officer to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

Key controls

The key controls for risk management are:

- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council
- (b) 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
- (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
- (d) provision is made for losses that might result from the risks that remain
- (e) procedures are in place to investigate claims within required timescales
- (f) acceptable levels of risk are determined and insured against where appropriate
- (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

Responsibilities of the Chief Financial Officer

To prepare and promote the Council's risk management policy statement.

To develop risk management controls in conjunction with other Chief Officers.

Responsibilities of the Chief Financial Officer

To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.

To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Chief Officers

To notify the Chief Financial Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Chief Financial Officer or the Council's insurers.

To take responsibility for risk management, having regard to advice from the Chief Financial Officer and other specialist officers (eg crime prevention, fire prevention, health and safety).

To ensure that there are regular reviews of risk within their departments.

To notify the Chief Financial Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

To consult the Chief Financial Officer and the Solicitor to the Council on the terms of any indemnity that the Council is requested to give.

To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

11. Internal controls

- (a) The Chief Financial Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- (b) It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

Context

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.

The Council is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.

The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations
- (b) reliable financial information and reporting
- (c) compliance with laws and regulations
- (d) risk management.

Key controls

The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the Council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems

- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Public Sector Internal Audit Standards issued by CIPFA and with any other statutory obligations and regulations.

Responsibilities of the Chief Financial Officer

To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibilities of Chief Officers

To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

To review existing controls in the light of changes affecting the Council and to establish and implement new ones. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

To ensure staff have a clear understanding of the consequences of lack of control.

12. Audit requirements

- (a) An adequate and effective internal audit, as specified by the Chief Financial Officer, shall be maintained to carry out an examination of accounting, financial and other operations of the Council.
- (b) The Chief Financial Officer or his/her authorised representative shall have authority to:-
 - (i) enter at all reasonable times on any Council premises or land;
 - (ii) have access to all records, documents, and correspondence relating to any financial and other transactions of the Council;
 - (iii) require and receive such explanations as are necessary concerning any matter under examination; and
 - (iv) require any employee of the Council to produce cash, stores, or any other Council property under his/her control.
- (c) The Chief Financial Officer shall make such arrangements as are necessary to enable the external auditors to carry out their responsibilities.

Context

The Accounts and Audit Regulations 2011 issued by the Secretary of State for the Communities and Local Government require every local authority to undertake an adequate and effective internal audit of its accounting records and its systems of internal control.

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.

Each local authority is required to appoint an External Auditor. The basic duties of the external auditor are governed by statute

Key controls

The key controls for internal audit are:

- (a) that it is independent in its planning and operation
- (b) Internal audit has direct access to the Chief Executive, all levels of management and directly to elected members
- (c) the internal auditors comply with the Public Sector Internal Audit Standards.

Responsibilities of the Chief Financial Officer

To manage the internal audit contract and ensure that the quality of the contractor's work is monitored.

To ensure that internal auditors have the authority to:

- (a) access Council premises at reasonable times
- (b) access all assets, records, documents, correspondence and control systems
- (c) receive any information and explanation considered necessary concerning any matter under consideration
- (d) require any employee of the Council to account for cash, stores or any other Council asset under his/her or her control
- (e) access records belonging to third parties, such as contractors, when required
- (f) directly access the Chief Executive and, where appropriate, the Policy and Resources Committee

To approve the strategic and annual audit plans prepared by Internal Audit, which take account of the characteristics and relative risks of the activities involved.

To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2011.

Responsibilities of Chief Officers

To ensure that auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

To consider and respond promptly to recommendations in audit reports.

To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

To notify the Chief Financial Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

13. Preventing and detecting fraud and corruption

- (a) The Chief Financial Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption and money laundering policies.
- (b) The Chief Executive or the Chief Financial Officer shall be informed immediately of any irregularity or suspected irregularity affecting cash, stores, or other property of the Council. The Chief Executive or the Chief Financial Officer shall determine who shall conduct the investigation and report on the matter to them. If sufficient evidence of fraud or irregularity has been obtained, the Chief Executive or Chief Financial Officer shall, where necessary, inform the Police or if they have reasonable suspicion that Money Laundering the Chief Financial Officer (as Money Laundering Reporting Officer) will make a report as required under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 has or could take place, the Money Laundering Reporting Officer.
- (c) The Chief Financial Officer is the appointed Money Laundering Reporting Officer pursuant to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003.

Context

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

Key controls

The key controls regarding the prevention of financial irregularities are that:

- (a) the Council has effective anti-fraud, anti-corruption and Money Laundering policies and maintains a culture that will not tolerate fraud or corruption
- (b) all members and staff act with integrity and lead by example
- (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt
- (d) high standards of conduct are promoted amongst Members
- (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
- (f) whistle blowing procedures are in place and operate effectively
- (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

Responsibilities of the Chief Financial Officer

To develop and maintain an anti-fraud ,anti-corruption and Money Laundering policies.

To maintain adequate and effective internal control arrangements.

To ensure that all suspected irregularities are investigated.

To receive and consider any report that gives rise to reasonable grounds for knowledge or suspicion of Money Laundering and to determine whether a report needs to be made to the National Criminal Intelligence Service.

Responsibilities of Chief Officers

To ensure that all suspected irregularities are reported to the Chief Financial Officer,or Chief Executive.

To instigate the Council’s disciplinary procedures where the outcome of an investigation indicates improper behaviour.

14. Assets - Security

- (a) Each Chief Officer is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc under his/her control. S/he shall consult the Chief Financial Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed. Chief Officers should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- (b) Maximum limits for cash holdings shall be agreed with the Chief Financial Officer and shall not be exceeded without his/her express permission.
- (c) Keys to safes and similar receptacles are to be stored securely: the loss of any such keys must be reported to the Chief Financial Officer.
- (d) The Head of Corporate Strategy and Client Services shall be responsible for maintaining proper security and privacy in respect of information held in computer installations, or for its use.

Context

All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

The Council holds assets in the form of property, vehicles, equipment, furniture and other items. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key controls

The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- (a) resources are used only for the purposes of the Council and are properly accounted for
- (b) resources are available for use when required
- (c) resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits
- (d) 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
- (e) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act, the Information Security Policy and software copyright legislation
- (f) all staff 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 computer and internet security policies.

Responsibilities of the Chief Financial Officer

To ensure that an asset register is maintained in accordance with good practice. The function of the asset register is to provide the Council with information about fixed assets so that they are:

safeguarded

used efficiently and effectively

adequately maintained.

To receive the information required for accounting, costing and financial records from each Chief Officer.

To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

Responsibilities of Chief Officers

To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Chief Officer in consultation with the Solicitor to the Council, has been established as appropriate.

To ensure the proper security of all buildings and other assets under their control.

Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Chief Officer and the Chief Financial Officer.

To pass title deeds to the Solicitor to the Council who is responsible for custody of all title deeds.

To ensure that no Council asset is subject to personal use by an employee without proper authority.

To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.

To ensure that the service maintains an inventory of moveable assets in accordance with arrangements defined by the Chief Financial Officer.

To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

To consult the Chief Financial Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

To ensure cash holdings on premises are kept to a minimum.

To ensure that keys to safes and similar receptacles are stored securely; loss of any such keys must be reported to the Chief Financial Officer as soon as possible.

To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Chief Financial Officer, the Policy and Resources Committee agrees otherwise.

To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Financial Officer.

To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

15. Assets - inventories

- (a) Chief Officers shall maintain an inventory in a form and to the extent agreed with the Chief Financial Officer wherein shall be recorded transport, moveable plant and machinery, furniture, office machinery and equipment and any other similar property belonging to the Council. The care and custody of such property shall be the responsibility of the Chief Officer concerned.

Responsibilities of Chief Officers

To maintain inventories that record an adequate description of furniture, fittings, equipment, plant and machinery and their estimated value.

To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.

To make sure that property is only used in the course of the Council's business, unless the Chief Officer concerned has given permission otherwise.

16. Assets – stocks and stores

- (a) Each Chief Officer shall be responsible for the proper care and custody of all stocks and stores, tools, plant and other equipment in his/her service.
- (b) Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Chief Financial Officer.
- (c) The Chief Financial Officer shall be responsible for stores accounting procedures.
- (d) At 31 March in each year, or as near to that date as is practicable, a complete stock-taking of all stores shall be carried out by the service concerned, in consultation with the Chief Financial Officer. A complete stock-taking may be waived or modified after consultation with the Chief Financial Officer where a system of continuous stock-taking is in full operation. Stock sheets shall be certified by the Chief Officer concerned as to quantities and by the Chief Financial Officer as to prices and values.

Responsibilities of Chief Officers

To make arrangements for the care and custody of stocks and stores in the service.

To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

To investigate and remove from the Council's records (ie write off) discrepancies as necessary, having obtained approval from the Chief Financial Officer.

To authorise the disposal of redundant stocks and equipment by competitive quotations or auction, unless, following consultation with the Chief Financial Officer, the Policy and Resources Committee decides otherwise in a particular case.

To seek Policy and Resources Committee approval to the write-off of redundant stocks and equipment.

17. Assets – intellectual property

- (a) Staff must not carry out private work in Council time. The Council will exercise its rights with regard to intellectual property.

Context

Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

Responsibilities of the Chief Financial Officer

To develop and disseminate good practice regarding establishing appropriate intellectual property procedures.

Responsibilities of Chief Officers

To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

18. Asset Disposal

- (a) Each Chief Officer shall arrange that at 30 September each year, all items on their inventories are checked. Any surplus or deficiency, or items surplus to requirements or obsolete, shall be notified to the Chief Financial Officer who shall submit a co-ordinated list of such surpluses or deficiencies to the Policy and Resources Committee.
- (b) The Director of Finance to have authority to dispose of vehicles which are obsolete and surplus to requirements obtaining the best possible terms for their disposal, following consultation with the Chief Financial Officer.
- (c) The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Chief Officer concerned.
- (d) Any surplus or deficiency revealed at the annual stock-take of stocks and stores or at any other time shall be reported by the Chief Financial Officer to the Policy and Resources Committee. Stores deemed to be surplus to requirements or obsolete in the opinion of the Chief Officer responsible shall likewise be reported.

Context

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.

Key controls

Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Council, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

Using such procedures protect staff involved in the disposal from accusations of personal gain.

Responsibilities of the Chief Financial Officer

To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

Responsibilities of Chief Officers

To seek advice on the disposal of surplus or obsolete materials, stores or equipment.

To ensure that income received for the disposal of an asset is properly banked and coded.

19. Treasury management

- (a) The Council has adopted CIPFA's *Code of Practice for Treasury Management in Public Services 2011*.
- (b) The Council is responsible for approving the treasury management strategy and policy statement which shall be proposed to it by the Policy and Resources Committee. The Chief Financial Officer has delegated responsibility for implementing and monitoring the statement.
- (c) All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Chief Financial Officer.
- (d) All decisions on borrowing, investment or financing shall be delegated to the Chief Financial Officer, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Public Services*.
- (e) The Audit Committee is responsible for ensuring effective scrutiny of the treasury management strategy and policies

Context

Many millions of pounds pass through the Council's books each year. Management of the Council's investments and cash flows, banking, money market and capital market transactions; the effective control of risks associated with those activities, and the pursuit of optimum performance consistent with those risks. The Code of Practice provides assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.

Key controls

Treasury management activities, borrowings and investments are performed in accordance with the treasury management strategy, policies and practices and comply with the CIPFA Code of Practice on Treasury Management.

Responsibilities of the Chief Financial Officer

Reporting to the Policy and Resources Committee a proposed treasury management strategy for the coming financial year at or before the start of each financial year to include a policy statement on treasury management objectives, the approach to risk management of treasury management activities.

Reporting to the Policy and Resources Committee and Council treasury management policies, practices and activities including a mid-year review and an annual report following the close of the year.

The selection of treasury management practices setting out the manner in which the Council will seek to achieve policies and objectives and prescribing how it will control and manage those activities.

Responsibilities of Chief Financial Officer – treasury management and banking

To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's treasury management policy statement and strategy.

To report annually on treasury management activities to the Policy and Resources Committee and Audit Committee.

To operate bank accounts as are considered necessary – including the opening or closing any bank account.

All arrangements with the Council's bankers concerning the Council's banking account shall be approved by the Policy and Resources Committee and shall be managed by the Chief Financial Officer.

All computer-printed cheques shall bear the computer generated signature of the Chief Financial Officer.

Cheques for £50,000 and over require an additional signature

Cheques below £50,000 do not require any additional signature.

The approved signatories are: -

Chief Executive
Chief Financial Officer
Head of Finance
Head of Revenues and Benefits
Benefits Manager
Recovery Team Leader
Revenues Manager
Finance Managers
Senior Accountants
Solicitor to the Council

Responsibilities of Chief Officers – treasury management and banking

To follow the instructions on banking issued by the Chief Financial Officer.

Responsibilities of Chief Financial Officer – investments and borrowing

To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Chief Officer.

To effect all borrowings in the name of the Council.

To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

Responsibilities of Chief Officers – investments and borrowing

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Policy and Resources Committee, following consultation with the Chief Financial Officer.

Responsibilities of Chief Officers – trust funds and funds held for third parties

To arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Chief Financial Officer, unless the deed otherwise provides.

To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Financial Officer, and to maintain written records of all transactions.

To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

C: Financial Systems and Procedures

20. Systems and accounting records

- (a) The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems or the establishment of new systems must be approved by the Chief Financial Officer.
- (b) Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Chief Financial Officer.
- (c) Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Chief Officers must ensure that staff are aware of their responsibilities under Freedom of Information, Data Protection and Environmental Information legislation.
- (d) The Chief Financial Officer shall ensure as far as practicable that:-
 - (i) The duty of calculating, checking and recording the monies due to or from the Council shall be separated from the duty of collecting or disbursing those monies; and;
 - (ii) Officers charged with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in any of those transactions.

Context

Sound systems and procedures are essential to an effective framework of accountability and control.

Information must be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Chief Financial Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.

Key controls

The key controls for systems and accounting records are:

- (a) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from target, plans and budgets that require management attention

- (d) operating systems and procedures are secure.
- (e) all members, finance staff and cost centre managers operate within the required accounting standards and timetables
- (f) all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (g) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (h) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (i) prime documents are retained in accordance with legislative and other requirements.

Responsibilities of the Chief Financial Officer

To make arrangements for the proper administration of the Council's financial affairs, including to:

- (a) issue advice, guidance and procedures for officers and others acting on the Council's behalf
- (b) determine the accounting systems, form of accounts and supporting financial records
- (c) establish arrangements for audit of the Council's financial affairs
- (d) approve any new financial systems to be introduced
- (e) approve any changes to be made to existing financial systems.

To determine the accounting procedures and records for the Council.

To arrange for the compilation of all accounts and accounting records.

To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

To ensure that all claims for funds including grants are made by the due date.

To ensure the proper retention of financial documents and maintain a document retention schedule.

Responsibilities of Chief Officers

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Chief Financial Officer.

To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

To incorporate appropriate controls to ensure that, where relevant:

- (a) all input is genuine, complete, accurate, timely and not previously processed
- (b) all processing is carried out in an accurate, complete and timely manner
- (c) output from the system is complete, accurate and timely.

To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

To ensure that systems are documented and staff trained in operations.

To consult with the Chief Financial Officer before changing any existing system or introducing new systems.

To establish a scheme of delegation identifying officers authorised to act upon the Chief Officer's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.

To supply lists of authorised officers, with specimen signatures and delegated limits, to the Chief Financial Officer, together with any subsequent variations.

To ensure that effective contingency arrangements, including back-up procedures, exist for computer 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.

To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

To ensure that relevant standards and guidelines for computer systems issued by the Chief Officer are observed.

To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc

To comply with the copyright, designs and patents legislation and, in particular, to ensure that:

- (a) only software legally acquired and installed by the Council is used on its computers
- (b) staff are aware of legislative provisions
- (c) in developing systems, due regard is given to the issue of intellectual property rights.

To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Chief Financial Officer.

21. Income

- (a) Where any money is receivable on behalf of the Council by any Officer, s/he shall account to the Chief Financial Officer for the same in such manner as the Chief Financial Officer shall reasonably require; and all money received by any officer on behalf of the Council shall be passed to the Head of Revenues and Benefits to enable it to be paid into a bank account of the Council as soon as possible.
- (b) All accounts for debts due to the Council shall be rendered by the Head of Revenues and Benefits and for this purpose other Chief Officers shall furnish the Head of Revenues and Benefits with particulars of all charges that ought to be made for work done, services rendered, or goods supplied by or on behalf of the Council and as soon as possible after the amount of any such charge is ascertained. All individual debts due to the Council shall be only be written off if approved in accordance with the scheme for write off as approved from time to time by the Policy and Resources Committee.
- (c) All forms of receipt and tickets shall be in a form approved by the Chief Financial Officer and shall be used and issued by employees of the Council in accordance with the Chief Financial Officer's reasonable requirements. A register shall be maintained for this purpose.
- (d) The Chief Officer who is responsible for the Council entering into any lease, tenancy, contract, or other instrument whereby any payment does or will become due to or from the Council shall as soon as possible after the execution thereof furnish the Head of Revenues and Benefits and the Chief Financial Officer with sufficient particulars of the contents of the document to enable the setting up of adequate financial records relating to such payment and when such document is determined or ceases to have effect in any other way (otherwise than by the passage of time) the Chief Officer in question shall notify the Head of Revenues and Benefits and the Chief Financial Officer as soon as possible.

Context

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.

Key controls

The key controls for income are:

- (a) all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (c) all money received by an employee on behalf of the Council is paid without delay to the Council's bank account, and properly recorded. The responsibility for cash collection should be separated from that:

for identifying the amount due

for reconciling the amount due to the amount received

- (d) effective action is taken to pursue non-payment within defined timescales
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales
- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

Responsibilities of the Chief Financial Officer

To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.

To order and supply to services all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.

To ensure an appropriate write off policy is in place and reviewed from time to time

To ensure that appropriate accounting adjustments are made following write-off action.

Responsibilities of Chief Officers

To levy charges for the supply of goods or services, including the appropriate charging of VAT, in accordance with the charging policy approved by the Policy and Resources Committee.

To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

To hold securely receipts, tickets and other records of income for the appropriate period.

To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

To ensure income is not used to cash personal cheques or other payments.

To supply the Head of Revenues and Benefits and the Chief Financial Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Head of Revenues and Benefits to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Chief Officers should use established performance management systems to monitor recovery of income and flag up areas of concern to the Chief Financial Officer. Chief Officers have a responsibility to assist the Head of Revenues and Benefits 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. Only up to approved levels of cash can be held on the premises.

Responsibility of the Head of Revenues and Benefits

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

To issue official receipts or to maintain other documentation for income collection.

To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.

To keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.

To comply with the Council's write off policy when writing off bad debts

To notify the Chief Financial Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Financial Officer.

22. Expenditure – orders and payment for works, goods and services

- (a) All official orders shall be issued in a manner approved by the Chief Financial Officer and the contract or agreed prices shall be specified on issued orders. Telephone or oral orders shall be confirmed by written order as soon as practicable. Orders should show the relevant expenditure code and the cost, or estimated cost, of the goods or works or services.
- (b) Invoices and accounts shall be sent direct to Accounts Payable. Invoices will be registered on the accounts payable system and certification by the spending department will be as regularly as practicable. The Chief Financial Officer shall examine such invoices and accounts and the certifying officer shall supply such further information or explanation as the Chief Financial Officer may reasonably require.
- (c) If upon examining any such invoices or accounts it appears to the Chief Financial Officer that the expenditure incurred is not authorised by or under Contracts Procedure Rules or Financial Procedure Rules or that these Rules have otherwise not been complied with, s/he shall inform the certifying officer of the fact and after giving the Chief Officer a reasonable opportunity to investigate and comment upon the defect and unless the defect can be and is remedied s/he shall report to the Policy and Resources Committee.
- (d) The Chief Officer issuing the order for the purchase of goods, materials, works or services shall be responsible for examining, verifying, and certifying for payment the invoice for the goods, materials, works or services so ordered.

Certification for payment means that:-

- (i) the goods and materials have been received, examined and approved as to quality and quantity and entry has been made in the appropriate inventory, stores record, where applicable; or
- (ii) the work or services ordered have been done or rendered satisfactorily; and
- (iii) the payment certified is within the limitation in expenditure provided for and otherwise complies with the Contracts Procedures Rules and the Financial Procedure Rules; and
- (iv) prices, arithmetic and codings are correct; and
- (v) the items have not previously been paid for.

A Chief Officer may delegate any of the matters specified in items (i) to (v) above provided that invoices and accounts shall be finally certified by him/her personally or by his/her section heads or nominated managers.

- (e) Each Chief Officer shall, as soon as possible after 31 March and not later than 15 April year, notify the Chief Financial Officer of all outstanding expenditure relating to the previous year.

- (f) Where contracts provide for payment to be made by instalments, the Chief Officer concerned shall arrange for the keeping of a Contract Register or Registers to show the state of account between the Council and the Contractor, together with any other payments and the related professional fees.
- (g) The Chief Financial Officer shall be informed of all contracts, agreements and instruments involving the payment or receipt of money on behalf of the Council.
- (h) Payments to contractors on account of contracts shall be made only on a certificate signed by the Chief Officer or other authorised Officer of the appropriate service, or by any architect, engineer, surveyor or other consultant (not being an officer of the Council) who is responsible to the Council for the supervision of a contract on its behalf, showing the total value of the contract, the value of work executed to date, retention money, amount paid to date, and the amount now certified.
- (i) Subject to the provisions of the contract every variation order or extra works order shall be authorised in writing and priced by the responsible Chief Officer. Every variation or extra works order necessitating an increase in the contract sum shall be reported to the Chief Financial Officer and to the Policy and Resources Committee as provided for in the Contract Procedures Rules.
- (j) The final certificate of completion of any contract shall not be issued by the responsible Chief Officer until satisfied on the accuracy of the detailed statement of account and the completeness of supporting vouchers and documents.
- (k) The Chief Financial Officer shall to the extent s/he considers necessary, examine interim and final accounts for contracts and s/he shall be entitled to make all such enquiries and receive such information and explanations as s/he may require in order to satisfy him/herself as to the accuracy of the accounts.

Context

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Councils have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Contracts Procedures Rules.

General

Every officer and member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.

Official orders must be in a form approved by the Chief Financial Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for exceptions specified by the Chief Financial Officer.

Apart from petty cash, the normal method of payment from the Council shall be by cheque or BACS, drawn on the Council's bank account by the Chief Financial Officer. The use of direct debit shall require the prior agreement of the Chief Financial Officer.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts unless the contract was expressly entered into for that purpose.

Key controls

The key controls for ordering and paying for work, goods and services are:

- (a) all goods and services are ordered only by appropriate persons and are correctly recorded
- (b) all goods and services shall be ordered in accordance with the Council's Contracts Procedures Rules
- (c) goods and services received are checked to ensure they are in accordance with the order
- (d) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards
- (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

Responsibilities of the Chief Financial Officer

To ensure that all the Council's financial systems and procedures are sound and properly administered.

To approve any changes to existing financial systems and to approve any new systems before they are introduced.

To approve the form of official orders and associated terms and conditions.

To make payments from the Council's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with these Financial Procedure Rules.

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

To provide advice and encouragement on making payments by the most economical means.

To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

Responsibilities of Chief Officers

To ensure that unique pre-numbered official orders are used for all goods and services, other than the exceptions specified above.

To ensure that orders are only used for goods and services provided to the service. Individuals must not use official orders to obtain goods or services for their private use, unless specifically authorised by a Council policy e.g vouchers for eye tests.

To ensure that only those staff authorised by him/ her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should 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. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved.

To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:

- (a) receipt of goods or services
- (b) that the invoice has not previously been paid
- (c) that expenditure has been properly incurred and is within budget provision
- (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
- (e) correct accounting treatment of tax
- (f) that the invoice is correctly coded
- (g) that discounts have been taken where available
- (h) that appropriate entries will be made in accounting records.

To ensure wherever possible that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.

To ensure that the service maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Chief Financial Officer.

To ensure that payments are not made on a photocopied or faxed invoice, statements or other document other than the formal invoice. Any instances of these being rendered should be reported to the Chief Financial Officer.

To encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the Chief Financial Officer.

To ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines, which are in line with best value principles and contained in the Council's Contracts Procedures Rules.

To utilise any central purchasing procedures established in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Contracts Procedures Rules and will cover:

- (a) authorised officers and the extent of their authority
- (b) advertisement for tenders
- (c) procedure for creating, maintaining and revising a standard list of contractors
- (d) selection of tenderers
- (e) compliance with UK and EC legislation and regulations
- (f) procedures for the submission, receipt, opening and recording of tenders
- (g) the circumstances where financial or technical evaluation is necessary
- (h) procedures for negotiation
- (i) acceptance of tenders
- (j) the form of contract documentation
- (k) cancellation clauses in the event of corruption or bribery
- (l) contract records.

To ensure that employees are aware of the national code of conduct for local government employees

To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Chief Financial Officer. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

To notify the Chief Financial Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Financial Officer.

With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Chief Financial Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final

payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

To notify the Chief Financial Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

23. Payments to employees and members

- (a) The payment of all salaries, wages, pensions, compensation, and other emoluments to all employees of the Council shall be made by the Chief Financial Officer or under arrangements approved and controlled by him.
- (b) Appointments of all employees shall be made in accordance Council policies and procedures and in accordance with approved establishments, grades and rates of pay, and shall immediately be notified to Human Resources.
- (c) Each Chief Officer shall notify Human Resources as soon as possible and in the form prescribed of all matters affecting the payment of such salaries, wages, pensions, compensation, and other emoluments, and, in particular:-
 - (i) Appointments, resignations, dismissals, suspensions, secondments, and transfers.
 - (ii) Absences from duty for sickness or other reason, apart from approved leave.
 - (iii) Changes in remuneration other than normal increments and pay awards and agreements for general application.
 - (iv) Information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- (d) For weekly paid employees the Head of Human Resources shall approve the form of all timesheets and other relevant documents and shall prescribe detailed procedures for their completion, certification and submission, to enable proper payments to be made and an accurate charging of payments to the appropriate headings of expenditure.
- (e) If any payment is made before the normal time of payment a receipt shall be given by the recipient in the presence of the employing services representative, acknowledging that an equivalent deduction will be made from the next payment. If, for any reason, a pay slip is not handed to an employee at the normal time it must be returned as soon as possible to the Head of Human Resources.
- (f) All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified in a form approved by Human Resources, made up to a specified day of each month, within three days thereof. The names of officers authorised to sign such records shall be sent to the HR Manager by each Chief Officer and shall be amended on the occasion of any change.
- (g) Payments to Members, including co-opted Members of the Council who are entitled to claim travelling or other allowances shall be authorised by the Chief Financial Officer and will be made through the payroll system upon receipt of the prescribed form duly completed. All claims for allowances shall be made within two months of the date on which the relevant duty was carried out. Claims for allowances dated thereafter two months following the date of the relevant duty will be paid with the approval of the Chief Financial Officer.
- (h) The certification by or on behalf of the Chief Officer shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenditure properly and necessarily incurred and that the allowances are properly payable by the Council.
- (i) Officers' claims submitted more than 6 months after the expenses were incurred will be paid only with the approval of the Chief Financial Officer.

Context

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the Council.

Key controls

The key controls for staffing are:

- (a) an appropriate procedure exists, whereby staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the Council
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

The key controls for payments to employees and members are:

- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - starters
 - leavers
 - variations
 - enhancementsand that payments are made on the basis of timesheets or claims
- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
- (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (d) that Inland Revenue regulations are complied with.

Responsibilities of the Chief Financial Officer

To ensure that budget provision exists for all existing and new employees.

To act as an advisor to Chief Officers on areas such as National Insurance and pension contributions, as appropriate.

Responsibilities of the Head of Human Resources

To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him/her, on the due date.

To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

To make arrangements for payment of all travel and subsistence claims or financial loss allowance.

To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.

To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

Responsibilities of Chief Officers

To produce an annual staffing budget.

To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

To ensure that the Chief Financial Officer is immediately informed if the staffing budget is likely to be materially over- or underspent.

To ensure appointments are made in accordance with the policies of the Council and within approved establishments, grades and scale of pay and that adequate budget provision is available.

To notify the Head of Human Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Head of Human Resources.

To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees
- payments are only made where there is a valid entitlement
- conditions and contracts of employment are correctly applied
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

To send an up-to-date list of the names of officers authorised to sign records to the Head of Human Resources, together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.

To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Head of Human Resources.

To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Chief Financial Officer is informed where appropriate.

To ensure that the Chief Financial Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

Responsibilities of members

To submit claims for members' travel and subsistence allowances where claimable on a monthly basis.

24. Petty cash and postages imprests

- (a) A Central Petty Cash Account on an imprest basis shall be maintained by the Chief Financial Officer for the purpose of petty cash disbursements. Imprests or Floats to services or officers for defined purposes shall be subsidiary to the Central Imprest Account. Vouchers submitted for payment through this account (other than imprests and floats) shall be examined and certified in compliance with these Financial Procedure Rules.
- (b) The officers responsible for such imprests shall be responsible for the safe custody of imprest advances and shall ensure that:-
 - (i) Vouchers are obtained for each payment.
 - (ii) Individual payments of more than £50 are not made through imprests.
 - (iii) Income, except by way of an imprest reimbursement, is not brought into the imprest but paid into the Council's bank account.
- (c) All postages for outgoing mail shall be made through centralised franking machinery or the DX system as far as practicable. Packages containing documents or articles of value shall be registered or insured according to arrangements in force.

Responsibilities of the Chief Financial Officer – petty cash accounts and imprests

To provide employees of the Council with petty cash accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

To reimburse petty cash holders as often as necessary to restore the imprests.

Responsibilities of Chief Officers – petty cash accounts and imprests

To ensure that employees operating a petty cash account:

- (a) obtain and retain vouchers to support each payment from the petty cash account. Where appropriate, an official receipted VAT invoice must be obtained
- (b) make adequate arrangements for the safe custody of the account
- (c) produce upon demand by the Chief Financial Officer cash and all vouchers to the total value of the petty cash amount
- (d) record transactions promptly
- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the petty cash holder
- (f) provide the Chief Financial Officer with a certificate of the value of the account held at 31 March each year

- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash advance, an employee shall account to the Chief Financial Officer for the amount advanced to him/her.

25. Taxation

- (a) The Chief Financial Officer is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- (b) The Chief Financial 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.

Context

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key controls

The key controls for taxation are:

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

Responsibilities of the Chief Financial Officer

To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

Responsibilities of Chief Officers

To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.

To complete all Inland Revenue returns regarding PAYE (Human Resources).

To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised employment agency.

To follow the guidance on taxation issued by the Chief Financial Officer.

26. Trading accounts and business units

- (a) It is the responsibility of the Chief Financial Officer to advise on the establishment and operation of trading accounts and business units.

Context

Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under the Service Reporting Code of Practice, Councils are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost, such as a quoted price or a schedule of rates. There is a requirement to disclose the results of significant trading operations in competitive environments.

Responsibilities of the Chief Financial Officer

To advise on the establishment and operation of trading accounts and business units and reporting requirements.

Responsibilities of Chief Officers

To consult with the Chief Financial Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.

To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

To ensure that each business unit prepares an annual business plan.

D: External Arrangements

27. Partnerships

- (a) The Council is responsible for approving delegations, including frameworks for partnerships. The Council is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- (b) The Council 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.
- (c) Officers represent the Council on partnership and external bodies, in accordance with the scheme of delegation.
- (d) The Chief Financial 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.
- (e) The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- (f) Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

Context

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

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

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

The main reasons for entering into a partnership are:

- (a) the desire to find new ways to share risk
- (b) the ability to access new resources
- (c) to provide new and better ways of delivering services
- (d) to forge new relationships.

A partner is defined as either:

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

Partners participate in projects by:

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

Partners have common responsibilities:

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

Key controls

The key controls for Council partners are:

- (a) if appropriate, to be aware of their responsibilities under the Council's Finance Procedure Rules and the Contracts Procedures Rules
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibilities of the Chief Financial Officer

To advise on effective controls that will ensure that resources are not wasted.

To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements.

To ensure that the accounting arrangements are satisfactory.

Responsibilities of Chief Officers

To maintain a register of all contracts entered into with external bodies.

To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared.

To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

To ensure that all agreements and arrangements are properly documented.

To provide appropriate information to the Chief Financial Officer to enable a note to be entered into the Council's statement of accounts concerning material items.

28. External funding

- (a) The Chief Financial Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

Context

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 authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the Local Enterprise Partnership 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.

Key controls

The key controls for external funding are:

- (a) 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
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council
- (c) 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.

Responsibilities of the Chief Financial Officer

To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.

To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

To ensure that audit requirements are met.

Responsibilities of Chief Officers

To ensure that all claims for funds are made by the due date.

To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

29. Work for third parties

- (a) The Policy and Resources Committee is responsible for approving the contractual arrangements for any work for third parties or external bodies.

Context

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a service 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.

Key controls

The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Chief Financial Officer
- (b) to ensure that contracts are drawn up using guidance provided by the Solicitor to the Council and that all formal approvals are obtained

Responsibilities of Chief Financial Officer

To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Chief Officers

To ensure that the approval of the relevant Committee is obtained before any negotiations are concluded to work for third parties.

To maintain a register of all contracts entered into with third parties.

To ensure that appropriate insurance arrangements are made, to ensure that the Council is not put at risk from any bad debts and to ensure that no contract is subsidised by the Council.

To ensure that, wherever possible, payment is received in advance of the delivery of the service.

To ensure that the service has the appropriate expertise to undertake the contract and to ensure that such contracts do not impact adversely upon the services provided for the Council..

To ensure that all contracts are properly documented.

To provide appropriate information to the Chief Financial Officer to enable a note to be entered into the authority's statement of accounts concerning material items.

Part 4 – Contracts Procedure Rules

Contracts Procedure Rules

Introduction
Contracts
Relevant Contracts
Officer Responsibilities
Officer Requirements
Head of Service Responsibilities
Exemptions
E-Procurement
Records
Approved or Standing Lists of Suppliers
Framework Agreements and Collaborative Procurements
Competition Requirements
Assets for Disposal
Providing Services to External Purchasers
Appointment of Consultants
Pre-Procurement or Soft Market Testing and Research
Insurance
Specifications, Standards and Evaluation Criteria
Financial Assessment and Vendor Capabilities
Social Value
Past Performance
Public Sector Equality Duty (PSED)
Invitations to Tender (ITT's) / Requests for Quotations (RFQs)
Nominated Sub-contractors and Suppliers
Short listing
Submission, Receipt and Opening of Tenders or Quotations
Clarifications and Negotiations
Evaluation, Selection, Award and Feedback
Avoiding Challenges
Contracts
Indexation and price variation Clauses
Forming of Contracts
Extension of contracts
Contract Formalities
Sealing
Contract Surety
Remedies for non-performance
Prevention of Corruption
Declaration of Interests
Contract Management
Risk Assessment and Contingency Planning
Contract Monitoring, Evaluation and Review
Late Payment Regulations
VAT
EU Procurement Rules
Version Control Information

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Introduction:

These Contract Procedure Rules, issued in accordance with S.35 Local Government Act 1972, are intended to promote good practice and public accountability.

Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules (the Rules). Compliance is the best defence against any allegation that a procurement has been made incorrectly or fraudulently. These are minimum requirements and more detailed procedures may be appropriate for particular contracts. Where there is a requirement for communication to be in writing, this shall include e-mail and fax as well as hard copy. In summary you must:

- Comply with the Rules for all procurements and disposals except where explicitly exempted.
- Comply with the principles of Transparency, Proportionality, Equal Treatment and Non-Discrimination.
- Act with the highest standards of probity and integrity
- Take all necessary legal, financial and professional advice.
- Declare any personal financial interest or other conflict of interest.
- Conduct a Best Value review and appraise the procurement need.
- Comply with the Council's corporate aims, objectives and policies.
- Check if there is an existing Corporate Contract or Framework Agreement to use
- Ensure tender documents give a full, clear and accurate description of the work.
- Clearly specify the exclusion, evaluation, selection and award criteria and their weighting.
- Keep commercial information confidential.
- Notify unsuccessful bidders of why the decision was taken, the name of the successful bidder and the relative advantages of its bid, or of any decision not to award the contract.
- Complete a formal Contract or issue an Official Purchase Order before the supply, service or works begins.
- Assess the Contract Management skills available and identify any training needs and support required.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- Maintain proper Contract Management records.
- Undertake a post-contract review to monitor performance, how well it met the procurement need and the Value for Money.

The Rules are part of the Council's Constitution. They apply directly to every employee of the Council involved in any part of a procurement process. They apply equally to any partnership the Council may enter into and to contracts in respect of which the Council may nominate sub-contractors or suppliers.

The Rules must be followed by Officers, Members where applicable and by Agents, Consultants, including architects and engineers, and Public Private Partners, acting for or on behalf of the Council. These Rules apply to contracts involving the receipt of income as well as expenditure and to Concessions.

If you are in doubt about whether these Rules apply to a contract or proposed contract, about their meaning or how to apply them, consult:-

- (a) Your Manager.
- (b) The procurement officer or service
- (c) The Solicitor to the Council
- (d) Chief Finance Officer
- (e) Internal Audit Service.

Procurement refers to the whole process relating to the purchase, acquisition or commissioning of Works, Supplies and Services. One definition is: Procurement is the business management function that ensures identification, sourcing, access and management of the external resources that an organisation needs or may need to fulfil its strategic objectives.

Contracts:

Contracts are legally binding agreements and in English law they do not need to be in writing. In simple terms a contract is formed when an offer, to do or to supply something for another party, is accepted by the party to whom the offer was made. Contracts may be formed in writing, by word of mouth, or by performance. Care must be taken when communicating, verbally or in writing, with bidders. You must only enter into contracts on behalf of the Council where there is current budget provision.

Relevant Contracts:

All Relevant Contracts must comply with these Rules, these include arrangements made by or on behalf of the Council for the:

- Supply of goods, materials or Services and the carrying out of Works
- Disposal of goods, materials, plant, vehicles or equipment
- Hire, Rental or Lease of goods, plant, vehicles or equipment
- Granting of Concession Contracts
- Delivery of Consultancy, Advisory and other Services, including but not limited to those related to the recruitment of staff, land and property transactions, legal, financial, construction and other consultancy services.

Relevant Contracts do not include:

- Contracts of Employment which make an individual a direct employee of the Authority. For the avoidance of doubt the Rules do apply to contracts with agencies or companies for the employment of staff.
- Acquisition and disposal of Land. For the avoidance of doubt the Rules do apply to advice and other services taken in relation to the disposal of land.

Officer Responsibilities:

Officers responsible for purchasing or disposal must:

- Comply with these Rules, the Financial Procedural Rules, other Council policies and all UK and European Union legal requirements.

- Ensure that any Agents, Consultants and Partners acting for or on behalf of the Council comply with these Rules.
- Check if a suitable Corporate Contract exists before seeking to procure another contract; where a suitable Corporate Contract exists, this must be used unless there is a sound business case not to do so. In that event the reasons must be documented and approved by the relevant Head of Service.
- Consult the participating Councils in the shared service partnership on any opportunity to aggregate demand for more efficient procurement where a new procurement requirement is identified
- Consider Collaborative Procurement opportunities with other Authorities, particularly other Councils in Hertfordshire.
- Assess if a Contract may have the consequence that any employee of the Council or of a current service provider might be affected by any transfer of the work or undertaking. Officers must ensure that the implications of the Transfer of Undertaking (Protection of Employment) Regulations (TUPE) are assessed. The advice of the Solicitor to the Council must be sought in any case involving the TUPE Regulations before proceeding with the procurement.
- Assess if the Construction (Design and Management) Regulations 2007 (CDM), which places legal duties [4] on those involved in construction work, apply.
- Consult with and receive the approval of the Chief Finance Officer for all ICT Hardware and Software procurements, including licences, printers, telephony and ICT accessories.
- Consult with and receive the approval of Head of HR for all procurements involving the recruitment, appointment or employment of agency, self employed or contract staff. Such contracts must also be recorded on the Contract Register.

Officer Requirements:

- Assess the most appropriate procurement route to achieve Best Value. Including in house provision, using an existing contract, external procurement, Partnering, collaborative procurement with other local authorities, public body or purchasing consortium or use of an existing Framework Agreement let by others.
- Prepare a pre-tender estimate of the value of the supplies, services or works.
- Set out a clearly defined Specification for the supply, services or works with reference where necessary to appropriate standards etc
- Clearly set out the Terms and Conditions, or Conditions of Contract that are to apply to the proposed contract. These include any Special Conditions of Contract where a standard form of contract is used. An example of a standard form of contract is the NEC3 Suite of contracts which are the preferred form for relevant Works and Professional Services.
- Consider how SMEs and / or the 3rd Sector could engage with the procurement.
- Define clear Evaluation (selection and award) Criteria and their weightings for each stage of the procurement process.
- Ensure there is appropriate approval or delegated authority for the expenditure and the procurement accords with the approved policy framework and scheme of delegation set out in the Constitution.
- Carry out appropriate credit checks and observe any requirements for a surety.
- Observe any Standstill or “Alcatel” period as appropriate for procurements above the EU Thresholds.

Head of Service Responsibilities:

Heads of Service must ensure that:

- their staff comply with their Officer responsibilities
- contract registers are up to date and that copies of all contract documents are kept safe and accessible. Electronic copies are acceptable for lower value contracts but an additional hard copy of all major contracts must be retained for safekeeping.
- any exemptions are recorded.
- contract records are retained in accordance with the Council’s Document Retention policy.
- The Chief Finance Officer will designate an officer to maintain and update the contract record and that officer must be informed of all contracts that are awarded and copies of all procurement and contract information are to be made available to him/her

Exemptions:

- Acquisition or disposal of Land:

These Rules do not apply to the acquisition or disposal of Land except where a lease or licence is granted as a part of a principal contract for other Works, Supplies or Services.

- Unforeseeable emergency:

Where exemption from these Rules is unavoidable due to an unforeseeable emergency involving immediate risk to persons or property or likely to give rise to major or serious disruption to the Council’s services, a Head of Service and the Chief Executive or a Director may jointly approve an exemption. They must inform the relevant Portfolio Holder and make a report to the next Policy and Resources Committee meeting on the action taken. Urgency caused by undue delay will not usually be a valid reason for an exemption.

- Exceptional Circumstances:

An exemption may be considered by the Chief Executive or a Director in exceptional circumstances. This may, for example, apply where a key supplier has gone into Liquidation, Administration or Receivership. It applies where the event will involve significant risk to a key contract and is likely to give rise to a significant disruption to a Council service. In such an event a Head of Service and the Chief Executive or a Director may jointly approve an exemption. This may, for example, be a single tender action or the use of a substitute contractor from the original tender responses to complete a contract or part of a contract. The Head of Service must make a report to the next Policy and Resources Committee meeting on the action taken.

- Limited market:

A partial exemption may apply where a supply or service is only obtainable from a single or a very limited number of contractors. In such a case, evidence of the limited market must be provided, such as by public advertisement or detailed market research. A Head of Service and the Chief Executive or a Director may jointly approve a partial exemption. The Head of Service must make a report to the next Policy and Resources Committee meeting on the action taken.

- Prior approval:

Other than as specified above no exemption from these Rules shall be made unless prior approval has been granted at a Policy and Resources Committee meeting.

Record of Exemptions – Heads of Service must ensure that full details of approved waivers and exemptions are recorded in a central register held by the officer designated by the Chief Finance Officer to hold the contract record.

E-Procurement:

E-procurement systems simplify the tender process, reduce the bureaucratic burden for suppliers, make it easier to tender and improve smaller organisations' ability to bid.

All procurements above a value of £5,000 must be procured via the Council's e-procurement portal, unless a specific exception has been agreed by the Head of Service.

The portal, Supply Hertfordshire, serves all the Councils and other public sector organisations in Hertfordshire. It is designed to simplify the procurement process, to make the process more secure and auditable and to improve accessibility to procurement opportunities for potential suppliers. It is a focal point for all businesses, including SMEs, who want to supply the public sector in Hertfordshire.

Opportunities should be openly and widely publicised. The portal enables links to the UK Government's "Contracts Finder" website and to the Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED). Officers may also place Adverts in the local press or specialist journals if appropriate in addition to that posted on the portal.

Advice on using the portal should be taken from the procurement officer or service.

Records:

Contract records must be retained in accordance with the Council's Document retention policy and where relevant should include:

- Details of any exemptions granted
- Pre-procurement market testing / research
- The procurement route used
- Tender Adverts / Notices
- Pre Qualification Questionnaires (PQQs) and expressions of interest received
- The evaluation criteria used and the evaluation record based on those criteria
- Credit checks and records of economic and financial standing
- Invitations to Tender and tender documentation
- Tenders received and tender records and registers
- Pre and post tender clarifications and, where relevant, records of dialogue and /or negotiation.
- The award criteria and the evaluation record based on those criteria
- Records of communications with the successful contractor
- Details of feedback offered and given to unsuccessful bidders
- Standstill / Alcatel letters
- Contract documents

- Contract Management records
- End of Contract Reviews

Approved or Standing Lists of Suppliers:

The Council does not maintain Standing or Approved Lists of Contractors or Suppliers. Approved Lists cannot be used where EU Procedures apply.

Where recurrent transactions of a similar type are likely a suitable framework agreement, or term contract, should be used. The framework agreement must include terms for calling off supplies, services or works from the framework supplier(s). A Framework Agreement may be with a single supplier or have three or more suppliers on the list. Additional suppliers cannot be subsequently added to a framework agreement.

A formal and approved register of pre-qualified Contractors and Consultants maintained by or on behalf of the public sector (e.g. Construction line) may be used for the selection of a shortlist where appropriate. Any contractors or consultants from such a register must be assessed against the selection criteria published for the procurement.

It is not acceptable to use a random selection facility as available on some of these registers as this is not a substitute for the proper evaluation and selection of contractors and consultants, against a set of pre determined evaluation criteria, despite the pre-qualification stage achieved by inclusion on the register.

Framework Agreements and Collaborative Procurements:

A Framework Agreement is a contractual arrangement with one, three or more providers that set out terms and conditions under which specific purchases or call-off purchases or contracts can be made at any time throughout the term of the framework agreement. The term of a Framework Agreement should not exceed four years. A call off contract may be longer than four years and can exceed the term of and survive beyond the end date of the framework agreement.

Call-off or contracts formed under a Framework Agreements must be awarded in accordance with the procedure prescribed in the Framework Agreement. Where there is more than one provider under the framework it is usually necessary to hold a mini competition. The Council's Rules apply to a mini competition in the same manner as all other procurements.

Framework Agreements to which the Council has access may be let by another body e.g. the Government Procurement Service (GPS), another Local Authority (LA) or a consortium of LAs e.g. Eastern Shires Purchasing Organisation (ESPO).

Officers proposing to use a Framework Agreement must check that:

- The Framework Agreement has been let in full accordance with these Rules and where appropriate EU Regulations.
- The Council has the right to use the Framework Agreement.
- The procedures for call-offs or mini-competitions under the agreement accord with these Rules.

A Collaborative Procurement is a contractual arrangement with other parties e.g. other Local Authorities to jointly procure works, supplies or services.

Officers proposing to use a Framework Agreement must check that:

- The collaborative procurement contract has been let in full accordance with these Rules and where appropriate EU Regulations.
- The Council is a member of the collaboration or consortium and has the right to use the contract.
- The procedures for using the contract accord with these Rules.

Collaborative and Partnership arrangements are subject to all UK and EU procurement legislation and must follow the Council's Rules. If in doubt, Officers must seek the advice of the procurement officer or service.

Competition Requirements:

The requirements relate to the Estimated Total Value of the procurement:

The Value of a Contract is the total value over the whole potential duration of the contract including any possible extension to the term of the contract. Where the duration is uncertain a minimum of four years shall be assumed. The value of a concession is the total potential gross income or other assessment of value to the contracting parties. If in doubt, Officers must seek the advice of the Chief Finance Officer

Minimum requirements:

Thresholds excl VAT	Minimum requirements
Less than £5,000	One written quotation demonstrating value for money through a combination of cost and quality. More than one quote is preferred and should be sought where appropriate.
£5,000 - £50,000	Advertise the requirement and invite at least three, and usually no more than six, written quotations or tenders demonstrating value for money through a combination of cost and quality.
Greater than £50,000 – EU Threshold	Advertise the requirement and, except where the Open procedure is used, invite Tenders from at least three and usually no more than six bidders.
Above EU Threshold	Advertise and follow EU Procedures and, except where the Open procedure is used, invite Tenders from at least five and usually no more than six bidders.

All tender opportunities should be advertised to comply with the principle of transparency.

Where it can be demonstrated that there are fewer suitably qualified bidders to meet the competition requirement, all suitably qualified Candidates must be invited. The Head of Service and the procurement officer or service must be consulted in such cases.

If more than one contractor is to be appointed, for example to a framework agreement or if a contract is split into Lots, the number of bidders invited to tender may be increased to more than six.

Contracts must not be disaggregated nor methods of calculating the Estimated Total Value used in order to undermine the intention and application of these Rules or the EU Regulations.

The normal procurement procedure to be used shall be the Restricted Procedure. Officers shall consult the procurement officer or service or the Solicitor to the Council if the Open or other procedures are proposed.

Assets for Disposal:

Assets (excluding land) for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting Quotations or Tenders. The method of disposal of surplus or obsolete stock, plant, vehicles and equipment or assets, other than land, must be formally agreed with the Chief Finance Officer.

Providing Services to External Purchasers:

The Chief Finance Officer and procurement officer or service must be consulted where proposed contracts include supplies to or work for or on behalf of other organisations.

Appointment of Consultants:

The procurement of Consultants, including solicitors, architects, engineers, surveyors and other professionals, must comply with these Rules. Any Consultant appointed who acts for or on behalf of the Council must also comply with these Rules. A written contract or appointment may be in the form of a formal letter, for values below £25,000, or by a contract of appointment. A standard Professional Services form of contract, such as that in the NEC3 Suite should be used where appropriate.

Records of consultancy contracts must be maintained in the same manner as all other contracts and shown on the Contract Register.

Consultants shall be required to provide evidence of, and maintain Professional Indemnity insurance to the satisfaction of the Council's Insurance Officer.

Pre-Procurement or Soft Market Testing and Research:

Pre-procurement engagement is a range of activities to engage the market before starting a procurement process and may include a technical dialogue to inform a specification. Engaging with the market before starting the formal procurement process is best practice and helps to maximise value for money from the resulting procurement. (PPN04/12)

Officers should consider pre-procurement consultations with potential suppliers prior to the start of any part of the formal procurement process including a Tender Advert or Notice. Care must be taken not to prejudice the equal treatment of potential suppliers or to distort potential competition. Advice on pre-procurement strategies should be sought from the procurement officer or service.

Insurance:

Insurance requirements must be clearly specified in the contract. The Council's Insurance Officer will advise on the minimum limits of indemnity required for each contract. Prior to entering into a contract Officers must require the contractor to produce current insurance certificates in respect of Employers' Liability and Public Liability risks and for Professional Indemnity where appropriate for such limits and for such periods as are specified by the Council's Insurance Officer. The Contractor must be required to produce up to date Insurance Certificates at each subsequent renewal date during the term of the contract.

Specifications, Standards and Evaluation Criteria:

Specifications must set out the minimum required standards of technical and professional ability and reliability. Specifications must refer to relevant UK, EU or international standards which apply to the subject matter of the contract. The Chief Finance Officer must be consulted if it is proposed to use other than UK or EU standards.

Tenders should be assessed on the basis of the Most Economically Advantageous Tender (MEAT), where Quality and Price considerations both apply. In minor or exceptional cases bids may be invited on a lowest price (where payment is to be made by the Council) or highest price (if payment is to be received by the Council).

The Officer must define and publish appropriate Price and Quality Evaluation Criteria and their respective weightings.

Quality Evaluation (selection or award) criteria may include experience, technical merit, programme and delivery proposals, environmental matters, social value, added value, whole life costs, aesthetic and functional characteristics, health and safety, after-sales service and response, technical assistance, CV's of key staff, accreditations, approach to collaborative working or partnering with a Local Authority and any other relevant matters.

Evaluation Criteria must not include non-commercial considerations or geographical limits which might discriminate against suppliers from the EU. It is acceptable to require submissions to be in English and priced in Pounds.

Accreditations should be considered where appropriate and relevant but must not be a substitute for other checks and due diligence. These should not be required or assessed in a manner that may inadvertently disadvantage potential providers, for example, SMEs, public service mutuals or third sector organisations.

Financial Assessment and Vendor Capabilities:

Financial assessment of potential providers should be undertaken in a manner that is proportionate, flexible and not overly-risk averse while ensuring taxpayer value and safety is protected and the relevant EU Procurement Law complied with. All potential providers, whatever their size or constitution, should be treated fairly and with equal diligence during the financial appraisal process. For example: no SMEs, public service mutuals or third sector organisations should be inadvertently disadvantaged by the financial assessment process (PPN 02/13)

Due diligence must be carried out to ensure that the vendor has the necessary skills, resources and abilities to undertake the work. The due diligence must be proportionate to the nature and scale of the work proposed.

Social Value:

Social value is the consideration of how procurement might offer social, economic or environmental benefits to the community.

The Public Services (Social Value) Act 2012 applies to certain types of services contracts and framework agreements but it is good practice to consider these principles for all procurements. The requirement is to consider the economic, environmental and social benefits of the approach to the procurement before the process starts and to consider whether there is a need to consult on these issues.

The Act applies to the pre-procurement stage of contracts for services as that is where social value can be considered to greatest effect. This should inform the shape of the procurement approach and the design of the services required. It should enable a re-think of the outcomes and the types of services to be procured. (ref PPN 10/12)

The potential interest of Small and Medium Size Enterprises (Sees) and the 3rd Sector should be considered when assessing the shape of the procurement approach and the design of the Supplies or Services required. This may also include ways to cascade good practice down the supply chain.

Contracts should ensure that the principles of these Rules including the need for market testing and the provision of Value for Money is cascaded down the supply chain. The Council expects good practice to be in place to ensure a fair selection of sub-contractors, appropriate terms and conditions and prompt payment of monies due.

Past Performance:

The Council is entitled to establish minimum standards for reliability based on past performance which must be met by potential bidders for public contracts (PPN09/12). To provide assurance about performance and protection for the taxpayer and recipients of the services, procurements should include minimum standards for reliability based on past performance.

It is good practice to request specified information, which may include certificates of performance, about past performance in the last 3 years to establish that:

- the principal contracts of those who would provide the goods and / or services have been satisfactorily performed in accordance with their terms; or
- where there is evidence that this has not occurred, that the reasons for failure will not recur if that bidder were to be awarded the relevant contract.
- A due diligence process can be carried out to assess the contractors understanding of contracting with the public sector and their approach to contracting / partnering with the Council where appropriate.

If the evaluation panel remains unsatisfied that the principal contracts of those who would provide the goods and / or services have been satisfactorily performed, it should exclude that bidder on the grounds that it has failed to meet the minimum standards of reliability set

Public Sector Equality Duty (PSED):

Officers must ensure compliance with the Council's legal obligations under the Equality Act 2010 and its associated Public Sector Equality Duty with due regard to the three aims of the duty:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it.

Officers must ensure that public goods and services are accessible to, and meet the diverse needs of all users to ensure that no one group is disadvantaged in accessing

public goods and services. Procurements must meet the Fundamental principles of equal treatment, non-discrimination, transparency and proportionality (PPN09/12 and 01/13).

Invitations to Tender (ITT's) / Requests for Quotations (RFQs):

Pre-Qualification Questionnaires (PQQs) are to be used where appropriate. The two key aims are to select a list of suitably competent and qualified bidders and to reduce the number of bidders to an appropriate and manageable number using pre-published evaluation criteria.

The criteria may include pass / fail mandatory and discretionary criteria. The evaluation should be solely based on a supplier's response. Where the capability of an individual(s) is essential to the delivery of the contract, for example, the provision of consultancy, CV's should be requested and assessed. PQQs should not impose arbitrary minimum requirements which may have the unintended effect of barring new businesses from bidding.

Officers should undertake a financial check as part of the evaluation process but, in the spirit of encouraging supplier growth, should not rule out a supplier unless there is clear evidence that the supplier's financial position places public money or services at unacceptable risk. The Chief Finance Officer must be consulted in all cases of doubt.

The Notice or Advert and the Invitation to Tender shall state that late submission, of an Expressions of Interest or of a Tender will not be accepted. Submissions must be received by the due time and date. Any appeals for consideration of a late submission, due for example to a default by the Council, may only be considered by The Solicitor to the Council or the procurement officer or service.

Where late submissions are received, including by e-mail, other than via the procurement portal they shall be opened only by The Democratic Services Manager, the Solicitor to the Council, or the procurement officer or service. No details of the late submission shall be disclosed.

An Invitation To Tender should set out full details of the Council's requirements. An ITT may allow the submission of Variant bids to allow for supplier innovation.

An Invitation To Dialogue should set out an overview of the Authority and its needs; a starting position from which the dialogue can commence and how the dialogue will be structured together with any rules that apply to the dialogue phase.

All Invitations to Tender shall include the following:

- (a) A Specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
- (b) The Terms and Conditions of Contract that shall apply.
- (c) A Certificate of Non- Collusion for tenderers to declare that they have not colluded with any other party nor disclosed details of their submission to any other party (except where such a disclosure is in confidence and necessary for the purposes of preparing their submission).
- (d) A Form of Tender in the prescribed format for bidders to sign and confirm their bid price.
- (e) An Equality and Diversity questionnaire.
- (f) Notification that bidders must disclose any actual or potential conflict of interest.

- (g) Notification that bidders are responsible for all their costs of preparing a submission and that no costs will be reimbursed by the Council.
- (h) Details of the Evaluation Criteria with their relevant weightings and the methodology for scoring those criteria.
- (i) That submissions must be made via the Council's e-procurement portal unless otherwise agreed.
- (j) Where submissions are made other than via the procurement portal, notification that no Tender will be considered unless it is in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates, with no other name or mark indicating the sender.
- (k) The method by which any arithmetical errors discovered in the submitted Tenders are to be dealt with.
- (l) A statement that the Council is not bound to accept the lowest or any Quotation or Tender.
- (m) Advice that the Authority is subject to the obligations of the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Government's transparency agenda and that the final decision on publication or disclosure of any information shall remain with the Council.
- (n) Advice that Credit checks and records of economic and financial standing may be sought.

All bidders invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. This also applies to any supplementary information or clarification given during the tender period.

Nominated Sub-contractors and Suppliers:

These Rules apply to nominated sub-contractors and suppliers. Officers should avoid the use of nominated sub-contractors and suppliers as far as practicable. If a nominated sub-contractor or supplier is to be considered Officers must take advice from the Solicitor to the Council or the procurement officer or service.

The invitations to tender (ITT) for contracts involving Nomination must include a clause to require the parties to enter into contract on terms relevant to the indemnities and obligations of each party as required by the Solicitor to the Council..

Short listing:

Where bidders are evaluated for short listing or for the award of a contract Officers must assess the financial and technical standards appropriate to the contract. Assessments must be made in accordance with the published Evaluation Criteria. This includes having regard to the Proportionality Rule in relation to the size and resources of a company relative to the value of the contract.

Submission, Receipt and Opening of Tenders or Quotations:

Tender periods must be sufficient for bidders to prepare and submit proper bids consistent with the complexity of the contract requirements.

All Tenders must be returned via the procurement portal or, where that doesn't apply, to the Democratic Services Manager or the procurement officer or service.

All tenders for contracts estimated to be for £50,000 or more must be opened at one time and only in the presence of The Democratic Services Manager, or nominated officer, or the procurement officer or service and another Officer not below the grade of Principal Officer.

All tenders for contracts estimated to be below £50,000 must be opened at one time and only in the presence of the Head of Service, or their representative, or the procurement officer or service and another Officer in the same department not below the grade of Principal Officer.

The Officer nominated to receive the tenders shall be responsible for the safekeeping of Tenders until the appointed time of opening. Each Tender must be suitably recorded to verify the date and precise time it was received, adequately safeguarded against amendment of its contents. The procurement portal is compliant with this requirement.

The Officer nominated to receive the tenders must ensure that all Tenders are opened at the same time as soon as practicable after the period for their submission has ended. They must ensure that the Tender Record Form is completed and the bids recorded on the Tender Receipt Record Log.

Clarifications and Negotiations:

Providing clarification during a tender period is permitted. It must not be in the form of any negotiation and must be made in writing to all bidders. Where any verbal discussion is entered into any clarification given must be confirmed in writing and copied to all bidders.

Where bidders do not want information shared with other bidders, as that might indicate a bidding strategy for example, they should be invited to withdraw their clarification question before any answer is given. If an answer is given it must be shared with all the other bidders.

Post tender negotiations, between submission of bids and contract award, must be avoided and are only to be conducted in exceptional cases. An exception may be where a Negotiated or Competitive Dialogue procedure has been used. In such cases the rules relating to the negotiations must be clearly set out in the tender documents and those negotiation rules must provide for:

- (i) The requirements of relevant EU Directives, UK legislation and good practice guidance.
- (ii) Written approval of the Solicitor to the Council or the Chief Executive or a Director.
- (iii) The documentation sent out to prospective bidders stating that negotiation may take place and the basis upon which such negotiation would be held

Post-tender negotiation must only be conducted in accordance with the guidance issued by The Solicitor to the Council who, with the procurement officer or service, must be consulted wherever it is proposed to enter into post-tender negotiation.

The circumstances under which such negotiations may be considered are where:

- (i) High levels of innovation are required as part of the tender solution
- (ii) The new contract will involve radical changes from existing practices

- (iii) There are a number of alternative proposals or solutions that the Council is considering
- (iv) The specification has a number of alternative packages or elements
- (v) Variant bids are shown as acceptable in the Notice and negotiations relate to variant bids.

If post-tender negotiations are necessary then such negotiations shall only be undertaken with the preferred bidder who is identified as having submitted the Most Economically Advantageous Tender and after all unsuccessful bidders have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents.

Negotiations must be conducted by a team of at least two Officers, one of whom must be from a service independent of that leading the negotiations. The independent representative can be a representative from another council if the tender is a collaborative procurement.

Officers appointed by the Head of Service to carry out any post-tender negotiations must ensure that they keep full and accurate records and minutes of all negotiation meetings and discussions and that any actions and outcomes are confirmed and agreed in writing by both parties.

If post-tender negotiation results in a fundamental change to the specification or to the terms of a contract the contract must not be awarded. A fundamental change from the work tendered must be re-tendered. The advice of The Solicitor to the Council and the procurement officer or service must be sought before concluding any post-tender negotiations.

Evaluation, Selection, Award and Feedback:

The confidentiality of Quotations, Tenders and the identity of bidders must be observed at all times. Information about one bidder or their response must not be given to another bidder except as provided in these Rules.

Evaluation and Moderation panels must comprise a minimum of two Officers. The procedures to be used by the panels, including the Interview panel if an interview stage is included in the process, must be set out in advance of the receipt of submissions.

If an Interview stage and / or a Best and Final Offer (BAFO) stage is included in the process the procedures for them must be clearly set out for bidders in the bid documents. The published arrangements cannot be revised post tender submission.

Contracts must be evaluated and awarded by the panels in accordance with the published Evaluation (selection and award) Criteria. Neither criteria nor weightings can be revised post tender submission.

Officers shall compare submitted Tender prices with any pre-tender estimates and examine and explain any discrepancies.

The arithmetic in compliant Tenders must be checked. If simple arithmetical errors are found they should be corrected and the bidder notified. The bidder must be given the opportunity to stand by or withdraw the corrected bid.

The Officer responsible for the evaluation panel and moderation must prepare a report setting out the reasons for the selection, having regard to the evaluation criteria, and the reasons for rejecting the unsuccessful tenders.

Where the Total Value is over £5,000, the Officer must notify all bidders at the same time of the intention to award the contract to the successful bidder.

Where the EU procedures apply, the Standstill or “Alcatel” period of at least ten days must be observed. The EU Regulations require a formal letter containing prescribed information to give unsuccessful bidders time to challenge the decision before an award. If the decision is challenged the award of contract must not be made and the advice of The Solicitor to the Council and the procurement officer or service must be sought.

Where the Total Value is over £5,000 feedback shall be offered to all bidders and potential bidders including those not short listed at the PQQ stage. The advice of The Solicitor to the Council and/or the procurement officer or service should be sought although the feedback must include:

- How the Evaluation Criteria were scored for their submission
- The characteristics and relative advantages of those short listed. Details that could identify those short listed must not be disclosed.
- The name of the successful bidder
- The characteristics and relative advantages, including price, of the successful bidder

Avoiding Challenges:

Challenges are increasing for public sector procurements with the most likely challenges being from unsuccessful bidders challenging the evaluation outcome. This risk of challenge should be reduced by:

- publishing the process and timings for issuing the ITT and supporting documentation, dealing with clarifications, receiving bids and placing contracts, and adhering to the process.
- making sure that evaluation criteria, sub-criteria and weightings, which are clearly linked to the work required, are all published in the ITT.
- using a clear and objective marking scheme (e.g. the reasons for awarding 6 points rather than 5 are clear to bidders and to evaluators)
- maintaining an audit trail during the process, to help explain why a bid was unsuccessful and to defend any challenges raised.

The key principles are that criteria must be reasonable, proportionate, transparent and relevant to the goods, works or services being procured. Objective criteria should be clear, verifiable and targeted with measurable outputs. Subjective criteria should clearly define the basis on which any value judgements would be based. All criteria must be fair and not involve any discrimination, including a level playing field for non-local bidders, to ensure compliance with the EU Directives.

Contracts:

All Contracts must be in writing and held in accordance with these Rules and, irrespective of value, must clearly specify:

- what is to be done or provided (i.e. the Works, materials, Services, Supplies, matters or things to be done or provided)
- the provisions for payment (i.e. the price to be paid and when and details of any indexation)
- the time, or times, within which the contract is to be performed
- the provisions for the Council to terminate the contract.

The Council's Official Purchase Order form, the Council's standard Terms and Conditions or a standard Form of Contract issued by a relevant professional body (e.g. NEC3) must be used as appropriate. The form of contract must be approved by the Solicitor to the Council.

In addition, every Contract over £50,000 must also state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent
- Insurance requirements
- Health and Safety requirements
- Data Protection requirements
- Equality and Diversity requirements
- Freedom of Information Act and Environmental Information Regulations requirements
- TUPE requirements
- That those acting for or on behalf of the Council must comply with the Council's Contract Procedure Rules
- A right of access to all relevant documentation and records of the contractor for monitoring and audit purposes.
- VAT and other tax requirements.
- The Requirements for a Bond and / or Parent Company Guarantee.
- Prevention of Corruption requirements.
- Any Indexation or Price variation details or if not variation of Rates or Prices applies.

The formal advice of the Solicitor to the Council must be sought for contracts where:

- The Total Value exceeds the EU Thresholds
- The Risk is outside acceptable parameters
- They involving leasing arrangements
- It is proposed to use a supplier's own Terms and Conditions of Contract
- They are complex in any other way.

Indexation and price variation Clauses:

The advice of the Chief Finance Officer must be sought on any indexation clauses and the indices to be used, e.g. RPI. Where an indexation clause is used consideration should be given to an efficiency factor, e.g. less 1% p.a., to encourage Best Value and continuous improvement during the term of the contract.

Price variation clauses should allow for any potential variation in the scope or scale of goods, works or services to be provided during the term of the contract. This may be in consequence of other factors e.g. a variation in the number of service users where another service has been outsourced.

Forming of Contracts:

Formal contracts must be formed for contracts with a value greater than £25,000. Below this threshold an Official Purchase Order may be placed but it must include full details of the supply, service or works to be delivered and the Terms and Conditions that apply to the Order.

Contracts must be in a form approved by the Solicitor to the Council. An industry standard may be used subject to the additional clauses being added to meet the requirements of these Rules and to protect the Council's interests.

Every contract must specify the work, goods, supplies and services to be provided, the price and charging basis including any indexation, and the time in which the contract is to be performed.

Extension of contracts:

A Contract may be cumulatively extended by up to 50% of the initial contract value. The revised total value of a contract initially let below the EU Threshold must not exceed that Threshold value. The Head of Service, for contract extensions up to £25,000, and jointly with the Chief Executive or a Director for greater values, may approve a contract extension. They must for values greater than £25,000, make a report to the next Policy and Resources Committee meeting on the action taken.

Contract Formalities:

Contracts not under Seal, including Purchase Orders, shall be completed as follows, subject to the relevant Scheme of Delegation:

Up to £50,000 - Signature by any one of the following: Head of Service or authorised representative; Solicitor to the Council; Chief Executive; Chief Finance Officer or a Director

Above £50,000 (Excluding Sealing) Signature by any two of the following: Head of Service; Solicitor to the Council; Chief Executive; Chief Finance Officer or a Director

Where risk and high value are relevant contracts should be under Seal subject to the advice of the Solicitor to the Council.

All contracts must be concluded formally in writing before the Supply, Service or Work begins, except in exceptional circumstances, and then only with the written consent of the Solicitor to the Council, the Chief Executive or a Director.. An award letter or an intention to award letter is insufficient.

The Officer responsible for securing signature of the contract must ensure that the person(s) signing for the other contracting party has / have authority to bind it.

All contracts for the purchase of motor vehicles or mechanical plant irrespective of value must be in writing and must be signed by the Head of Service and at least one of the following: the Chief Executive; the Chief Finance Officer A Director; the Solicitor to the Council (or their authorised representatives).

Sealing:

A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end
- The contract is valued at more than £150,000

Where contracts are completed by each side adding their formal seal, such contracts shall be signed by the Solicitor to the Council or authorised nominee.

Every Council sealing will be consecutively numbered, recorded and signed. The seal must not be affixed without the proof that the appropriate authority to enter the contract has been obtained under the scheme of delegation.

Contract Surety:

The Officer must consult the Chief Finance Officer about the need for a Parent Company Guarantee (PCG) where a bidder is a subsidiary of a parent company and:

- The Total Value exceeds £150,000, or
- The award is based on the evaluation of the parent company, or
- There is some concern about the stability of the bidder.

The Officer must consult the Chief Finance Officer about the need for a Bond where:

- The Total Value exceeds £1,000,000, or
- It is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the bidder.

Where a Bond is required it shall normally be for a sum equal to 10% of the total contract sum. The decision of the Chief Finance Officer on the need for a PCG and / or the need for and the size of a Bond is final.

Remedies for non-performance:

Contracts must include provisions for remedies in the event of non-performance including liquidated damages, other financial deductions and termination of the contract.

Every Contract which exceeds £50,000 in value and is for the execution of Works shall provide for liquidated damages to be paid by the Contractor in respect of any delay in performing such work. This shall not apply where the Chief Finance Officer determines that such remedy is not appropriate for a particular contract.

Prevention of Corruption:

Everyone involved in a procurement process as employees or for or on behalf of the Council must comply with the Code of Conduct on the prevention of corruption. They must not invite or accept any gift, inducement or reward in respect of the evaluation, award or performance of any contract.

Any offer of a gift, inducement or reward must be declared whether or not it was accepted. High standards of conduct and probity are required. Corrupt behaviour is a criminal offence and may lead to dismissal.

Cartels are a potential concern and are a breach of competition law. They can influence the price paid for goods and services by the Council. Any suspicions about such activities must be reported to the Solicitor to the Council and the Chief Finance Officer.

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 to 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 Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under 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, contractors or employees. Any clause limiting the Contractor’s liability shall not apply to this clause.”

Declaration of Interests:

If it comes to the knowledge of a Councillor, an Employee of the authority or anyone acting as an Agent for or on behalf of the Authority that a contract in which he or she has a personal interest has been awarded or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Solicitor to the Council..

The Solicitor to the Council shall maintain a record of all declarations of interests notified by Councillors and Officers.

The Solicitor to the Council will ensure that every councillor signs and receives a copy of the Council’s code of conduct for councillors.

Contract Management:

All contracts must have a named contract manager, nominated by the Head of Service, for the entire duration of the contract.

The Head of Service must keep under review the skills and experience required and available for the good management of the contract.

Risk Assessment and Contingency Planning:

Where the risk and financial value of the Contract is deemed appropriate, including all those above the EU Thresholds, contract managers must:

- prepare a Business Case
- undertake appropriate Risk Assessments
- maintain a Risk Register during the contract period
- ensure that mitigation and contingency measures are in place
- manage the contract in accordance with best practice
- have regard to end of contract reviews of other similar contracts

Contract Monitoring, Evaluation and Review:

All contracts with a value above the EU Thresholds, or which are High Risk, should have a formal monthly or quarterly review with the contractor.

Throughout a contract period the Contract Manager must monitor:

- Contractor's performance
- Compliance with the Specification
- Compliance with the Programme
- Contract costs and Value for Money requirements
- Health and Safety compliance and Risk Management.
- The Project Plan
- Client's resourcing of the contract

At the end of a contract period the Contract Manager must ensure:

- That all required Works, Supplies and Services have been completed
- The Final Account has been completed
- An End of Contract Review on the standard template has been completed

Late Payment Regulations:

The Late Payment of Commercial Debts Regulations 2013 requires public authorities to pay within 30 calendar days following receipt of the invoice. Simple interest is calculated equal to the sum of the Bank of England reference rate plus at least eight percentage points. The creditor is also entitled to a fixed charge of £40, £70 or £100 depending on the size of the debt (under £1,000, under £10,000, and higher), plus additional reasonable costs incurred.

As a public authority the Council, if a debt is not paid within the deadline, is obliged to automatically pay the outstanding amount that includes, daily interest for every day the payment is late based on 8 percentage points above the Bank of England's reference rate plus the fixed amount, depending on the size of the unpaid debt. The onus is on the Officer to pay a supplier on time and the supplier is not obliged to remind you that payment is outstanding.

Officers should include a clause in their contracts that requires prime contractors to pay their suppliers within 30 days to cascade good practice in public procurement supply chains.

VAT

To avoid potential VAT loss and to enable the recovery of VAT officers must ensure that VAT invoices are sent and addressed directly to the Council. Officers must avoid situations where a 3rd party receives the taxable supply that the Council subsequently pays where the supporting evidence from a 3rd party shows their payee details. A failure to recover VAT is an unnecessary and additional budget pressure and is a cost to the project / spending department.

EU Procurement Rules:

EU Procurement Rules apply where the value of a contract exceeds the relevant threshold. These thresholds are reviewed from time to time by the EU. Up to date figures and advice on which threshold applies can be confirmed by the procurement officer or service. The relevant thresholds will be published on the Council's intranet under Procurement.

EU Rules define the classification of "Supply", "Service" and "Works" contracts. Where a contract covers more than one classification it is usually classified according to its predominant purpose.

EU Rules define how the value of a contract is assessed for the purposes of the EU Thresholds. The various EU procurement procedures include some defined timescales which are mandatory. These include minimum times for the receipt of requests to tender and for receipt of tenders.

The OJEU Notice must be submitted in the prescribed form and be published in the Official Journal of the European Union (OJEU). The procurement officer or service can advise on the application of the EU Rules.

Four procurement procedures are available for OJEU procurements regulated by the Public Contracts Regulations 2006:

Open procedure

All interested parties can submit a tender in response to the OJEU Notice. Tenders can be clarified following receipt but changes to the tender and any negotiations are not permitted. The open procedure is unlikely to be appropriate where there is any complexity or if a high number of bids might be received.

Restricted procedure

Interested parties can submit an expression of interest in response to the OJEU Notice. A short listing exercise is carried out using a Pre Qualification Questionnaire (PQQ). Only those meeting the published evaluation criteria can be invited to tender. A minimum of five suppliers must be invited to tender unless fewer suitable candidates have met the criteria and there is sufficient number to ensure genuine competition. Tenders can be clarified following receipt with finalisation of contract terms but changes to the tender and any negotiations are not permitted.

Competitive Dialogue

Interested parties can submit an expression of interest in response to the OJEU Notice. A short listing exercise is carried out using a Pre Qualification Questionnaire (PQQ). Only those meeting the published evaluation criteria can be invited to dialogue. A minimum of three suppliers must be invited to dialogue unless fewer suitable candidates have met the criteria and there is sufficient number to ensure genuine competition, i.e. at least two.

The authority enters into a dialogue with bidders to develop one or more suitable solutions. Care is needed to ensure that all tenderers are treated equally. The number of bidders can be reduced in stages if that intention was in the OJEU Notice or Invitation To Dialogue. When the dialogue phase is concluded final tenders are invited. These are evaluated on pre-specified award criteria which must be based on the most economically advantageous tender, not just price. Final tenders can be clarified following receipt with finalisation of contract terms but further changes to the tender and further negotiations are not permitted.

The UK Government has a presumption against the use of the competitive dialogue procedure. The competitive dialogue procedure is designed to be used for particularly complex contracts. It should only be used after extensive pre-market engagement with current and potential suppliers and if the authority is unable to identify the technical means of delivering its requirement and / or the legal / financial make-up of the project.

Projects for which competitive dialogue might be suitable include those with:

- an iterative design element, such as construction or economic infrastructure;
- a private finance element or other form of public private partnership;
- a requirement for some form of planning permission;
- a complex commercial arrangement, such as joint ventures and mutuals.

Negotiated procedure:

Interested parties may express an interest in tendering and the authority will select potential bidders with whom to negotiate. A minimum of three suppliers must be invited to dialogue unless fewer suitable candidates have met the criteria and there is sufficient number to ensure genuine competition, i.e. at least two.

The Public Contracts Regulations 2006 state that the negotiated procedure may only be used where: another procedure has failed to produce any acceptable tenders; exceptionally where prior overall pricing is not possible; in the case of Services, where specifications cannot be established with sufficient precision; or for certain research and development related works contracts. The UK Government guidance is that the negotiated procedure should only be used in rare circumstances.

Part 4 – Officer Employment Procedure Rules

1. Recruitment and Appointment

(a) Declarations

Relatives of members or officers

- (1) A candidate for any appointment with the Council who knows that s/he is related to any Member or Senior Officer of the Council shall when making application disclose that relationship to the Chief Executive. A candidate who fails to disclose such a relationship shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice. Every Member and Senior Officer of the Council shall disclose to the Chief Executive any relationship known to him to exist between himself and any person whom s/he knows is a candidate for an appointment under the Council. The Chief Executive shall report to the Council any such disclosures made to him.
- (2) The content of the above paragraph shall be included either in any form of application supplied for use by candidates or in the advertisement inviting applications for the appointment.
- (3) Persons shall be deemed to be related if they are husband and wife or if either of them or the spouse of either of them is the son or daughter or grandson or grand-daughter or brother or sister or nephew or niece of the other, or of the spouse of the other.

(b) Seeking support for appointment

- (1) Subject to the paragraphs above, 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.
- (2) No councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Head of Paid Service and Chief Officers

- (1) Appointment to the post of Head of Paid Service, (Chief Executive) shall be made by the Council on a recommendation from an Appointments Committee. The Appointments Committee shall be constituted at the Annual Council meeting and appointed in accordance with the rules governing proportionality. The names of the Members to serve on the Appointments Committee are to be notified to the Chief Executive before each meeting.
- (2) **Appointment of Chief Officers** Appointment to posts of Chief Officer shall be made by the Appointments Committee established as in (1) above who shall have authority to determine such appointments.

3. **Recruitment of all Appointments**

- (1) The function of appointment of staff, other than those set out in paragraph 2 above, is the responsibility of the Head of Paid Service or other officer of the Council as nominated by him/her. Recruitment to vacancies, including appointments of Chief Officer/Chief Executive, shall be carried out in accordance with the following provisions:-
 - (a) The Authority may choose to make appointments by promotion or transfer of internal candidates without considering candidates from outside (excluding appointment to the post of Chief Executive).
 - (b) A job description of the duties of the post and a specification of the qualifications or qualities desired in the person to be appointed shall be drawn up.
 - (c) The post shall be advertised in a manner that is likely to bring the vacancy to the attention of suitably qualified persons.
 - (d) The job description and specification shall be sent to people on request.
 - (e) The Authority shall either interview all applicants or a shortlist of applicants as appropriate.
 - (f) In respect of the appointments where no qualified person has applied, the authority shall make further arrangements to advertise in accordance with above.
- (2) No employee or prospective employee of the Council shall approach the Council, Panel or any Committee or Sub-Committee thereof or lobby any individual councillors with regard to the terms of his/her or her employment, conditions of service or any grievance he or she may have, except in writing to the Chief Executive.
- (3) A copy of the current recruitment guidelines and procedures of the Council is attached (this is reviewed on a regular basis).

4. **Disciplinary Action**

- (1) In respect of the Head of Paid Service, Chief Financial Officer, Monitoring Officer -
 - (a) **Suspension** The Head of Paid Service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
 - (b) **Independent persons** (means persons appointed under section 28(7) of the 2011 Act) appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate). An authority is not required to appoint more than two relevant independent persons in accordance with the Act but may do so.

No other disciplinary action may be taken in respect of any of the Head of Paid Service, monitoring officer and chief financial officer except in accordance with a recommendation in a report made by a designated independent person.

- (c) Disciplinary action in respect of other chief officers will be in accordance with the Council's disciplinary rules and procedures except as varied by the provisions of paragraph 5 below.
- (2) In respect of members of staff, other than those set out in sub-paragraph (1) above:-
- (a) Disciplinary action is the responsibility of the Head of Paid Service or other officer as nominated by him/her.
 - (b) Councillors will not be involved in the disciplinary action against any officer below chief officer level except where necessary for any investigation or enquiry into alleged misconduct or where they serve as members of an appeals panel.
 - (c) A copy of the current disciplinary rules and procedures of the Council is attached (This is reviewed on a regular basis.)

5. Dismissal

- (1) In respect of Head of Paid Service, chief financial officer, monitoring officer and any other chief officer:-
- (a) **Suspension** The Head of Paid Service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
 - (b) **Independent persons** No other disciplinary action may be taken in respect of any of the Head of Paid Service, monitoring officer and chief financial officer except in accordance with a recommendation in a report made by the designated independent panel of at least two independent persons appointed by the Council for the purpose of giving advice or making recommendations relating to such disciplining or dismissal. The authority must appoint any Panel at least 20 working days before the relevant meeting.
 - (c) Dismissal of the Head of Paid Service, monitoring officer and chief finance officer may not be dismissed by an authority unless the procedure set out below is complied with:
 - The authority must invite the relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
 - The relevant independent persons being as detailed in Section 4 (1b) and Section 5 (1b)
 - Before the taking of a vote at the relevant full council meeting on whether or not to approve such a dismissal, the authority must take into account:
 - Any advice, views or recommendations of the Panel;

- The conclusions of any investigation into the proposed dismissal; and
 - Any representations from the relevant officer.
 - (d) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent persons under the 2011 Act.
- (2) In respect of members of staff, other than those set out in sub-paragraph (1) above:-
- (a) Dismissal is the responsibility of the Head of Paid Service or other officer as nominated by him/her.
 - (b) Councillors will not be involved in the dismissal of any officer below chief officer level except where necessary for any investigation or enquiry into alleged misconduct or where they serve as members of an appeals panel.
 - (c) A copy of the current disciplinary rules and procedures of the Council is attached (this is reviewed on a regular basis).