

Thurrock - An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

## Constitution Working Group

The meeting will be held at **6.00 pm** on **14 November 2023** at the **Committee Room 2, Civic Offices, New Road, Grays, Essex, RM17 6SL**

### Membership:

Councillors Graham Snell (Chair), Lynn Worrall (Vice-Chair), Deborah Arnold, Andrew Jefferies, John Kent, Joycelyn Redsell, Neil Speight and Lee Watson

### Agenda

Open to Public and Press

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### Queries regarding this Agenda or notification of apologies:

Please contact Rhiannon Whiteley, Senior Democratic Services Officer by sending an email to [Direct.Democracy@thurrock.gov.uk](mailto:Direct.Democracy@thurrock.gov.uk)

Agenda published on: **6 November 2023**

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# DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

## Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

## When should you declare an interest *at a meeting*?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

**What is a Non-Pecuniary interest?** – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

### Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- Not participate or participate further in any discussion of the matter at a meeting;
- Not participate in any vote or further vote taken at the meeting; and
- leave the room while the item is being considered/voted upon

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

### Non-pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

## Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay
  - High quality, consistent and accessible public services which are right first time
  - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
  - Communities are empowered to make choices and be safer and stronger together
  
2. **Place** – a heritage-rich borough which is ambitious for its future
  - Roads, houses and public spaces that connect people and places
  - Clean environments that everyone has reason to take pride in
  - Fewer public buildings with better services
  
3. **Prosperity** – a borough which enables everyone to achieve their aspirations
  - Attractive opportunities for businesses and investors to enhance the local economy
  - Vocational and academic education, skills and job opportunities for all
  - Commercial, entrepreneurial and connected public services

## 1. Interpretation of the Finance Procedure Rules

1.1 In this Chapter 9, the words and phrases set out below have the meanings ascribed to them, unless the context dictates otherwise. For the avoidance of doubt, the definitions in Chapter 1 of the Constitution also apply to this Chapter 9.

“Annual Governance Statement”	means the Council’s annual statement setting out the effectiveness of its internal control and governance arrangements;
“Best Value”	means the duty placed on the Council to ensure Best Value in line with its duties under the Local Government Act 1999;
“Budget Holder”	means an officer who has delegated responsibility for an allocated budget;
“Cabinet Approval Threshold”	As defined in the Procurement Threshold Annex;
“Capital Programme”	means the programme identifying capital schemes and their cost over time; linked to the Council’s Capital Strategy;
“Capital Strategy”	means the strategy required by CIPFA’s Prudential Code to demonstrate how the Council’s capital expenditure, capital financial and treasury management activity contribute to the provision of desired outcomes and take account of stewardship, Value for Money, prudence, sustainability and affordability;
“Council-owned Company”	means a company or other entity that is wholly or partly owned by the Council;
“CIPFA”	means the Chartered Institute of Public Finance and Accountancy;
“Directorate”	means each directorate of the Council which is managed by an Executive Director to deliver services;
“Directorate Scheme Delegation”	of means the scheme of delegation applicable to a particular Directorate, as determined by the relevant Executive Director;
“External Audit”	means the independent evaluation of the Council’s financial statements by a third party “External Auditor”;
“Finance Portfolio Holder”	means the Cabinet member whose responsibilities include the finance portfolio;
“Find a Tender”	means the advertising platform for notices above the PCR Threshold;
“Internal Audit”	means independent assurance in relation to the Council’s risk management, governance and internal controls provide by “Internal Audit”;

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“Minimum Revenue Position” or “MRP”	means the minimum revenue the Council must set aside to repay the principal of its debt;
“PCR 2015”	means the Public Contracts Regulations 2015;
“Procurement Thresholds Annex	means the Annex setting out the procurement processes and authorisations that apply to spend at certain financial thresholds;
“PCR Threshold”	means the financial thresholds set out in the PCR 2015, and above which the procurement procedures set out in the PCR 2015 apply;
“Procurement Guide”	Means the procurement handbook as issued by the Head of Procurement from time to time;
“Prudential Indicators”	means mandatory indicators that local authorities are required to take into account when making capital expenditure plans, including for example, capital financing requirement and total external debt;
“Purchase to Pay”	means the end-to-end purchasing process adopted by the Council;
“Responsible Officer”	means an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council;
“Revenue Budget”	means the Council’s budget for revenue spending in any financial year;
“Section 114 Notice”	means a notice issued by the Council under section 114 of the Local Government Finance Act 1988 on 19 December 2022;
“Senior Leadership Team”	means the body comprised of the Council’s most senior officers, and which is responsible for providing strategic oversight of the Council’s operations;
“Service”	means any of the services provided by the Council;
“Service Budget”	means the budget of a particular Service, which forms part of the Revenue Budget;
“Service Cabinet Member”	means the Cabinet Member with particular responsibility for a Service area;
“Small Procurement Threshold”	as defined in the Procurement Thresholds Annex;
“Statement of Accounts”	means an annual statement of the Council’s accounts, setting out its financial position for the financial year;
“Value for Money”	means the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the customer’s requirement, which includes consideration of social value.



## **Part 2 – Contract Procedure Rules**

### **1. Introduction and Definitions – Purpose of the Contract Procedure Rules**

- 1.1 As a result of the issuing by the Council of a Section 114 Notice, and the subsequent appointment of Commissioners to the Council, spending controls are in place which restrict the Council's spending to essential items. Spending should only be incurred to support "Business As Usual". Full guidance relating to procurement during the period for which a Section 114 Notice is in force will be as issued by the Section 151 Officer, and these Contract Procedure Rules should be read in the context of that guidance.
- 1.2 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:
- (a) Furthers its corporate objectives;
  - (b) Restricts spending to essential items only;
  - (c) Prioritises spending plans in line with any Section 114 Notice in place and any further instructions from the Commissioners or central government departments;
  - (d) Uses its resources efficiently;
  - (e) Purchases quality goods, services and works, consistent with the priorities of the Council and which provide value for money; and
  - (f) Safeguards its reputation from any implication of dishonesty or corruption.
- 1.3 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- 1.4 These Contract Procedure Rules are made in accordance with the requirements of section 135 of the Local Government Act 1972.
- 1.5 These Contract Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Procurement Guide.

### **2. General Principles – Application and Compliance with Contract Procedure Rules**

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in Rule 2.3.
- 2.3 These Contract Procedure Rules do not apply to:

- (a) Employment contracts;
- (b) Contracts relating solely to interests in land;
- (c) Legal costs which are exempt under regulation 10 of the Public Contracts Regulations 2015; and
- (d) Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.

### **3. Breach of these Contract Procedure Rules**

- 3.1 Breach of these Contract Procedure Rules is very serious and will constitute a disciplinary matter. Save where a valid waiver or exemption has been applied, any failure to comply with these Contract Procedure Rules will be treated as a breach.
- 3.2 It will be the responsibility of all Officers to address non-compliance swiftly and in the most appropriate way according to the circumstances.
- 3.3 Any breach of, or non-compliance with, these Contract Procedure Rules must, on discovery, be reported immediately to the Chief Internal Auditor acting on behalf of the Chief Finance Officer. The Chief Internal Auditor shall, after taking legal advice and consulting the Procurement team, decide whether each reported breach or noncompliance presents a significant risk of harm to the Council's interests and, if satisfied that such risk exists, shall undertake any necessary investigation and report the findings to the Chief Finance Officer.
- 3.4 Officers may also raise concerns relating to breach or suspected breach of, and non-compliance with, these Contract Procedure Rules anonymously in line with the Council's [Whistleblowing Policy](#).
- 3.5 Officers should remain alert to fraud throughout the procurement life cycle and any concerns of fraud or corruption must be reported at the earliest opportunity to the Head of Procurement. They will decide whether the matter should be escalated to the Chief Internal Auditor acting on behalf of the Chief Finance Officer.
- 3.6 Officers must follow the Officer Code of Conduct in respect of any procurement activity. Failure to comply with the Officer Code of Conduct or these Contract Procedure Rules may constitute a disciplinary matter that may be pursued, as appropriate, in accordance with the Council's disciplinary policy.
- 3.7 Councillors are not permitted to take part in the procurement process, and they must ensure that their actions do not compromise or impact on due process in relation to any Council procurement.
- 3.8 Concerns related to Councillor intervention in procurement activities may be subject to Standards Committee investigation.
- 3.9 Reports on the number of confirmed breaches of these Contract Procedure Rules are to be sent by the Head of Procurement to the Chief Finance Officer on a quarterly basis.

## **4. General Principles Applying to All Contracts**

- 4.1 All purchases however small shall be made or evidenced in writing.
- 4.2 Standard contract clauses shall be used in all contracts for purchases over the Small Procurement Threshold. The standard contract clauses are issued by Legal Services and can be found on the intranet.
- 4.3 As a minimum, all contracts for purchases over the Small Procurement Threshold shall include clauses which set out:
- (a) The works, supplies (goods), services, material, matters or things to be carried out or supplied
  - (b) The time within which the contract is to be performed
  - (c) Quality requirements and/or standards which must be met
  - (d) Requirements on the contractor to hold and maintain appropriate insurance
  - (e) What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
  - (f) Requirements on the contractor to comply with all relevant equalities and health and safety legislation
- 4.4 That the Council shall be entitled to terminate the contract and recover its losses in the event that the contractor, its employees or anyone acting on its behalf does anything improper to seek to influence the Council to give the contract to any person, or as to the circumstances in which a contract may be given, or any contract or commits an offence under the Bribery Act 2010 or section 117(2) Local Government Act 1972, or commits any fraud in connection with any Council contract. All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Procurement Guide.
- 4.5 All contracts of a value over the Small Procurement Threshold or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

## **5. Regulatory Context**

- 5.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:
- (a) All relevant statutory provisions
  - (b) The relevant PCR 2015 principles, which are defined in the Council's Procurement Guide
  - (c) The Council's Constitution including these Contract Procedure Rules, the Council's Finance Procedure Rules and Scheme of Delegation

- (d) The Council's Procurement Guide and other policies and procedures of the Council as appropriate.

5.2 In the event of conflict between the above, the PCR 2015 will take precedence, followed by other applicable UK legislation, then the Council's Constitution, the Council's Procurement Guide and guidelines, policies and procedures.

## **6. Responsibilities of Executive Directors, Assistant Directors and Responsible Officers**

6.1 Each Executive Director shall:

- (a) be responsible for the purchasing undertaken by his/her Directorate
- (b) be accountable to the Cabinet for the performance of his/her duties in relation to purchasing
- (c) comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegation
- (d) appoint in writing an Assistant Director who shall be an authorised signatory in respect of commissioning related to that Service, subject to Rule 9 below, and who will be responsible for ensuring the correct carrying out of purchasing duties (Rule 5.3 below) of Responsible Officers within that Service
- (e) take immediate action in the event of breach of these Contract Procedure Rules, in accordance with Rule 3 above.

6.2 A Responsible Officer is an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.

6.3 A Responsible Officer's duties in respect of purchasing are to ensure that:

- (a) expenditure is restricted to essential items only in line with Section 114 Notices and Commissioners' requirements;
- (b) compliance with all Regulatory Provisions and integrity of the tender process;
- (c) compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest (including gifts and hospitality) affecting any purchasing process;
- (d) there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used;
- (e) the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings;
- (f) the Council's decision-making processes are followed;

- (g) all contracts of a value over the Small Procurement Threshold are included on the Council's Contract Register which is maintained by Procurement Services;
  - (h) proper records of all contract award procedure, waivers/exemptions and extensions are maintained, with separate files for each purchase of a value over the Small Procurement Threshold;
  - (i) value for money is achieved;
  - (j) advice is sought from the Executive Director Corporate Services as to whether adequate and appropriate security (such as a bond or guarantee), is to be taken to protect the Council in the event of non-performance, and in the case of tenders, such security to be required as part of the tender process;
  - (k) appropriate advice is sought and followed from Legal Services, Finance and Procurement Services;
  - (l) the Council's Document Retention Policy is followed;
  - (m) for tenders above £75,000, a financial evaluation is or has been made of the financial standing of tenderers as advised by the Executive Director Corporate Services; and
  - (n) all reports seeking Cabinet approval to award a contract shall include a statement from the Responsible Officer to confirm that:
    - the proposed expenditure represents essential spending in line with the requirements of any Section 114 Notices or directions from Commissioners and/or central government;
    - advice has been sought as appropriate from the Council's legal services and central procurement team and that advice has been followed, and that; and
    - in their opinion, the tender process has been fair and transparent and in compliance with the relevant PCR 2015 rules, UK legislation and these Contract Procedure Rules, or alternatively shall include a statement from the Responsible Officer which clearly sets out any anomalies that have occurred. In respect of contracts for which Cabinet approval is not required (for example, contracts under the Cabinet Approval Threshold) the Responsible Officer will ensure that a similar statement is included on the relevant file.
- 6.4 In considering how best to procure works, supplies and services Executive Directors, Assistant Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and eprocurement / purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.
- 6.5 It is a disciplinary offence to fail to comply with these Contract Procedure Rules and the Council's Procurement Guide. All employees have a duty to report breaches of Contract Procedure Rules to their Director.

6.6 Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the relevant Executive Director.

## **7. Scheme of Delegation**

7.1 Council purchasing may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other Officers if expressly allowed to do so in the Scheme of Delegation. If allowed, then the delegation should only be to Officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the Officer delegating the task and notified to the relevant Director.

7.2 Officers shall, where appropriate, be informed by their Executive Director of the extent of any delegated authority and the financial thresholds set out in the Finance Procedure Rules and Contract Procedure Rules and Scheme of Delegation will apply.

## **8. Exemptions to these Contract Procedure Rules**

8.1 Exemptions to these Contract Procedure Rules will only apply in exceptional circumstances and should be approved by the Chief Finance Officer.

8.2 Before submitting a request under this Rule 8, the basis for any exemption should be agreed with Procurement Services.

8.3 The Chief Finance Officer and the Head of Procurement reserve the right to refuse any application for an exemption. Where an exemption relies on an exception in the PCR 2015, it will be rejected unless evidence is provided to demonstrate that the exception applies.

8.4 The Head of Procurement will maintain a register of all approved exemptions and will monitor and report the use of exemptions for management control purposes.

8.5 For procurements above the PCR Thresholds, the rules pertaining to exemptions in the PCR 2015 will apply.

8.6 Any attempt to seek retrospective approval of an exemption will be rejected and will be treated as a potential breach of these Contract Procedure Rules.

8.7 Exemptions should not be used to circumvent these Contract Procedure Rules.

8.8 If an exemption is approved, Executive Directors / Heads of Service must:

- (a) ensure that a formal contract is entered into;
- (b) undertake appropriate due diligence on the relevant supplier and proportionate contract management during the life of the contract;
- (c) ensure that appropriate approval to award the contract has been given in accordance with the Scheme of Delegations;
- (d) ensure that the value of the contract does not exceed a PCR Threshold and that no contract extension is sought.

## **9. Financial Thresholds and Procedures**

- 9.1 The Procurement Thresholds Annex sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values.
- 9.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities should be advertised by way of a public notice.
- 9.3 The public notice referred to at Rule 9.2 may take the form of a notice or advertisement in an electronic format, on an easily accessible website or other electronic media and/or in the press, trade journals or Find a Tender (the latter being required where the PCR Threshold applies). The Responsible Officer may choose to place one or more public notices in different media.
- 9.4 A table setting out applicable procurement thresholds is set out in the Procurement Thresholds Annex.
- 9.5 Responsible Officers should act cautiously and must seek advice from the Council's Procurement Officers when considering the procedure to be used and application of the PCR 2015 to services contracts.
- 9.6 The relevant Executive Director/Assistant Director shall define the level of advice and service which Responsible Officers will be required to seek from the Procurement Service or other third party, having reference to specified financial thresholds, and will publish this in a scheme which he or she will update from time to time.
- 9.7 Where contracts are of a type and value which means that they are subject to the PCR 2015 then there are six types of PCR 2015 procedures available. These are the open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership and negotiated procedure without prior publication. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of PCR 2015 procedure must be sought in the first instance from Procurement Services and if required from Legal Services
- 9.8 For contracts above the Small Procurement Threshold there are requirements to publish notices on Contracts Finder. Officers will ensure advice is obtained from Procurement Services.

## **10. Financial Thresholds and Processes for Approval and Execution of Contracts**

- 10.1 Subject to the Finance Procedure Rules and provisions within the Council's Constitution regarding key decisions, Officers must obtain approval to proceed to tender, approval to award a contract, and approval in respect of any waivers or extension, in writing in accordance with the Procurement Thresholds Annex.
- 10.2 All applications for approvals to proceed to tender must:
- (a) be fully documented;
  - (b) append a commissioning report (a "Stage 1" report) in an approved format to be submitted in advance to either the Cabinet, Cabinet Member or to the relevant

Executive Director or Assistant Director in accordance with Rule 9.1 above and which shall set out the following:

- (i) an appropriate and proportionate business case setting out the commissioning need and costings;
- (ii) a draft specification detailing the quality required that is proportionate to the priorities of the Council;
- (iii) appropriate project management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004) and proposed project management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed procurement;
- (iv) appropriate contract management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004), arrangements for post-contract evaluation, and proposed contract management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed contract;
- (v) confirmation from Legal Services, Procurement Services and Finance that they have been consulted and agree with the commissioning report in so far as it relates to those respective fields; and
- (vi) confirmation that the requirements of Rule 5 above has been or will be met;

10.3 In addition to the requirements set out in Rule 10.2 above, where the application is for the approval to seek a tender from a single source, or to obtain a single tender from the one tenderer only, this course of action should only take place following consultation and agreement with both legal services and corporate procurement Officers. The application must also include written authorisation from the Executive Director Corporate Services, provided that such authorisation is compliant with the requirements of the Public Contract Regulations 2015, and which will set out one of the following grounds for the authorisation:

- (a) it is known (not assumed) that only one supplier can meet the requirement;
- (b) continuity of knowledge or synergy with previous work is an overriding consideration;
- (c) the Council has received an unsolicited proposal that contains ideas or concepts in respect of which the intellectual property is owned exclusively by the proposed single tenderer, that the Council wishes to use because it meets immediate needs; and
- (d) the Council urgently needs to meet its statutory obligations.



In exceptional circumstances, an Officer preparing a Cabinet Report seeking approval to proceed to tender may also wish to make a recommendation that Cabinet delegates the authority to make the subsequent decision to award a contract, either to a Council committee or to senior officers. Such a recommendation should only be made in exceptional circumstances where the decision needs to be delegated for reasons of urgency, to expedite the procurement process.

The rationale for this recommendation should be made clear to Cabinet to allow them to make an informed decision to so delegate. Officers should word any request for a delegation of authority such that Cabinet members are "asked to consider" whether the delegation should be given, so that Cabinet may actively decide whether or not to grant it having regard to the rationale provided.

The outcome of the final procurement decision should be reported back to Cabinet for information at the earliest opportunity.

- 10.4 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Procedure Rules ensure, in particular, that:
- (a) the appropriate approvals, including approval to proceed to tender and approval to award the contract, have been obtained to authorise that decision; and
  - (b) where appropriate, a standstill period complying with PCR 2015 is incorporated into the final award process
- 10.5 Any contracts valued above the threshold set in the Procurement Thresholds Annex shall be executed as a deed. All other contracts may be signed by Officers with appropriate delegated authority.
- 10.6 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the appropriate Executive Director or his delegate.
- 10.7 In the case of major projects and complex procurements – for example, involving the procurement of frameworks or use of the competitive dialogue, innovation partnership or the competitive procedure with negotiation, the relevant Executive Director and Assistant Director should follow advice from Procurement Services, Legal Services and Finance as to whether:
- (a) a project specific scheme of delegation should be sought and approved by Cabinet – for example, delegating powers of approval to a Cabinet Member – at the beginning of the commissioning process in order to ensure timely approvals at key stages of the procurement process
  - (b) a proportionate gateway review process should be utilised
- 10.8 In conjunction with Finance Procedure Rules, in the case of a civil emergency brought about by events unforeseeable by, and not attributable to the Council, and requiring an immediate response in order to protect the Council or its residents, the relevant Executive Director may, upon receiving the consent of the Chief Executive and upon notifying the Executive Director Corporate Services, where it is strictly necessary:

- (a) authorise the entry into contracts above the Cabinet Approval Threshold on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 10.2 above) to be submitted by the Executive Director or the relevant Assistant Director to Cabinet at either the next available Cabinet meeting or the Cabinet meeting following, and
- (b) authorise the entry into contracts up to the Cabinet Approval Threshold on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 10.2 above) to be submitted by the relevant Assistant Director or Responsible Officer to the Executive Director as soon as practicable.

## **11. Calculating the Contract Value**

- 11.1 The starting point for calculating the contract value for the purposes of these Contract Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract including Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).
- 11.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of PCR 2015 and/or these Contract Procedure Rules.
- 11.3 The PCR 2015 cover contracts which, individually, are below the stated PDR threshold but which constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the PCR 2015 where they envisage that they may require repeat purchases and/or purchases of a similar type.

## **12. Principles Underlying Tendering Processes and Tender Evaluation**

- 12.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure that the following is secured:
  - (a) Sufficient time is given to plan and run the process
  - (b) Equal opportunity and equal treatment
  - (c) Openness and transparency
  - (d) Probity
  - (e) Outcomes which deliver sustainability, efficiency and cost savings (where appropriate).

## **13. Submission and Opening of tenders**

- 13.1 An Invitation to Tender shall be issued for contracts as set out in the Procurement Thresholds Annex and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.

- 13.2 All invitation to Tenders (including invitation to quote for Procurements over the Small Procurement Threshold) shall be issued and received utilising the Council's e-tendering system. Tenders will be retained unopened until after the date and time specified for receipt of tender in the invitation to tender. In exceptional circumstances (in agreement with the Head of Procurement) tenders may be received electronically (to which Rule 13.3 shall apply).
- 13.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:
- (a) addressed to the email address as notified in the Invitation to Tender
  - (b) in the format specified in the Invitation to Tender
  - (c) stored in a secure mailbox controlled by Procurement Services, which requires a code or other appropriate security measure, to open it
  - (d) retained unopened until after the closing date and time specified for receipt of tender
- 13.4 No tender received after the closing time and date specified for receipt of tenders shall be accepted or considered by the Council unless the relevant Executive Director in consultation with the Head of Procurement is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply, and the other tenders have not been opened.
- 13.5 Tenders shall be opened by the relevant Executive Director or nominee working in conjunction with Procurement Services after the closing date and time specified for receipt of tenders in the invitation to tender.
- 13.6 If it is necessary that the period of time for submitting tenders be extended, this should be communicated to all tenderers in writing in a fair and equal manner.

## **14. Evaluation of Quotes and Tenders**

- 14.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenderers.
- 14.2 Tenders subject to the PCR 2015 shall be evaluated in accordance with the rules set out in the PCR 2015.
- 14.3 Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents best value for money or where the contract value exceeds the PCR Threshold on the basis of the most economically advantageous tender to the Council and not on the basis of lowest price.
- 14.4 Tenders received in an incomplete form must be evaluated in accordance with the Invitation to Tender documents as set out in the Procurement Guide.

## 15. Waivers

- 15.1 The requirement for the Council to conduct a competitive purchasing process for contracts over the Small Procurement Threshold may be waived in the following circumstances:
- (a) for contracts which are not subject to the PCR 2015, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury, damage to property or breach of the Council's statutory obligations and duties, and the urgency has not resulted from an act or omission of the Council, or
  - (b) the contract is a direct award under a Purchasing Scheme, a Framework or tender process where a direct award is allowed under the procurement rules and legislation, or
  - (c) subject to the Public Contracts Regulations 2015 at the discretion of the relevant Executive Director who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing and based on the advice of Procurement Services
- 15.2 A Responsible Officer who seeks a waiver of Contract Procedure Rules, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Procedure Rules is set out in the Council's Procurement Guide.
- 15.3 All waivers from these Contract Procedure Rules must be:
- (a) fully documented;
  - (b) approved in accordance with the thresholds set out in the Procurement Thresholds Annex;
  - (c) subject to a written report in an approved format to be submitted in advance in accordance with Rule 9.1 (Approval) to Cabinet, Cabinet Member or to the relevant Executive Director or Assistant Director in line with relevant decision-making thresholds which are set out in the Scheme of Delegation and Procurement Thresholds Annex. The report shall include reasons for the waiver which demonstrate that the waiver is genuinely required;
  - (d) subject to written approval in advance (in the approved format) in accordance with Rule 9.1 (Approval) by Cabinet, the Cabinet Member or the relevant Executive Director, Assistant Director, Section 151 Officer or Procurement Service who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional; and
- Where the waiver is being sought in order to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application for approval will be brought in accordance with Rule 9.2.
- 15.4 Notice of award of all contracts with a value over the Small Procurement Threshold must be published on Contract Finder.

15.5 All decisions on waivers must take into account:

- (a) probity; and
- (b) best value/value for money principles.

15.6 For contracts subject to the PCR 2015, any waiver from the requirement for competition must meet the conditions set out in the PCR 2015 in addition to the general requirements above.

15.7 A waiver shall not be applied for reasons of poor contract planning.

## **16. Extensions to Existing Contracts**

16.1 All contracts entered into should specify:

- (a) The expected termination date
- (b) Processes to be applied for early termination, variation and waiver, and
- (c) Processes to be applied for extensions to existing contracts.

16.2 In most circumstances, expected maximum contract periods are as follows:

- (a) 10 years for major contracts such as facilities management, transaction processing etc.
- (b) 5 years for consultancy contracts, and
- (c) 12 months for other services, supplies and consumables.

16.3 Where contracts are to be entered into for longer periods, contract documentation and reports to members should explain why this is considered to be necessary and why it represents Best Value for the Council.

16.4 Where extensions to existing contracts are made, the extensions must be determined in accordance with the contract terms or agreement of the parties, for a specified period and made in accordance with the principles set out in the Council's Procurement Guide and the Public Contracts Regulations 2015 as applicable. Extension of existing contracts shall include modification and variation of contracts.

16.5 Any extension must be:

- (a) fully documented;
- (b) approved in accordance with the thresholds set out in the Procurement Thresholds Annex;
- (c) subject to a written report in an approved format to be submitted in accordance with Rule 9.1 (Approval) to Cabinet, the Cabinet Member or the relevant Executive Director or Assistant Director (as required under (b) above). The report shall include reasons for the extension which demonstrate that the need for the extension is genuinely exceptional; and

- (d) subject to written approval in advance (in the approved format) in accordance with Rule 9.1 (Approval) to Cabinet, the Cabinet Member or (subject to relevant approval thresholds), by the relevant Executive Director or Assistant Director, who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional.

16.6 Any extension must take into account:

- (a) probity; and
- (b) best value/value for money principles.

16.7 For contracts subject to PCR 2015, any extension must meet the conditions set out in Regulation 72 thereof in addition to the more general requirements set out above.

## **17. Purchasing Schemes (including Framework Agreements)**

17.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Procurement Guide.

17.2 Responsible Officers must check in advance that:

- (a) The Council is legally entitled to use the Purchasing Scheme
- (b) The purchases to be made do properly fall within the coverage of the Purchasing Scheme
- (c) The establishment and operation of each Purchasing Scheme is in compliance with the PCR 2015 (where they apply) and meets the Council's own requirements

## **18. Review and Changes to these Contract Procedure Rules**

18.1 These Contract Procedure Rules shall be reviewed and updated on at least a three yearly cycle. Save in the case of revisions to the PCR Thresholds, amended Contract Procedure Rules shall be agreed and adopted by the Council by resolution following the consideration of a Cabinet Report brought by the Section 151 Officer and Executive Director Corporate Services-in consultation with the Assistant Director of Legal and Governance and Head of Procurement. Revisions to the PCR Thresholds shall be dealt with in accordance with the Scheme of Delegation.

## Part 3 – Finance Procedure Rules

### Introduction

The Council controls many millions of pounds of public money. These Finance Procedure Rules aim to ensure that the Council manages its affairs with the highest standards of financial integrity and accountability expected by the taxpayers who fund our services.

The Local Government Act 1972 requires that the Council appoints a suitably qualified person to be responsible for the proper administration of the Council's financial affairs. The Council's Chief Finance Officer is appointed under Section 151 of this Act. References to the Chief Finance Officer and the Section 151 Officer in this Constitution are to be read interchangeably.

The Chief Finance Officer is also responsible for maintaining a continuous review of the Finance Procedure Rules and for updating them, as necessary. No such revision may affect the powers of the Cabinet, Cabinet Members, Committees or Sub-Committees without the approval of the Council and any such revision must be reported to the Cabinet and the Standards and Audit Committee as soon as practicable.

The Section 151 Officer must report, as appropriate, breaches of the Finance Procedure Rules to the Cabinet and/or to the Council.

The Local Government Finance Act 1988 (section 114) prescribes that the suitably qualified, responsible financial officer "must make a report if s/he considers that a decision has been made or is about to be made involving expenditure which is unlawful or which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency to the authority".

Any reference to the Section 151 Officer in these Finance Procedure Rules includes their nominated deputy, except for the making of a report under section 114 of the Local Government Finance Act 1988.

These Finance Procedure Rules are made to regulate the Council's financial administration and control processes. They set out standards to ensure that the Council:

- uses its resources wisely and for the purposes intended;
- follows best practice for dealing with financial matters;
- seeks improvement in value for money, service delivery and customer satisfaction; and
- secures its financial standing.

The Finance Procedure Rules aim to maintain an appropriate balance between managing risk sensibly, innovation and meeting the Council's statutory duties and corporate objectives. This includes meeting any specific responsibilities or directions placed on the Council by Commissioners or central Government Departments. Officers and Members, and others acting on the Council's behalf, (there are separate Finance Procedure Rules applicable for Schools) are authorised to make decisions in accordance with these Finance Procedure Rules. They do not authorise any person to make a decision which is contrary to any provision in the Constitution or which exposes the council to an unacceptable level of financial or operational risk.

It is the responsibility of senior managers to bring the Finance Procedure Rules to the attention of all staff, ensuring that necessary training is provided to staff, and monitoring compliance by staff

with these Finance Procedure Rules. All Budget Holders must have access to a copy of these Finance Procedure Rules.

The Finance Procedure Rules themselves are not of any use unless everyone understands them, and the processes, procedures and guidance that underpin them, and adheres to them in their everyday work. **If anyone knowingly fails to comply with the Finance Procedure Rules, this constitutes misconduct and may result in disciplinary action.**

The Council's Financial Procedure Rules set out the control framework in the following sections:

- Roles and responsibilities (Section 1)
- Financial planning (Section 2)
- Financial management (Section 3)
- Accounting records and financial systems (Section 4)
- Risk and opportunity management including insurance (Section 5)
- Control of resources and asset management (Section 6)
- Financial administration (Section 7)
- External arrangements (Section 8)
- Financial limits (Section 9)

The Financial Procedure Rules are supplemented by further guidance notes. Issued by the Chief Finance Officer, they act as further guidance for the implementation of financial procedures by officers acting on behalf of the Council.

The Financial Procedure Rules should be used in conjunction with:

- The rest of the Council's Constitution, including Contract Procedure Rules and the Code of Conduct.
- Agreed Schemes of Delegation (including financial delegation)
- The Financial Limits Annex
- The Council's Whistleblowing Policy
- The Audit Protocol
- The IT Security Policy
- Departmental Guidance and Procedure Notes
- The Council's Document Retention Policy

The Section 151 Officer will, issue advice, guidance and accounting instruction notes to underpin the Finance Procedure Rules, ensure compliance with specific statutory provisions, and reinforce



best professional practice. Members, officers and others acting on behalf of the Council are required to comply with such advice and guidance. The Section 151 Officer will review and update (as necessary) these Financial Procedure Rules on an annual basis to ensure that they are fit for purpose and comply with best practice.

The Scheme of Delegation to Officers, which is set out in Chapter 6 of the Constitution, defines how the responsibilities within the Finance Procedure Rules are reserved or delegated to officers.

If anyone is in doubt about the application of the Finance Procedure Rules or any of the documents referenced within the Rules, they should seek advice from the relevant Head of Finance or the Section 151 Officer.

## 1. Section 1 – Roles and Responsibilities

### Introduction

1.1 The roles and responsibilities of members and officers are set out within the Council's Constitution. More detail on the roles and responsibilities of Commissioners is also provided in (insert link). The purpose of this section 1 is to explain the roles and responsibilities of members and officers with respect to financial matters.

Sound financial planning, management and administration are essential to:

- Implement the specific requirements placed on the Council by Commissioners and central Government,
- plan and maintain the effective use of resources to achieve agreed service standards;
- comply with legal and corporate accounting requirements;
- provide accurate and complete accounts that demonstrate accountability to the public;
- ensure the appropriate use and security of financial and physical assets; and
- help the Council conduct its affairs in an efficient, effective, and economic manner.

1.2 The full roles and responsibilities of the different bodies of the Council are set out in full in the relevant section of the Constitution. The key areas of responsibility in relation to financial matters are set out below.

### Roles and Responsibilities

1.3 Members and officers of the Council shall carry out the roles and responsibilities as set out below.

#### Council

1.4 The Council is responsible for:

- Overall responsibility for the Policy Framework and the Budget.
- Approving the Finance Procedure Rules.

- Making arrangements for the proper administration of its financial affairs and to secure that one of its officers has responsibility for the administration of these affairs.
- Making arrangements for approving the statutory annual statement of accounts in accordance with the timeframes set by applicable regulations.

## **Cabinet**

1.5 The Cabinet is responsible for:

- the preparation of the Budget and policies forming part of the Policy Framework and making recommendations on them to Council;
- taking decisions on resources and priorities to deliver and implement the Policy Framework and within the Budget;
- determining overall Council priorities within the Budget and Policy Framework, to keep under review those priorities, and to approve specific plans and strategies;
- monitoring the achievement of policies and objectives within the resources allocated, with the Overview and Scrutiny Committees; and
- monitoring the Council's financial and service performance and making changes, within the Budget and Policy Framework, to ensure that the Budget is met within the limits determined by the Council, including the agreed reserves strategy.

One member of the Cabinet has specific strategic responsibility for financial administration and management, including preparation and management of the revenue and capital budgets, precepts, levies and borrowing. This responsibility sits with the Cabinet Member for Finance.

## **Overview and Scrutiny Committees**

1.6 Overview and Scrutiny Committees are responsible for:

- implementing Call-in of decisions made by Cabinet members which fall within their remit, to consider whether decision-making by Members is robust and transparent; and
- monitoring the achievement of policies and objectives which fall within their remit, within the resources and priorities determined by Cabinet.

In this context, the Corporate Overview and Scrutiny Committee is responsible for scrutinising the financial arrangements and performance of the Council, including considering the financial position and management of the Council's finances and budgets (revenue and capital). It also contributes to the Council's objectives in relation to the overall strategic direction, policies and priorities of the Cabinet and of the Council, including the overall corporate revenue and capital budget strategy, financial resources, precepts and levies.

## **Standards and Audit Committee**

1.7 Standards and Audit Committee is responsible for:

- approving the Council's Annual Statement of Accounts;
- considering the Council's arrangements for corporate governance and risk management and approving the Annual Governance Statement;
- all matters related to the appointment of the Council's external auditor;
- receiving, considering and commenting on reports issued by the External Auditor, including the External Auditor's Annual Audit Plans, Reports on the Financial Statements, Annual Audit Letters, reports on specific matters and written recommendations;
- ensuring that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit is actively promoted;
- receiving reports from the Council's Internal Auditor on the outcome of audit reviews and investigations and the implementation of recommendations, including the annual report of the Chief Internal Auditor; and
- monitoring the effectiveness of the Council's Finance Procedure Rules, Procurement Policy and Procedures and other strategies for counter fraud and corruption, declarations of interest, gifts and hospitality, whistle blowing and anti-money laundering.

### **Head of Paid Service**

1.8 The Head of Paid Service is responsible for:

- providing strategic management and establishing a framework for management direction, style and standards;
- securing a process for resource allocation that ensures due consideration of national and policy and corporate priorities; and
- ensuring arrangements are in place to monitor and manage the performance of the Council.

### **Section 151 Officer**

1.9 As stated above, Section 151 of the Local Government Act 1972 specifies that every local authority shall arrange for the proper administration of their financial affairs and ensure that one of their officers has responsibility for the administration of those affairs. The Council's Chief Finance Officer is the designated officer for this purpose.

1.10 The Assistant Director Finance fulfils this role in the absence of the Chief Finance Officer.

1.11 In addition to the statutory duties arising under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988, in relation to the financial administration and stewardship of the Council that cannot be overridden, the Chief Finance Officer has the following statutory duties:

- the Local Government and Housing Act 1989, which requires the Section 151 Officer to consult with the Monitoring Officer and the Head of Paid Service before making a report under section 114 to Council;
- section 25 of the Local Government Act 2003 requires the Section 151 Officer to make a report to the Council, when it is considering its Budget and council tax, that addresses the robustness of the estimates and adequacy (or otherwise) of reserves; and
- the Accounts and Audit Regulations 2015, which require the Section 151 Officer to ensure that the accounting control systems are observed, that the accounting records are maintained in accordance with proper practices and that they are kept up to date.

1.12 To fulfil these statutory duties and legislative requirements, the Section 151 Officer will:

- set appropriate financial management standards for the Council which comply with the Council's policies and proper accounting practices and monitor compliance with them;
- determine the accounting records to be kept by the Council;
- ensure that there is an appropriate framework of budgetary management and control;
- monitor performance against the Council's Budget and advise on the corporate financial position;
- ensure proper professional practices are adhered to and act as Head of Profession in relation to the standards, performance and development of finance staff throughout the Council;
- prepare and publish the Council's Statement of Accounts for each financial year, in accordance with the timetable and arrangements specified by law;
- make proper arrangements for the audit of the Council's annual Statement of Accounts;
- ensure that claims for funding, including grants, are made by the due date and in compliance with the terms and conditions of the awarding body;
- make proper arrangements for the overall management of the Council's Internal Audit function;
- manage treasury management activities in accordance with the Council's Treasury Management Policy Statement, Treasury Management Strategy and Prudential Indicators; and
- implement any additional arrangements, policies or procedures relating to financial matters, as directed by the Commissioners and central government departments.

### **Monitoring Officer**

1.13 The Monitoring Officer is responsible for:

- Reporting, after consultation with the Head of Paid Service and the Section 151 Officer, any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet.
- Advising whether the decisions of Cabinet are in accordance with the Budget and Policy Framework.
- Providing advice to all members on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues.
- Implementing any additional arrangements, policies or procedures relating to governance issues, as directed by the Commissioners and central government departments.

### **Executive Directors**

- 1.14 Executive Directors have delegated responsibility for the financial management of their services.
- 1.15 This responsibility must be exercised within the corporate financial management framework determined by the Section 151 Officer, and includes:
- Putting in place appropriate budget management and delegation arrangements to ensure the effective use of resources, the safeguarding of assets and the operation of a system of appropriate internal controls.
  - Maintaining adequate arrangements for the identification, management and reporting of strategic and operational risks
  - Promoting appropriate financial management standards within their services, and monitoring adherence to those standards and good practice, liaising as necessary with the Section 151 Officer, and ensuring that relevant training is provided to staff with financial management responsibilities.
  - Maintaining adequate accounting records that support all of the balances and transactions in the accounts and all items of income and expenditure
  - Ensuring transparency of decision-making in line with Scheme of Delegation requirements
  - Ensuring that all decisions are based on accurate, up to date and unbiased information
  - Promoting sound financial practices in relation to the standards, performance, and development of staff in their services.
  - Advising Cabinet members and the Section 151 Officer of the financial implications of all proposals.
  - Seeking approval, in conjunction with the Section 151 Officer, on any matter liable to affect the Council's finances materially (in accordance with guidance issued by the Section 151 Officer), before any commitments are made.

- Obtaining the approval of the Section 151 Officer on any proposal to commission external financial and/or tax advisory services on behalf of the Council; this requirement does not apply to the Monitoring Officer, although they must consult the Section 151 Officer before commissioning such advice.
- Consulting with, and obtaining the approval of, the Section 151 Officer before making any changes to accounting records or procedures.
- Complying with the following principles when allocating accounting duties:
  - Separating the duties of providing information about sums due to or from the Council and calculating, checking (including reconciling the accounts) and recording these sums from the duty of collecting or disbursing them.
  - Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- Ensuring that claims for funds (including grants, contributions and 'match funding') are made, in accordance with accounting instructions issued by the Section 151 Officer and the conditions defined by the awarding body, by the due date and that appropriate records are maintained.
- Contributing to the development of performance plans in line with statutory requirements.
- Contributing to the development of corporate and service targets and objectives and performance information.
- Contributing to the annual corporate governance review and corporate systems of risk management
- Ensuring that Budget Holders have effective procedures for safeguarding the Council's resources.

### **Executive Directors' Board**

1.16 The Executive Directors' Board is responsible for:

- Oversight of overall performance, including financial performance.
- Deciding or recommending management and/or policy action across the Council to ensure that the Council remains within its Budget and Medium Term Financial Strategy.

### **Assistant Directors and Budget Holders**

1.17 Assistant Directors and Budget Holders are responsible for:

- Determining the appropriate level of control within their areas of responsibility in accordance with advice and guidance provided by Section 151 Officer, their Executive Directors and the Council's auditors.

- Ensuring that all their staff understand and comply with the Finance Procedure Rules, Contract Procedure Rules, Council policies and Directorate departmental instructions.
- Monitoring compliance within these regulations, policies and instructions.
- Identifying the short-, medium- and long-term financial implications of policy, legislative requirements and service standards.
- Planning and maintaining effective use of resources to achieve agreed service delivery standards within the Budget.
- Achieving and demonstrating value for money for commissioned and provided services.
- Taking or recommending actions where necessary to stay within the Budget.
- Clearly understanding the consequences of a lack of financial control and taking steps to ensure that financial control measures are followed.
- Ensuring that all employees understand and have access to a copy of the Council's Anti-Fraud and Corruption Strategy and associated guidance.
- Operating processes to check that established controls are in place and evaluating their effectiveness.

### **Employees**

1.18 All Council employees are responsible for:

- Following the Finance Procedure Rules, Contract Procedure Rules, Code of Conduct, Council policies and Directorate instructions.
- Ensuring that Council resources are only used for carrying out the business of the Council.
- Helping the Council to achieve open and honest administration by supporting approved fraud prevention strategies and avoiding potential conflicts of interest.
- Assisting the Council's audit processes.
- Keeping accurate and comprehensive records to support the transactions undertaken on the Council's behalf.

### **Internal Audit**

1.19 Internal Audit will review, appraise and report upon:

- the extent of compliance with, and effectiveness of, relevant policies, plans and procedures;
- the adequacy and application of financial and other related management controls;
- the suitability of financial and other related management data;

- the extent to which the Council's assets and interests are accounted for and safeguarded from loss of any kind from:
  - fraud and other offences;
  - waste, extravagance and inefficient administration; and
  - inefficient value for money or other causes; and
- Executive Directors' self-assessments of the status of the governance framework, including systems of internal controls in place, for each of their service areas.

1.20 Further details of the role of Internal Audit are set out in section 5.

### **External Audit**

1.21 External Audit will:

- Report on whether the Council's accounts and statements present a true and fair view of the Council's financial position.
- Carry out agreed ad hoc projects.

1.22 Further details of the role of External Audit are set out in section 5.

## **2. Section 2 – Financial Planning**

### **Policy Framework**

2.1 The Council is responsible for agreeing its Budget and Policy Framework before the start of each financial year.

2.2 The key elements of the Council's Budget with regard to financial planning are:

- a statement under section 25 of the Local Government Act 2003;
- Revenue Budget;
- Capital Programme;
- trading activities' financial targets;
- contingency funds, reserves and balances;
- council tax base and setting the council tax;
- Capital Strategy (comprising the limits for borrowing, the Treasury Management Strategy, and the Minimum Revenue Provision (MRP) policy, together with appropriate strategies for the repayment of debt);
- Housing Revenue Account (HRA);
- Investment Management and Disinvestment Strategies;



- Asset use and asset disposal strategies;
- Asset condition survey outcomes;
- Use of Dedicated Schools Grant (DSG) and budgets delegated to schools, together with any plans in place for reducing DSG overspends;
- annual pay policy statement.

### **Medium Term Financial Strategy**

- 2.3 The Medium Term Financial Strategy (MTFS) brings together the key assumptions about financing resources (including council tax, non-domestic rates and general government grants) and spending pressures over the medium to longer term. This enables the Council to plan for financial risks and monitor and control the way resources are allocated and spent to meet the Council's objectives and to secure value for money.
- 2.4 This informs the setting of service financial targets for the annual revenue budget and capital payments guidelines that gives authority to Budget Holders to incur expenditure to meet service standards and targets.
- 2.5 It is the responsibility of the Section 151 Officer to ensure that reports are presented to Council, as part of the annual budget setting process, on the medium-term budget prospects and the resource constraints set by the Government.
- 2.6 Detailed processes for the preparation of the Medium Term Financial Strategy (including Directorate Medium Term Financial Strategies), revenue and capital budgets shall be issued by the Section 151 Officer. These will take into account:
- the need for Departments to demonstrate value for money, efficiency and effectiveness in current services and proposals for change;
  - the service impact on national and local policy priorities, including statutory requirements;
  - policy choices available to the Council, including the implementation of all relevant statutory requirements and any specific directions from Commissioners and central government departments;
  - the risks and opportunities in implementing changes;
  - the impact of proposals in the medium term; and
  - exit strategies related to one-off or time limited funding.

### **Revenue income and expenditure**

- 2.7 Revenue income and expenditure represents the current or day to day running costs, and associated receipts, of the Council. This includes salaries, heating and lighting, payments to contractors, travelling and office expenses, income raised by charging service users and government grants.

### **Revenue Budget**

- 2.8 Budgets (spending plans) ensure that the Council can plan, authorise, monitor and control the way money is allocated and spent.
- 2.9 The revenue budget must be constructed to ensure that resources are allocated in a way that reflects the service plans and priorities of the Council as a financial representation of its strategy. The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures this is achieved.

### **Budget preparation**

- 2.10 The Finance Portfolio Holder and the Leader, in conjunction with the Section 151 Officer, will manage the preparation of the Budget on an annual basis for consideration by the Council. The Budget will include allocations to different services and projects, proposed taxation levels, reserves and contingencies.
- 2.11 While the Section 114 Notice is effective, the Budget will be restricted to core services and essential expenditure only. Within this context, the primary aim of Budget setting and Budget management will be:
- the identification and delivery of savings in accordance with the directions of the Section 151 Officer; and
  - implementing strategies to reduce borrowing.

As part of Budget setting preparations, supplementary guidance will be provided to spending departments detailing the expected processes for identifying, delivering and recording financial savings.

- 2.12 Ensuring a consistent approach across the Council the Section 151 Officer, in consultation with the Cabinet Member for Finance, will issue detailed guidance, procedures and a timetable for production of the Budget. This will provide a format for each Directorate to use to prepare their budgets. The Finance Portfolio Holder will, in consultation with the Section 151 Officer, review the detailed draft revenue and capital budgets prepared by each service in accordance with the guidance and timetable set by the Section 151 Officer.
- 2.13 Detailed budgets will be subject to challenge and review through the process determined by the Section 151 Officer. Any proposed changes to service levels because of budget plans will be subject to an Equalities Impact Assessment as part of the consideration process before approval and implementation. The Council will engage partners in the Budget preparation process where possible and appropriate.
- 2.14 The Section 151 Officer has a statutory duty to report on the Budget proposals presented to Council (see section 1.11). Executive Directors must provide the Section 151 Officer with any information required to enable the robustness of the Budget proposals to be assessed.
- 2.15 The Budget and the proposed level of taxation will be presented for approval by full Council, following recommendation by the Cabinet. Council tax and non-domestic rates must be set by 1st March in the year prior to the year of taxation.

### **Responsibilities in relation to the Budget**

- 2.16 Full Council is responsible for:

- agreeing the Council's Budget and Policy Framework, which will be proposed by Cabinet;
- setting the procedures for agreeing in-year variations to approved budgets, plans and strategies;
- determining when a decision will be deemed to be contrary to the Budget or Policy Framework; any such decision should be referred to Full Council by the Monitoring Officer;
- setting the level at which Cabinet may reallocate Budget funds from one Directorate to another.

2.17 The Cabinet is responsible for:

- proposing a Budget and Policy Framework for approval by Full Council in.
- taking in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework within the financial limits set by the Council.

2.18 Each year, the Chief Finance Officer shall report to Cabinet on the general financial situation of the Council and on future financial scenarios in relation to the coming year's Budget prospects and long-term trends to inform the Budget process. Having regard to the Chief Finance Officer's reports and advice, Cabinet shall recommend the general Budget strategy to be adopted with regard to preparation by Directorates of their annual Directorate budget submissions.

2.19 The Chief Finance Officer must report to Full Council on the spending plans identified in the Budget, and the Council Tax calculation for the Budget year, and comment on the robustness of estimates that:

- direct resources towards Council priorities in an achievable way;
- reflect the best estimates of pay and price increases available at the time;
- consider and recognise the major financial risks facing the Council; and
- contain proposals for increased income or reduced expenditure that are achievable.

2.20 The Chief Finance Officer must also comment on the adequacy of the level of Council reserves and their sufficiency to meet the known financial risks facing the Council over the medium term.

2.21 The Chief Finance Officer will ensure that Chief Officers are provided with guidance to support them in preparing their draft Directorate budgets. This guidance will cover:

- legal requirements;
- medium-term planning prospects;
- available resources;
- spending pressures;

- Best Value and other relevant government guidelines;
- other internal policy documents; and
- cross-cutting issues (where relevant).

2.22 Chief Officers must prepare detailed draft revenue and capital budgets for their Directorate, in consultation with the Chief Finance Officer, and in accordance with the guidance and timetable set by the Chief Finance Officer, for consideration by Cabinet. This shall include budget proposals for investment, demand growth and savings, and income growth to achieve improved economy, efficiency and effectiveness of services.

### **Format of the Budget**

2.23 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 and between budget heads (see section 3.13 for further details).

2.24 The format of the Budget will be set by the Section 151 Officer to ensure that appropriate detail is included.

### **Maintenance of reserves**

2.25 Reserves are maintained to enable the Council to cope with unpredictable financial pressures, and to plan for future spending commitments. A general reserve is maintained as a contingency to protect the budget against cost pressures, whilst earmarked reserves are held to protect funds for specific purposes.

2.26 The Section 151 Officer is responsible for recommending to the Cabinet and the Council the adequate level of unallocated General Fund and Housing Revenue Account (HRA) Reserves, the Reserves Strategy and any limitations or conditions on the use of such unallocated reserves. This will be based upon:

- an assessment of the robustness of the Budget and adequacy of reserves under section 25 of the Local Governance Finance Act 2003;
- the projected level of reserves for the year and in the medium term compared to a risk assessment based on the Budget risk register and the corporate risk register; and
- an ongoing assessment of the above.

2.27 The creation of any reserve will be subject to the approval of the Cabinet Member for Finance, on the advice of the Section 151 Officer. For each reserve established a proforma will be completed and signed off in accordance with the approvals set out in the Financial Limits Annex, clearly articulating the purpose, usage (including the timeframe for usage), and the basis of transactions.

2.28 Increases in existing reserves arise due to:

- the Budget setting process, the setting of which requires full Council approval;

- the return of funds previously drawn from reserves that are no longer required for the agreed purpose, which requires approval by the Section 151 Officer; or
- the transfer of an under spend into reserves in accordance with the table below:

2.29 The withdrawal of funds from reserves is subject to approval in accordance with sections 3.16 to 3.23 on supplementary estimates. No funds withdrawn from a reserve may be spent, other than for the purpose agreed at the time the withdrawal was approved, without the prior agreement of the Section 151 Officer, the Monitoring Officer and the Cabinet Member for Finance. All utilisation of reserves should be reported to members.

2.30 Departments shall review and certify annually all their relevant earmarked reserves and provisions following guidance provided by the Section 151 Officer.

2.31 Under section 114 of the Local Government Finance Act 1988 the Section 151 Officer must report to Council if there is or is likely to be unlawful expenditure or an unbalanced budget. This would include situations where reserves have become seriously depleted, and it is forecast that the Council will not have the resources to meet its expenditure in a particular financial year.

### **Capital expenditure**

2.32 Expenditure is classified as capital expenditure when it results in the acquisition or construction of an asset (e.g., land, buildings, roads and bridges, vehicles, plant and equipment) that:

- will be held for use in the delivery of services; and
- is expected to be used during more than one financial year.

2.33 Subsequent expenditure on existing assets is also classified as capital if these two criteria are met.

2.34 There may be instances where expenditure does not meet this definition but would nevertheless be treated as capital expenditure, including where:

- the Council has no direct future control or benefit from the resulting assets but would have treated the expenditure as capital if it did control or benefit from the resulting assets;
- expenditure is defined as capital by statute; and
- the government has given explicit permission to apply capital financing resources to fund expenditure that would not otherwise meet the criteria for capitalisation.

2.35 While a Section 114 Notice is effective, capital expenditure will be restricted to essential items only, with priority given to maintaining assets necessary for day-to-day service delivery. New borrowing for capital purposes will only be permitted in limited circumstances, as set out by the Section 151 Officer, and requires Commissioner approval.

2.36 The Council operates a “de-minimis limits” process for capital expenditure. This means that items below these limits are charged to revenue rather than capital. The limits are as set out in the Financial Limits Annex.

- 2.37 The Section 151 Officer is responsible for the application of these de-minimis limits and will report any exceptions to the Cabinet Member for Finance.
- 2.38 Where expenditure meets the 'capital expenditure' definition and is in excess of the Council's de-minimis limits, it will be classified as capital expenditure, even if provision exists within the revenue budget to fund the work (and vice versa)
- 2.39 Similarly, where specific financing (e.g., a government grant) is provided to facilitate a project, this will not determine the accounting treatment of the expenditure. That is, the accounting treatment is determined according to the type of expenditure, and not by the funding source (see section 4).

### **Capital Programme**

- 2.40 Detailed guidance for the preparation of the Capital Programme, including the need for a comprehensive business case (the format of which shall be determined by the Section 151 Officer) to include:
- the ongoing need for a scheme and programmes;
  - available capital funding (see section 2.51 below);
  - an assessment of cost predictability – total scheme costs, including land, works, fees and all associated costs;
  - the need for a risk-based contingency within the available resources, or where no risk assessment is carried out or contingency of 10-15% is provided for. Such a contingency should not be used for changes in specification;
  - an assessment of time predictability i.e., a realistic assessment of the phasing of capital expenditure and income over financial years;
  - the revenue implication of the capital programme to be met within Service Budgets
  - whether the scheme offers revenue savings and/or income generation opportunities;
  - whether the scheme offers improved value for money;
  - a consideration of priority areas of need and service delivery requirements; based on asset management plans and up to date condition surveys, and
  - implications for the Council's VAT Partial Exemption Limit.
- 2.41 Departments will also use this framework to undertake an annual review of the medium-term capital programme and consequential revenue implications for inclusion in the Medium Term Financial Strategy.
- 2.42 The Cabinet Member for Finance, in conjunction with the Section 151 Officer, will manage the preparation of a Capital Programme, on behalf of the Council, on an annual basis in accordance with the Council's capital projects' governance arrangements and capitalisation criteria.

2.43 Each project that is added to the Capital Programme will be for the provision and purpose of delivering public services (including housing, regeneration and local infrastructure) or in support of joint working with others to deliver such services.

2.44 **No scheme may be added to the Capital Programme if its only purpose is to achieve a financial return.**

2.45 Each scheme that is added to the Capital Programme is allocated:

- a named project sponsor;
- a 'start date' for planning purposes;
- an overall 'scheme approval', which sets the overall budget for the scheme; and
- an 'annual payments guideline', which sets the parameters for expenditure in each of the financial years over which the scheme is expected to span.

### **Business cases for capital schemes**

2.46 The Chief Finance Officer is responsible for determining the process and format for the production of business cases to support capital schemes. All business cases must comply with the principles set out in the HM Treasury Green Book.

2.47 All capital schemes must be supported by a business case. Any Officer responsible for a capital scheme must comply with the guidance issued by the Chief Finance Officer in relation to business cases.

2.48 The business case must clearly articulate the options being considered and measure these against the desired outcomes. It should also set out whether there is a statutory basis for the provision of the service or activity under consideration.

2.49 Executive Directors are responsible for ensuring that the Council's governance framework is followed through all stages of the business case development and decision-making process, and that specialist advice is sought from the following key stakeholders across the Council, at each stage in the development of the business case:

- Section 151 Officer (including finance, tax, cash management and banking, purchase to pay and income collection).
- Director, Legal and Assurance (including Monitoring Officer, Legal, Internal Audit and Risk Management and Insurance advice).
- Executive Director, People and Transformation (including payroll).
- Director, Performance, Investment and Delivery (including property and facilities management).

2.50 A business case must be approved by the relevant Executive Director and the Chief Finance Officer before a capital scheme will be submitted for approval to the Capital Programme.

### **Financing of capital expenditure**

- 2.51 The Cabinet Member for Finance, in conjunction with the Section 151 Officer, will determine the financing of the Capital Programme, taking into consideration the availability of reserves, funding from other bodies and the affordability of borrowing.
- 2.52 All capital receipts, generated through the sales of capital assets, shall be pooled unless otherwise agreed by the Cabinet, for example, to meet contractual obligations or where legislation requires a different approach.

### Leasing and rental arrangements

- 2.53 Leases of land or buildings and other property agreements will only be authorised for completion, on the Council’s behalf, in accordance with the delegations set out in sections 6.20 – 6.29. The relevant Head of Finance will be consulted as part of this process and will dedicate appropriate finance team support as required.
- 2.54 Other leasing arrangements (including rental agreements and hire purchase arrangements) will only be entered into with prior approval, as follows:

Type of lease	Approval
Vehicles, plant and equipment	Section 151 Officer
Cars secured through the Car Provision Scheme	Executive Directors

- 2.55 Prior approval is required to enter into leases to ensure that they can be accommodated within the borrowing limits set by the Council. Such arrangements must represent best value for money and be accounted for appropriately.
- 2.56 A lease register, setting out details of all leases entered into, expected cash flows and the key terms and conditions of the underlying lease agreements will be maintained by the Section 151 Officer.

### Internal trading activities

- 2.57 Where services are delivered by one Council function to others within, and external to, the Council, and users of that service have choice about whether and how much to buy then the service is likely to be ‘trading’. Where a significant proportion of a service’s activities are delivered by trading, the service may need, or wish, to be formally designated as an internal trading activity.
- 2.58 Services are only permitted to operate as an internal trading activity with the prior approval of the Cabinet, following consultation with the Section 151 Officer.
- 2.59 Services wishing to operate as an Internal Trading Activity must demonstrate that they are:
- providing all, or the majority, of their services in an environment where their customers have the option to use them or an alternative service provider; and
  - charging for the full cost of the goods / services they provide, based on an agreed charge or rate.
- 2.60 Approved internal trading activities must maintain a Trading Account which is:



- charged with all expenditure related to the provision of the trading activity's services (including direct costs, the full costs of services provided by the Council's support services, any service management provided by senior managers and asset and other accounting charges); and
- credited with all income due for work done by the trading activity.

2.61 Trading activities are required to balance their budgets by generating sufficient income to cover the full costs of the services they provide.

2.62 Trading activities must operate within the Council's overall arrangements and rules for personnel and resource management. Cabinet may approve special arrangements in exceptional circumstances, where it can be demonstrated that adherence to these rules and arrangements would lead to the trading activity becoming uncompetitive and losing work and that the proposed departure does not expose the Council to significant risk.

### **Financial targets**

2.63 Each trading activity must prepare an annual financial plan for approval by the Council as part of the annual budget setting (see paragraph 2.1), which defines the expected levels of income and expenditure for the year.

2.64 Trading activities must, as a minimum, aim to break-even (i.e. only incur expenditure that can be financed from the income the activity expects to generate during the year). It is only permissible to plan for a deficit in exceptional circumstances, and then only if the deficit can be met from the trading activity's own accumulated revenue reserves or, in exceptional circumstances, from an approved contribution from the General Fund.

### **Trading reserves**

2.65 Trading activities are permitted to retain the surpluses they generate, provided they can demonstrate that these are necessary for the future business needs of their operations. The Section 151 Officer will advise the Cabinet Member with responsibility for Finance, after consultation with the relevant Executive Director(s), if the level of accumulated balances held by a trading activity exceed those deemed necessary to meet the business needs of the operation. The Cabinet Member with responsibility for Finance will then determine whether the excess balances are transferred to the General Balance or another reserve.

2.66 The approval of the Cabinet Member with responsibility for Finance is required where it is proposed to transfer part of a trading activity's reserves to finance expenditure by another trading activity or a Service, or to receive a contribution from another trading activity or Service.

### **Closing a trading account**

2.67 The approval of the Cabinet, in consultation with the Section 151 Officer, is required where it is proposed that a trading activity ceases to operate on that basis.

2.68 The Cabinet Member with responsibility for Finance, in consultation with the Section 151 Officer, may recommend closure of a trading account where the trading activity fails to at least break-even for two successive financial years and/or where the trading activity has exhausted its revenue reserve.

- 2.69 If a trading activity has revenue reserves remaining upon closure of its trading account, the residual balance will be transferred to the General Balance or to another reserve.

### **Capital and treasury management strategy**

- 2.70 While a Section 114 Notice is effective, the Council's level of borrowing will be closely monitored by the Section 151 Officer. A Debt Reduction Strategy is now in place and new borrowing should only be entered into in accordance with guidance issued by the Section 151 Officer and following Commissioner approval. Capital receipts will be used to reduce borrowing and the capital financing requirement.
- 2.71 The Cabinet Member for Finance, in conjunction with the Section 151 Officer, will propose an annual Capital and Treasury Management Strategy (comprising the borrowing and investment strategy, a set of Prudential Indicators and the policy for making revenue provision for the repayment of debt (the 'Minimum Revenue Provision' policy)) to the Council before the start of the relevant financial year. These will be consistent with the Council's revenue budget and Capital Programme proposals.
- 2.72 Two strategy documents for Capital and Treasury Management are required to comply with the CIPFA Codes of Practice on Treasury Management and on the Prudential Framework for Capital Finance. Together with relevant laws, regulations and statutory guidance issued by central government departments, and with the Council's own Treasury Management Policy Statement and Treasury Management Practices; these will set the parameters within which investment and borrowing activity will be managed during the forthcoming financial year. These strategy documents will set out the context of how overall debt levels, debt charges and investment returns compare with neighbouring authorities and include trend analysis explaining how these key indicators are expected to change over time. The Section 151 Officer will report back to Cabinet on a quarterly basis on the progress and activity in these key areas of financial management.

### **Fees and charges policy**

- 2.73 Executive Directors, in consultation with the Section 151 Officer, will follow the Council's charging policy for the supply of goods or services where charges may be lawfully applied, and the annual forecast of the recoverable amount is £250,000 or more. Charges will be reviewed annually and all new charges, and amendments to existing charges, will be subject to formal approval in accordance with the Council's Constitution. Further guidance is contained in the Council's Fees and Charges Policy, which will be updated annually as part of the Budget setting process.
- 2.74 Further detail on income is provided in sections 7.5 – 7.23.

### **Pay policy**

- 2.75 The Council's pay policy must be prepared as required by law. The pay policy sets out the Council's policy on the level and elements of remuneration for each chief officer, the remuneration of its lowest paid employees, and the relationship between the remuneration of its chief and other officers. It must also address other specific aspects of chief officer remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

### **3. Section 3 – Financial Management**

#### **Introduction**

3.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the Policy Framework, revenue budget, trading activities' financial plans, Capital Programme and Treasury Management.

3.2 Sound financial management is important to ensure that:

- Council objectives are secured within the Budgets agreed by the Council;
- Any specific requirements of Commissioners and central government departments are implemented,
- key services are delivered; and
- the Council achieves value for money.

#### **Financial management standards**

3.3 All officers and members have a duty to abide by the highest standards of probity in dealing with public money. This is facilitated by ensuring that 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.

#### **Revenue Budget monitoring and control**

##### **Budget management**

3.4 The Council operates within an annual cash limit, approved when the annual Budget is set. To ensure that the Council does not overspend in total, each service is required to manage its own expenditure and income recovery within the cash limited budget allocated to it.

3.5 Budget management also ensures that, once the Council has approved the Budget, the Council's resources are used for their intended purposes and are properly accounted for.

##### **Framework for budgetary control**

3.6 Once the budget is approved by the Council, Executive Directors are authorised to incur expenditure in accordance with the approved Budget, subject to the limits in the Constitution and the Scheme of Delegation to Officers. The basic principle to be adhered to is that any significant changes to the approved revenue or capital Budget will also require member and Commissioner approval. Executive Directors must maintain effective budgetary control within their service(s) to ensure that spending is contained within the annual cash limit and to secure value for money.

3.7 Executive Directors must ensure that no commitment is made that would result in an approved Budget being exceeded. Prior approval must be obtained to increase the Budget either by virement (see sections 3.13 to 3.15) or by a supplementary estimate (see sections 3.16 to 3.23) before any additional commitment is made.

3.8 In addition, subject to the limits in the Constitution and the Scheme of Delegation to Officers, Executive Directors may exceptionally incur additional expenditure in an emergency (see sections 7.77 – 7.79 for the approval required to make an emergency payment). In such situations, retrospective approval must be sought, as soon after the event as possible, to offset the additional expenditure by virement or supplementary estimate.

3.9 Executive Directors will:

- **Ensure that all income and expenditure is properly recorded and accounted for**

Executive Directors will ensure that all officers responsible for committing expenditure comply with all relevant guidance and follow approved certification processes.

- **Ensure that an appropriate Budget Holder structure is in place to ensure that responsibility is assigned for each item of income and expenditure under their control**

Budget Holders will be accountable for the effective management of their budgets, even where they put delegations in place that enable officers to commit expenditure on their behalf.

- **Ensure that individual policy budgets are not overspent**

It is expected that each policy budget will be managed within the agreed cash limit budget.

Executive Directors, in consultation with the relevant Cabinet member(s), will use the virement scheme (see sections 3.13 to 3.15) to address areas of overspending, by moving sufficient unspent budget from elsewhere.

Where more specific management actions are required to save funds, the Executive Director, the Section 151 Officer and/or Cabinet members may require a Budget Holder to prepare a budget recovery plan which explains the actions being taken to mitigate the position. The recovery plan will be monitored by the Section 151 Officer to ensure the safe delivery of the budget at policy budget and portfolio level.

- **Ensure that a monitoring process is in place**

A monitoring process is required to review performance and/or service levels in conjunction with the budget and to ensure they are operating effectively. Nominated Budget Managers should monitor spending against budget in the first instance and liaise on budget management as necessary with the relevant Executive Director, the Section 151 Officer and the Council's corporate finance team.

- **Regularly report to the relevant Cabinet Member(s)**

Such reports will be prepared, in consultation with the Section 151 Officer, on the service's projected 'controllable net expenditure' compared with its budget. Cabinet Members must be fully briefed, as part of this process, on any budget pressures and any proposal to address these pressures by virement (see sections 3.13 to

3.15). Any such reports will be presented to Cabinet on a quarterly basis, highlighting progress or problems encountered.

- **Ensure prior approval by the Cabinet (as appropriate) for new proposals**

Prior approval of the Cabinet or relevant Cabinet member(s) may be required for Key Decisions, or for proposals that create financial commitments in future years, or which materially extend or reduce the Council's services, or initiate new ones.

- **Ensure compliance with the scheme of virement**

See sections 3.13 to 3.15

- **Agree with the relevant Executive Directors where it appears that a Budget proposal, including a virement proposal, may impact on their service area(s).**

- **Ensure that relevant training is delivered to all staff assigned responsibility for budget management**

Officers will undertake approved finance training prior to commencement as an operational Budget Holder and/or as an authorised signatory, to ensure they have the necessary knowledge and skills to effectively perform their financial responsibilities. Refresher training will be undertaken at 24-monthly intervals thereafter, or as specified by the Section 151 Officer.

3.10 The Section 151 Officer will ensure that each Budget Holder receives or has access to timely information on income and expenditure for each budget, which is sufficiently detailed to enable them and their managers to fulfil their budgetary responsibilities.

3.11 The Section 151 Officer will monitor performance against the Council's budget on an on-going basis and will advise on the Council's overall financial position. Specifically, the Section 151 Officer will prepare monthly financial overview reports for the Finance Portfolio Holder to present to Cabinet on a monthly basis. These financial overview reports will:

- provide a comparison of the Council's projected income and expenditure with the latest approved Budget;
- include an assessment of the Council's reserves and balances and its overall financial position; and
- seek approval to changes to the approved budget (including virements between policy budgets and supplementary estimate requests).

3.12 Where supplementary accounting records are maintained, Executive Directors and Budget Holders must reconcile these to the Council's main accounting systems, or bank statements, on a regular basis (at least monthly but more frequently where necessary). If, with the approval of the Section 151 Officer, a Directorate uses a financial system other than the Council's corporate financial system, the Executive Director of that Directorate must ensure that financial information from their system is regularly and accurately transferred to the Council's corporate financial system.

### **Scheme of virement**

3.13 As detailed in section 3.6, Executive Directors must ensure that spending remains within their service's overall cash limit, and that spending does not exceed individual policy budget headings. It is permissible, in certain circumstances to transfer resources between approved budget headings, subject to obtaining the necessary approval. The transfer of resources between approved policy budget headings is known as "virement".

3.14 The virement rules are as follows:

- Virements should only take place within the limits specified in the Financial Limits Annex, and in accordance with the Scheme of Virements guidance issued by the Council's Section 151 officer,
- No expenditure shall be incurred without appropriate Budget provision and, if necessary, a virement should be undertaken to put this in place before the expenditure is incurred.
- No virement relating to a specific financial year should be made at the end of the financial year after the date specified within the Section 151 Officer's timetable for closure of the accounts.
- Virements are not permitted in relation to asset charges or other budget headings that are deemed to be outside the control of the relevant Budget Holder, or where a proposal would adversely affect long-term revenue commitments.
- Virements are not permitted between revenue and capital budgets. Changes to the Capital Programme will be dealt with in accordance with section 3.45.
- A virement that is likely to impact on the level of service activity of another Budget Holder can be implemented only with the agreement of the relevant Budget Holder(s).
- Amounts that require member approval must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial years.
- Where a Cabinet member's approval is required to a virement, this approval will normally be sought via a 'Cabinet Member Action' or a report to Cabinet.
- When a Cabinet Member is deciding on an operational matter, any necessary virements must be included as part of that decision.
- Virements that are being actioned to effect a change in policy or priorities (either within the same portfolio or between portfolios) will be subject to approval as set out in the Financial Limits Annex.

3.15 The following exceptions apply to the scheme of virement:

- The virement rules do not apply to the movement of budget between the individual budget headings of an internal trading activity because trading activities are controlled to an overall financial target rather than against individual expenditure and income headings (see paragraph 2.60). The approval of the Cabinet Member

with responsibility for Finance is however required to transfer resources between individual trading activities and to/from the General Fund - see section 2.62.

- Member approval is not required where a budget will continue to be used for the approved purpose but is being moved, for example, to reflect a change in Budget Holder responsibilities. Such transfers will require the approval of the relevant Head of Finance or the Assistant Director of Finance
- Member approval is not required for budget movements arising to comply with the CIPFA Service Expenditure Reporting Code of Practice guidance on accounting for overheads, or budget movements arising in order to comply with proper accounting practice. Approval is required from the relevant Head of Finance and/or the Assistant Director of Finance.
- If the proposed virement, together with the total of previous virements within the same financial year, would result in an aggregate increase or decrease in the original 'controllable net' budget for any of the portfolios affected of more than the amount set out in the Financial Limits Annex, the decision shall be taken by the Cabinet Member for Finance, in consultation with the Section 151 Officer.

### **Supplementary estimates**

- 3.16 If it is not possible to move resources between budget headings to meet a liability, a request may exceptionally be made for additional funding from the general reserve or from an earmarked revenue reserve. Requests for additional funding are referred to as "supplementary estimates".
- 3.17 Supplementary estimates can only be requested for one-off purposes, although it may be possible to request funding for a project that spans across more than one financial year. Where additional funding is required on an on-going basis, the full year effect must be addressed through the revenue budget setting process (see sections 2.10 – 2.15).
- 3.18 A request for a supplementary estimate must specify:
- the total amount of funding required;
  - the source(s) of the supplementary funding (which will be advised by the Section 151 Officer);
  - the profile across financial years of the proposed draw down from the general reserve and/or an earmarked revenue reserve; and
  - why the supplementary funding is required and whether there are any on-going cost implications.
- 3.19 Following consultation with the Section 151 Officer, supplementary estimates are subject to the approval of both the Monitoring Officer and the Cabinet Member for Finance. Supplementary estimates affecting General Fund and HRA balances should also be discussed and agreed with Commissioners. All supplementary estimates, once approved, should be reported to Cabinet (via the Financial Overview Reports).

- 3.20 Where supplementary funding is granted for a project that slips into a later year, the supplementary funding can be re-profiled from the year of award, and into the following financial year, without the need for further approval up to the Key Decision threshold and provided that:
- the funding is still being used for the approved purpose; and
  - the total agreed amount is not exceeded.
- 3.21 Where supplementary funding is granted for a project that progresses ahead of schedule, the supplementary funding may be brought forward into an earlier year in consultation with the Section 151 Officer, up to the Key Decision threshold, provided that:
- the funding is still being used for the approved purpose; and
  - the total agreed amount is not exceeded.
- 3.22 The approval of the Finance Portfolio Holder is required to re-profile supplementary estimates between financial years that:
- are more than the Key Decision threshold; and
  - extend beyond more than one year of the original agreed period of utilisation.
- 3.23 Any supplementary funding provided must only be spent for the purposes for which it was approved. This means that:
- the Section 151 Officer may withdraw supplementary funding if it becomes apparent that the funding is not being used for the agreed purpose; and
  - funding that is no longer needed for the approved purpose must be returned to the reserve from which it was allocated unless directed otherwise by the Section 151 Officer.

### **Treatment of year end balances**

#### **Carry forward scheme**

- 3.24 In certain circumstances, it is permissible to transfer resources between financial years. That is, to:
- carry unspent budget forward for use in the following year; or
  - fund an overspend in the current year from next year's budget allocation.
- 3.25 Carry forward of any under- or overspend is not permitted. In-year under- and/or overspends should be addressed through the virement or supplementary estimate procedures set out in these Financial Procedure Rules..
- 3.26 All requests to carry unspent budget forward will be subject to approval by the Cabinet. Whilst such requests may be approved prior to the end of a financial year, no carry forward requests will be guaranteed before consideration by the Cabinet of the final outturn position of the whole Council upon closure of the accounts. This is because the Council's ability to



support the carry forward requests will need to be assessed in the context of the Council's overall financial position.

3.27 No carry-forward or virement will be allowed if:

- It results in a policy change which members have not approved.
- It commits additional ongoing expenditure, or reduces income, in future years.
- It involves loan charges, capital expenditure, apportioned central charges, contributions to outside bodies or Council finance over which the Directorate concerned has no control.
- The underspending arises from a change in volume of service or reduced unit costs that were not anticipated when the Budget was set.
- The Directorate's total budget is or is projected to be overspent. The first call on any underspending is to rectify the Directorate's financial position.
- The total Budget (General Fund or HRA) is or is projected to be overspent. The first call on any virement of an underspending will be to rectify the overall financial position.

3.28 The Section 151 Officer will advise the Finance Portfolio Holder if, after consultation with the relevant Executive Director(s), the amount of any unspent budget that a service is permitted to carry forward into the following financial year should be reduced by the value of any supplementary estimates provided during the year for the purpose of funding controllable expenditure.

3.29 Where a service identifies the need to incur expenditure in the current financial year for which budget provision has been made in the following year's budget, a supplementary estimate can be requested when this is done in a planned way, and before the expenditure is incurred. In this instance, the following year's budget will be reduced accordingly and the current year's increased expenditure will not be categorised as an over spend.

### **Trading activities**

3.30 Internal trading activities' surpluses are carried forward, unless determined otherwise by the Section 151 Officer or the Finance Portfolio Holder (and subject to the considerations outlined in section 2.62). Any deficits, however they arise, will be financed by a withdrawal from the relevant Trading Activity's accumulated reserves, or from an approved contribution from the General Fund Balance (see section 2.61).

### **Partnership schemes**

3.31 The funding of some partnership schemes is ring-fenced (including the contribution made by the Council) and is not therefore available for alternative use by the Council. The unspent balances on approved partnership schemes will be carried into an earmarked Partnerships Reserve, which can be drawn upon to finance expenditure by the partnerships in a subsequent year.

### **Grant funded schemes**

- 3.32 Where revenue grants and contributions are recognised as income in advance of the related expenditure being incurred, the unspent grant may be carried into an earmarked grants reserve, which can be applied, and matched with the related expenditure, in a subsequent year.
- 3.33 A grants register should be maintained by the Section 151 Officer to identify all grant income received and to record all stipulations and conditions which apply to the grant receipt (including audit certification requirements) and whether or not these have been discharged by the due date.
- 3.34 All amounts carried into the grant reserve will initially be ring-fenced for the purpose for which the grants and/or contributions were given. The Section 151 Officer will advise the Finance Portfolio Holder if any amounts no longer need to be retained for the purposes for which the grants or contributions were given.
- 3.35 The Finance Portfolio Holder will then determine whether the excess balances are transferred to the General Fund Balance or another reserve.

#### **Individual schools' budgets**

- 3.36 Individual schools' budgets are ring-fenced in accordance with statutory provisions.
- 3.37 Underspends against individual schools' budgets are appropriated into the schools' reserve to support expenditure in a later year by the schools concerned.
- 3.38 School overspends are financed by a withdrawal from the schools' reserves accumulated in previous years. Where an unplanned deficit occurs, the governing body must prepare a detailed financial recovery plan, which will be evaluated by the Executive Director Childrens Services and the Section 151 Officer. If the deficit exceeds 5% of the school's budget, the plan will be referred to the relevant service Cabinet Member. Schools will be expected to agree a plan to recover the deficit within a defined period.

#### **Capital monitoring and control**

##### **Approval to spend**

- 3.39 Capital schemes are subject to full appraisal and production of associated business case before they will be submitted for approval by the Council as part of the Capital Programme.
- 3.40 Once the Capital Programme or a capital scheme is approved, this will serve as approval to tender for suppliers to deliver the capital scheme, in accordance with the Contract Procedure Rules and a report to Cabinet will not be required. The award of contracts will still need to be approved in accordance with the thresholds and decision-making process set out in the Contract Procedure Rules.
- 3.41 Capital schemes must have:
- a nominated project sponsor (at Executive Director level)
  - an approved 'start' date in the current or a prior financial year (i.e. schemes with a start date in a future financial year are indicative only, and do not constitute approval to spend); and

- adequate scheme and payments approval in the capital programme to finance these projects.
- 3.42 If the sum approved is likely to be exceeded, prior confirmation from the Section 151 Officer is required to confirm that capital spending powers are available.
- 3.43 If the Council has approved a Capital Programme for future years and/or a reserve capital programme, this provides authorisation to carry out feasibility studies, outline design and application for planning consent (where required), provided that the resources have been identified.
- 3.44 Where expenditure has been incurred on feasibility studies, design work and other preliminary activities but the project does not go ahead, these expenses shall be charged against the revenue budget of the relevant spending department.
- 3.45 Any proposal to amend an approved Capital Programme by including a new scheme or deleting an approved scheme requires the approval of the Cabinet and the production of a revised business case. This must include all applications for schemes to be funded from government sources, grants or other external funding.
- 3.46 Where additional funding for a scheme is fully funded by external resources and is consistent with the Council's corporate priorities to the satisfaction of the Section 151 Officer, the scheme shall be added to the Capital Programme with a subsequent report to the Cabinet.

#### **Framework for budgetary control**

- 3.47 The principles and framework for managing the revenue budget (as set out within sections 3.6 – 3.12) apply equally with regards to the monitoring and management of individual capital projects (i.e., named schemes and 'block' approvals) within their scheme and payment approvals.

#### **Scheme of virement**

- 3.48 In the event that an overspend arises against a capital scheme or 'block' approval, corrective action must be taken to remedy the position.
- 3.49 Where it is intended to redress an overspend by utilising savings against another approved scheme or 'block' approval, the permissions set out in the Financial Limits Annex will be required to vary the payment guidelines and scheme approvals for both schemes.
- 3.50 The scheme of virement, as set out in sections 3.13 – 3.15), does not otherwise apply to capital expenditure, as approval to capital expenditure is given on a scheme by scheme (or 'block' approval) basis, rather than by portfolio/service.

#### **Re-profiling of payment guidelines between years**

- 3.51 Where it is anticipated that a scheme with approval to 'start' will be progressed at a different rate to that scheduled (such that expenditure is expected to vary from the approved payment guideline for the year) approval must be sought to re-profile the payment guidelines for the scheme (or 'block' approval).

- 3.52 For a scheme with approval to 'start', the re-profiling of the capital payment guidelines between financial years is subject to agreement as set out in the Financial Limits Annex.
- 3.53 The above approval will also be required where it is intended to accelerate a scheme that is within the Capital Programme with an indicative start beyond the current financial year, where it is proposed to change the start date to within the current financial year.

### **Adding scheme and payment approvals to the Capital Programme**

- 3.54 Schemes will usually only be added to, or removed from, the Capital Programme as part of the annual Budget setting process referred to in section 2.10, or as the result of a separate review process initiated by the Section 151 Officer, Commissioners or central government departments.
- 3.55 Any request outside of this process to change the Capital Programme by adding or removing schemes, or by allocating additional scheme and payment approvals to an approved scheme, must have an associated up to date business case and be approved as set out in the Financial Limits Annex.

### **Trading activities**

- 3.56 Trading activities must manage their income and expenditure to an overall financial target (see section 2.63); in doing so, trading activities must operate within the Council's framework for budgetary control (as outlined within sections 3.6 to 3.12).
- 3.57 Cabinet approval is required to alter a trading activity's overall financial target (via the quarterly Financial Overview Reports).
- 3.58 Where the proposed target reflects a worsening position that will result in a loss for the year, the request to amend the financial target must explain how the loss is to be financed and the plans for recovery from this position. Where a surplus is now forecast, above that previously reported, the request to amend the target must explain whether and why the additional surplus is to be retained by the trading activity.

## **4. Section 4 – Accounting Records and Financial Systems**

### **Accounting records**

- 4.1 Maintenance of proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.
- 4.2 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council, and for the compilation of all accounts and accounting records.
- 4.3 The Council's accounting records are maintained within its General Ledger. The General Ledger records all sums of money received and expended and all the assets, liabilities and reserves of the Council, and the matters to which the income and expenditure, assets, liabilities and reserves relate. This information is captured by assigning an account code, at source, to every transaction and balance. The integrity of the Council's financial reporting for management and statutory purposes is dependent upon account codes being assigned to transactions and balances correctly at source, in compliance with the Council's standard coding conventions.

- 4.4 The Council's Section 151 Officer will be responsible for ensuring that a fit for purpose Chart of Accounts is maintained and published, together with supplementary guidance which sets out:
- how the Chart of Accounts will operate in practice and who is responsible, on an operational level, for adding and deleting new codes as necessary
  - general ledger access, authorisation and password arrangements.
- 4.5 Executive Directors are responsible for ensuring that their services (including those delivered through strategic partnerships) comply with the coding conventions adopted within the General Ledger and with any supplementary guidance issued (see above). This includes adherence to standard subjective classifications for categories of income, expenditure, assets, liabilities and reserves. The requirement to adhere to this standard classification applies even where expenditure is matched fully by income. All income and expenditure should be recorded in the General Ledger gross, and not as net amounts.
- 4.6 In the event that application of this standard classification results in under- or overspends, appropriate action must be taken to re-align the budgets; the guiding principle being that Budget provision should follow expenditure and/or income, and not vice versa.

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

- 4.7 The Council has a statutory responsibility to prepare an annual Statement of Accounts that:
- presents a 'true and fair view' of its financial performance during the year and of its financial position at the year-end; and
  - is produced, presented for public inspection and external audit, and published to specified timescales.
- 4.8 The Section 151 Officer is responsible for ensuring that these requirements are met. In particular, the Section 151 Officer will:
- Select suitable accounting policies that comply with relevant codes of practice and other applicable accounting standards and statutory provisions.
  - Issue accounting instructions on closure of the annual accounts to Budget Holders, including a timetable.
  - Monitor delivery of the agreed timetable, taking action as necessary to resolve technical issues, resourcing problems and other delays.
  - Carry out adequate quality assurance and review of draft accounts and working papers at pre-publication stage.
  - Sign and date the Statement of Accounts, thereby confirming that the accounts give a 'true and fair' view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.

- Submit the accounts to the external auditor and make proper arrangements to support the audit of the Council's accounts and for making the accounts available for public inspection.
- Publish the Statement of Accounts upon completion of the external audit for the year.

4.9 Every budget holder must comply with the accounting instructions issued by the Section 151 Officer on closure of the accounts, and supply the information requested by the dates specified.

### **Financial systems**

4.10 The Section 151 Officer has responsibility for ensuring that the Council's financial systems (including any financial elements of non-financial or integrated systems) are sound, properly maintained and held securely. The Section 151 Officer will, therefore, determine the accounting systems, form of accounts and supporting financial records necessary for achieving this objective, and will provide supplementary guidance and supporting information which identifies (1) each key financial system and, (2) for each system identified:

- sets out the key reconciliations which must be carried out between each financial system and the General Ledger
- specifies the frequency of reconciliation controls
- sets out the key authorisation procedures that control data entry, and
- identifies a nominated system "owner".

4.11 Executive Directors must ensure that prior approval is obtained from the Section 151 Officer and the officer designated as the Executive Director Corporate Services to:

- Operate any financial system (including any elements of a non-financial or integrated system relied upon for financial reporting purposes) within or on behalf of their area of responsibility.
- Make changes to any such systems already being operated within a service area.

The 'go live' sign-off criteria, as defined by the Executive Director Corporate Services, must be complied with in respect of the implementation of, or amendment to, any financial systems (or non-financial or integrated system relied upon for financial reporting purposes) operated within, or on behalf of, a Service area.

4.12 A S151 Officer Change Request must be submitted to the Section 151 Officer for approval prior to making any changes to such systems.

4.13 All finance systems must be documented and backed up, and disaster recovery and business continuity plans must be maintained to allow information system processing to resume quickly in the event of an interruption.

4.14 Executive Directors will ensure that an adequate audit trail exists through any computerised finance system operated within their own areas and that audit reviews are carried out as necessary.

4.15 Where appropriate, the data processed by computer systems will be notified to the Information Commissioner in accordance with data protection legislation.

4.16 Relevant policies and guidelines for computer systems and equipment that are issued by the Executive Director Corporate Services will be observed by all staff.

## **5. Section 5 – Risk and Opportunity Management including Insurance**

### **Introduction**

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

5.2 The objectives of risk management and insurance are to ensure that risks to the Council are identified and quantified and that effective measures are taken to reduce, eliminate, accept or insure against them. This involves ensuring that:

- the possible impact of risks and opportunities is evaluated;
- action to be taken in respect of risks and opportunities is determined;
- measures to avoid, transfer or reduce risk are identified and applied;
- measures to bring forward opportunities are identified and applied; and
- a programme for risk reduction and loss prevention is formulated.

### **General**

5.3 The Section 151 Officer is responsible for ensuring that adequate risk and opportunity management and insurance arrangements are in place, although this function may be carried out within another Directorate.

5.4 Executive Directors must ensure that Budget Holders and employees:

- are aware of their responsibilities for insurance and risk management;
- receive adequate support and training to carry out their financial responsibilities;
- comply with the Council's standards for risk management; and
- are personally protected from associated risks.

5.5 Executive Directors are responsible for notifying the Section 151 Officer of:

- all new property, vehicles, plant or other risks that require insurance or an alteration to existing insurances;
- all new partnership arrangements or changes to existing partnership arrangements that require insurance or an alteration to existing insurances; and
- any loss or liability or damage that may lead to a claim against the Council.

- 5.6 Executive Directors are responsible for ensuring that they, and anyone covered by the Council's insurances:
- do not admit liability nor offer any payment of compensation that may prejudice the Council's liability in respect of any future claim; and
  - do not enter into any indemnity without first consulting the Monitoring Officer and the Section 151 Officer.
- 5.7 Executive Directors are responsible for the identification of potential risks of loss or damage to the resources and operations they control. The most common risks are:
- Loss of service.
  - Liability for injury to/death of employees and third parties, or damage to their property, caused by the negligence of the Council.
  - Council property damage or loss resulting from fire, flood, storm and similar perils.
  - Loss of Council equipment or property due to theft.
  - Additional or consequential expenses arising from a loss.
  - Loss of Council money due to theft, or dishonesty of staff.
- 5.8 Having identified all risks, Executive Directors must assess the likelihood of their occurrence and evaluate the possible impact. This involves arranging them in order of priority, recording the risk and judging the likelihood and impact of:
- financial cost;
  - disruption to service delivery; and
  - the reputation of the Council.
- 5.9 Each Executive Director must maintain a risk register and mitigation plan as part of their service or Directorate plans and ensure any critical risks are reflected in the Corporate Risk Register.
- 5.10 Executive Directors will prepare a risk assessment of the Budget and Medium Term Financial Strategy and agree this with the Section 151 Officer to inform the Annual Governance Statement and the Section 151 Officer's statement of the robustness of estimates and adequacy of reserves.

### **Risk management**

- 5.11 Risk management is concerned with evaluating the measures in place, and the actions needed, to identify and control risks effectively. The objectives are to secure the Council's assets and to ensure the Council's continued financial and organisational wellbeing.
- 5.12 The Standards and Audit Committee considers the Council's Risk Management Policy and Strategy and advises on any action necessary to ensure compliance with best practice, and



the Cabinet approves it. The Senior Leadership Team keeps under review the strategic risk register and promotes a culture of risk management awareness throughout the Council.

5.13 The Head of Risk and Insurance is responsible for preparing the Council's Risk Management Policy and Strategy and for promoting it throughout the Council. The Head of Risk and Insurance will:

- Ensure that procedures are in place to identify, assess and prevent or contain material risks, and allow for the identification and management of positive opportunities.
- Regularly review the effectiveness of risk reduction strategies and controls.
- Engender a positive attitude towards the control of risk.
- Provide relevant information on risk management initiatives, and training on risk management.
- Ensure that acceptable levels of risk are determined.

5.14 The Head of Risk and Insurance is also responsible for:

- Developing risk management controls, including business continuity planning, in conjunction with Executive Directors.
- Ensuring that the Council has effective business continuity plans for implementation in the event of disaster which results in significant loss or damage to its resources and threatens its activities.

5.15 Executive Directors must have regard to the advice of the Head of Risk and Insurance and adhere to the Council's Risk Management Policy and Strategy. Specifically, Executive Directors must:

- Take full ownership of all risks within their areas of responsibility, including those related to partnerships in which their services participate.
- Ensure that risk management is implemented in line with the Council's Risk Management Policy and Strategy and the minimum standards for business planning process.
- Appoint a Risk Coordinator and authorise them to progress effective risk management that adheres to corporate guidelines.
- Identify and manage risks and ensure that mitigating actions are regularly reported.
- Have regard to other specialist officers (e.g. crime prevention, fire prevention, information governance, health and safety).
- Ensure there are appropriate arrangements within their service area to identify risk issues and take appropriate action to mitigate the effects of them and maximise opportunities. This includes ensuring that the relevant officers are trained to manage risk and, where required, provide a defence for the Council.

- Make sure that consideration is given, and appropriate arrangements are made, to ensure service delivery by third party providers and delivery vehicles.
- Ensure that service programme, project and partnership risk registers are compiled, and kept up to date.

### **Insurance**

5.16 The Cabinet is responsible for ensuring that proper insurance arrangements are put in place in respect of the Council's activities. The Section 151 Officer is responsible for advising the Cabinet on proper insurance cover, and will:

- Effect corporate insurance cover, through external insurance and internal funding, and negotiate all claims in consultation with other officers, where necessary.
- Include all appropriate employees of the Council in suitable fidelity guarantee insurance.
- Offer insurance cover to schools in accordance with arrangements for financing schools.
- Ensure that provision is made for losses that might result from identified risks.
- Ensure that procedures are in place to investigate claims within required timescales.
- Be aware of and manage effectively operational risk to the Council.

5.17 The settling of insurance claims against the Council will be subject to approval as set out in the Financial Limits Annex.

5.18 The Section 151 Officer shall notify the Finance Portfolio Holder if the total amount paid to claimants during a financial year exceeds £2m with respect to any of the following classes of claim:

- Employer Liability;
- Public Liability (Highways claims);
- Public Liability (Non Highways claims);
- Property;
- Motor; or
- Other.

5.19 If the £2m threshold is exceeded for any financial year, the Finance Portfolio Holder may request to be consulted on further proposed settlements in the category concerned for the remainder of that financial year.

5.20 Executive Directors must comply with all relevant Insurance terms and conditions, and in particular must:

- Notify the Section 151 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 Section 151 Officer or the Council's insurers.
- Notify the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- Consult the Section 151 Officer and the Monitoring Officer on the terms of any indemnity that the Council is proposing to give.
- 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.

### **Internal control and the governance framework**

5.21 The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its strategic objectives and statutory obligations. Internal controls are 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.

5.22 It is the responsibility of the Section 151 Officer and the Monitoring Officer to put in place an appropriate control environment and effective internal controls that comply with proper practices, and provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

5.23 Key components of internal control and the governance framework should be identified and reviewed as part of the Council's Annual Governance Review. Supplementary guidance will be issued by the Section 151 Officer to explain how Annual Governance Reviews will be carried out and how any issues identified during these reviews should be reported and addressed.

5.24 The Section 151 Officer will also compile an Annual Governance Statement each year. This Governance Statement will incorporate outcomes from the Annual Governance Review and will be compiled with reference to proper practices in relation to governance (principally the CIPFA/SOLACE guidance 'Delivering Good Governance in Local Government').

5.25 The governance framework, control environment and internal controls include:

- Identification and communication of the Council's vision of its purpose and intended outcomes for citizens and service users.
- Reviewing the Council's vision and its implications for the Council's governance arrangements.
- Measuring the quality of services for users, and ensuring that they are delivered in accordance with the Council's objectives, and that they represent the best use of resources.

- Making proper arrangements for project management.
- Defining and documenting the roles and responsibilities of the Council's executive, non-executive, scrutiny and officer functions, with clear delegation arrangements and protocols for effective communication.
- Developing, communicating and embedding codes of conduct, which define the standards of behaviour for members and staff.
- Reviewing and updating standing orders, standing financial instructions, a scheme of delegation and supporting procedural notes/manuals, which clearly define how decisions are taken and the processes and controls required for managing risks.
- Undertaking the core functions of an Audit Committee, as identified in CIPFA's Audit Committees – Practical Guidance for Local Authorities.
- Ensuring compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful.
- Whistle blowing and arrangements for receiving and investigating complaints from the public.
- Establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation.
- Incorporating good governance arrangements in respect of partnerships and other group working and reflecting these in the Council's overall governance arrangements.
- Policies, objectives and plans for monitoring financial and other performance, and taking appropriate anticipatory and remedial action where these are not met.
- Financial and operational control systems and procedures which comprise physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- Maintaining an effective internal audit function that is appropriately resourced, and which operates in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

5.26 It is the responsibility of Executive Directors 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.
- Manage processes to check that controls are 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.

- Communicate responsibilities, codes of conduct and the importance of good governance arrangements to their staff and ensure that they understand the consequences of lack of control and inadequate governance arrangements.
- Review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Section 151 Officer. Executive Directors should also be responsible, after consultation with the Section 151 Officer, for removing controls that are unnecessary.
- Undertake self-assessments of the status of the governance framework, including systems of internal control for each of their service areas, as directed by the Section 151 Officer.
- Support internal audit in any review being undertaken within their area and respond to issues raised within audit reports within the agreed timescale.

### **Preventing fraud and corruption**

#### **Counter fraud and anti-bribery strategy**

- 5.27 The Council has an effective anti-fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption. It is the responsibility of the Section 151 Officer to maintain the Council's anti-fraud and anti-corruption policy.
- 5.28 Executive Directors must ensure that this policy is adhered to and that all appropriate action is taken. This will include reporting all suspected irregularities to the Chief Internal Auditor (see section 5.53).
- 5.29 The Council is also responsible for putting arrangements in place for carrying out a regular programme of counter-fraud work, and for exercising oversight of this work. The Monitoring Officer and the Standards and Audit Committee will ensure that:
- a risk-based work plan containing a programme of both proactive and responsive counter-fraud work is put in place at the start of each financial year
  - effective procedures are in place to investigate promptly any suspected fraud or irregularity, and that
  - adequate resources are available to deliver this work plan as approved.

#### **Declaration of Interests**

- 5.30 To avoid giving rise to suspicion about the honesty and integrity of the Council or its employees, or giving the impression of corruption or improper behaviour, all interests of a personal and/or financial nature with external bodies or persons who have dealings with the Council, or any other interests which could conflict with an officer's duties, must be declared in accordance with the Officer Declaration of Interests Policy.

#### **Gifts and hospitality**

- 5.31 Officers must be cautious regarding offers of gifts and hospitality as acceptance can easily give the impression of improper behaviour or favour.

5.32 The Council's Officer Gift and Hospitality Policy explains how offers of gifts and hospitality are to be dealt with, including what can be accepted, what cannot be accepted, and what must be declared. In accordance with the Officer Gift and Hospitality Policy, Executive Directors must ensure that a Gifts and Hospitality register is established and maintained for the services for which they are responsible. A summary of these registers should be reported annually to Cabinet by the Section 151 Officer.

### **Whistle blowing**

5.33 In accordance with the Council's Whistle Blowing Policy, financial irregularities must be reported to the Chief Internal Auditor (see section 5.53). The Chief Internal Auditor will report significant matters to the Chief Executive, the Cabinet and the Standards and Audit Committee.

### **Standards of conduct**

5.34 The full responsibilities with regard to standards of conduct for officers are set out in the Officers' Code of Conduct and the standards for members are set out in Article 3 of the Constitution.

### **Money laundering**

5.35 Money laundering is defined as:

- Concealing, disguising, converting, transferring or removing criminal property from the Country.
- Being concerned in an arrangement which a person knows of, suspects or facilitates the acquisition, retention, use or control of criminal property.

5.36 In accordance with the Council's Anti Money Laundering Policy, all suspected attempts to use the Council to launder money must be reported to the Chief Internal Auditor who is the Council's Money Laundering Reporting Officer.

5.37 Executive Directors must ensure that their staff understand what money laundering is and their obligations under the anti-money laundering legislation, so that they can recognise situations that might lead to suspicions of money laundering.

5.38 When a person knows or suspects that money laundering activity is taking place (or has taken place) or becomes concerned that their involvement in a matter may amount to a prohibited act under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2011, they must disclose this as soon as practicable or risk prosecution.

5.39 To mitigate the risks of the Council being used to launder money:

- cash payments exceeding £1,000 will not be accepted other than with the prior approval of the Section 151 Officer.
- receipts and payments unrelated to the Council's own activities will not be paid into or from a Council bank account without the prior approval of the Section 151 Officer.

### **Anti-bribery policy**

5.40 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Bribery Act has been enacted to enable robust action against such activity.

5.41 In accordance with the Council's Anti-bribery Policy, the detection, prevention and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control.

### **Promoting good governance**

5.42 Executive Directors are responsible for ensuring that all members of staff in their services complete mandatory governance training provided via e-learning modules on the Council website. Executive Directors are also responsible for ensuring that new employees undertake the relevant modules of the e-learning training within six weeks of the commencement of their employment, and that all staff refresh their learning every 12 months, or as specified.

### **Audit requirements**

#### **External Audit**

5.43 The duties of the external auditor are defined by the Local Audit and Accountability Act 2014, as well as the Code of Audit Practice and relevant auditing standards. In particular, the external auditor must:

- Be satisfied that the Council has complied with the applicable enactments.
- Be satisfied that proper practices have been observed by the Council in the preparation of its annual Statement of Accounts.
- Be satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- Express an opinion on whether the Council's annual Statement of Accounts:
  - provides a 'true and fair view' of the Council's financial position and income and expenditure for the period in question; and
  - has been prepared properly, in accordance with the relevant accounting and reporting framework as set out in legislation and applicable accounting standards.
- Certify completion of the annual audit.
- Consider whether to issue a report in the public interest.
- Consider whether to make a written recommendation to the Council, copied to the Secretary of State.

5.44 The External Auditor must be given reasonable and timely access to premises, personnel, documents and assets that are considered necessary for the purposes of their work.

- 5.45 The Council may, from time to time, also be subject to audit, inspection or investigation by other bodies such as Ofsted, the Care Quality Commission and HM Revenue and Customs, who have statutory rights of access to Council documents and systems.
- 5.46 Whilst the External Auditor and other statutory inspectors must comply with statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information received or obtained during the course of their audit or inspection work, regard must nevertheless be given to the sensitivity of data requested by the external auditor or other statutory inspector(s). If there is any doubt about whether it is appropriate to provide such data to the external auditor or other statutory inspector(s), advice should be sought from the Section 151 Officer and/or the Monitoring Officer.
- 5.47 Services must respond promptly to external audit and/or inspection recommendations in writing, detailing the action intended to address the recommendations.

### **Internal Audit**

- 5.48 The requirement for an internal audit function for local authorities is imposed by regulation 5 of the Accounts and Audit Regulations 2015 and reinforced by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'.
- 5.49 More specifically, the Accounts and Audit Regulations 2015 require local authorities to undertake an effective internal audit to evaluate the effectiveness of their risk management, control and governance processes, taking into account public sector internal auditing standards or guidance. The findings of these internal audits are considered by the Standards and Audit Committee on behalf of the Council as part of the consideration of the system of internal control referred to in sections 5.21 – 5.42.
- 5.50 Internal audit is an independent and objective appraisal function, established by the Council for reviewing the systems of internal control and assists the Council's stakeholders on business objectives and related risks and, thereby, contributes strategically to the organisation.
- 5.51 The internal auditors adhere to proper practices in relation to internal control; specifically, the CIPFA Code of Practice on Internal Audit in Local Government in the United Kingdom, IIA (Institute of Internal Auditors) and the COSO (Committee of Sponsoring Organisations) risk framework. They examine, evaluate and report upon the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- 5.52 The internal auditors have the authority to:
- Access any Council premises, assets, records, documents and correspondence, and control systems.
  - Receive any information and explanation related to any matter under consideration.
  - Require any employee of the Council or school maintained by the Council to account for cash, stores or any other asset under their control.
  - Access records belonging to third parties (e.g., contractors) when required.



- Directly access the Chief Executive, the Cabinet, the Standards and Audit Committee and Corporate Overview & Scrutiny Committee.
- 5.53 The Section 151 Officer and the Standards and Audit Committee are required to approve an Annual Audit Plan, a draft of which will be prepared by the Chief Internal Auditor. The Annual Audit Plan will take account of the characteristics and relative risks of the Council's activities. The Section 151 Officer and the Standards and Audit Committee will also ensure that effective procedures are in place to investigate promptly any suspected fraud or irregularity (see section 5.29 above) and that adequate resources are available to deliver both work plans once approved.
- 5.54 Services must respond to internal audit reports in writing, within a timescale agreed as part of the internal audit methodology detailing the action intended, responsible officer, timescale for implementation and whether the action will require additional resources to address all agreed recommendations. The relevant Executive Directors must ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 5.55 The Chief Internal Auditor will maintain a record of all reports and allegations of suspected fraud, corruption or other financial irregularity in respect of funds and assets that are the responsibility of the Council and will ensure that appropriate action is taken to investigate these.
- 5.56 The Chief Internal Auditor will be given the opportunity to evaluate the adequacy of new systems, or changes to existing systems for maintaining financial records or records of assets in a timely manner before live operation.

## **6. Section 6 – Control of Resource and Asset Management**

### **Introduction**

- 6.1 The purpose of this section is to ensure that Budget Holders and employees have a clear understanding of their responsibilities regarding resources and asset management.
- 6.2 Executive Directors and Budget Holders must formulate a service delivery plan to identify the resources that are required to meet agreed service levels with due regard to the principles of Best Value and value for money. A comparison of resource inputs, outputs and outcomes must be made to identify:
- Where new resources are required and that these represent value for money.
  - That the application of existing resources represents value for money.
  - Opportunities to minimise or eliminate resource consumption (e.g., energy, water or paper) and to meet the Council's Carbon Reduction Commitment.
  - Opportunities for resource efficiency, including the use of property, technology and business processes.
  - Opportunities to minimise negative environmental impacts.

- 6.3 Budget Holders are responsible for ensuring that the most favourable terms for price, delivery and quality are obtained on all purchases in accordance with Contract Procedure Rules.
- 6.4 Budget Holders must have due regard to the environmental impact of their purchasing decisions, including the national Carbon Reduction Commitment.

## **Assets**

### **Using and accounting for resources**

- 6.5 All equipment valued in excess of £1,000, or likely to be attractive to thieves, must be recorded in an Official Council Inventory. The accuracy of inventories must be checked at least once a year.
- 6.6 All valuable equipment must be visibly security marked in such a way as to identify it as the property of the Council, school or other establishment where held. All of the Council's computer equipment must be marked with the corporate standard marking that uniquely identifies equipment as the property of the Council.
- 6.7 Executive Directors, Assistant Directors and/or Budget Holders are responsible for ensuring that proper security arrangements are maintained at all times for buildings, furniture, equipment, stocks, cash and other valuable resources or assets. All valuable resources must be locked away wherever possible to reduce the risk of theft. Buildings must be kept secure, well maintained and, where appropriate, access must be restricted.

### **Security of assets**

- 6.8 The Council holds non-current assets in the form of property, land, infrastructure, vehicles, plant and equipment which are collectively worth many millions of pounds. These assets must be safeguarded and used efficiently.
- 6.9 All staff have a responsibility for safeguarding the Council's assets and information, including the security of the Council's computer systems and paper records, and for ensuring compliance with the Council's computer and Internet security policies.
- 6.10 The Head of Property will undertake the role of 'corporate landlord' on the Council's behalf and will:
- Ensure the proper security and maintenance of all premises occupied and/or owned by the Council.
  - Hold the title deeds for all Council properties.
- 6.11 Executive Directors will:
- Advise the Head of Property of any situation where security of Council premises is thought to be defective or where it is considered that special security arrangements may be needed.
  - Ensure that no Council asset is subject to personal use by an employee without proper authority.

- Ensure the safe custody of vehicles, equipment, furniture, inventory, stores and other property belonging to the Council.
- Ensure cash holdings on Council premises are kept to a minimum.
- Ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the relevant Executive Director and the Chief Internal Auditor.

### **Asset register**

- 6.12 The Section 151 Officer is responsible for the maintenance of a corporate register of the Council's property, plant and equipment assets (the 'Asset Register'). This register forms the basis of balance sheet reporting on all property, plant and equipment assets held by the Council.
- 6.13 This Asset Register is maintained, in accordance with the requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK and the underlying accounting standards for:
- all items capitalised in accordance with the guidelines set out in section 2.32 that are expected to be used and controlled by the Council during more than one financial year; and
  - items that the Council has acquired under the terms of a lease or similar arrangement.
- 6.14 This means that the Asset Register is maintained for:
- All land held by the Council.
  - Buildings held and being used by the Council for operational purposes, including those held under the terms of a lease.
  - Buildings held for investment purposes.
  - Land and buildings deemed to be surplus to current requirements and/or held pending disposal.
  - All highways infrastructure (e.g., roads, structures, traffic management systems etc.) that, when acquired, was capitalised in accordance with the guidance set out within section 2.32.
  - All vehicles, plant and equipment (including IT hardware) and intangible assets (mainly IT software) that:
    - when acquired, was capitalised in accordance with the guidance set out within section 2.32; or
    - is held under the terms of a lease or similar arrangement.

- 6.15 Executive Directors will provide the Section 151 Officer with any information necessary to maintain the Asset Register. This will include confirmation of the location of moveable assets, which should be appropriately marked and insured.
- 6.16 Head of Property, in conjunction with the Section 151 Officer, will ensure that land and building assets that are required to be measured at 'current value' are re-valued, as part of a rolling programme, in accordance with:
- The requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK; and
  - Methodologies and bases for estimation set out in relevant professional standards and codes of practice (including those of CIPFA and the Royal Institute of Chartered Surveyors (RICS)).
- 6.17 The Head of Property will ensure that:
- regular impairment reviews are undertaken in line with CIPFA and RICS requirements;
  - estimated useful lives and depreciation rates are re-assessed on a regular basis; and
  - asset condition surveys are carried out to inform backlog maintenance requirements and capital investment plans.

#### **Use of property other than for direct service delivery**

- 6.18 The use of property other than for direct service delivery will be subject to prior agreement of, and in accordance with terms and conditions specified by, the Head of Property.
- 6.19 Prospective occupiers of Council land and buildings are not permitted to take possession or enter the land and buildings until a lease or agreement, in a form approved by the Head of Property in conjunction with Legal Services, has been put in place.

#### **Property transactions**

- 6.20 The Council enters into a variety of property agreements, including (but not limited to):
- Freehold acquisitions and disposals.
  - Long leasehold acquisitions and disposals.
  - Short leases as tenant and as landlord.
  - Section 106 agreements as landowner.
  - Release of covenants.
  - Compulsory acquisitions and land compensation claims.
  - Taking and granting easements.

- Option Agreements; and
- Lease surrenders and exit agreements (including dilapidations).

- 6.21 Each of these transactions has a financial consequence for the Council.
- 6.22 Approval is required to authorise any of these property transactions, and to declare properties surplus to requirements, as set out in the Financial Limits Annex.
- 6.23 The financial thresholds for all property transactions apply to decisions based on the open market value of the interest in the land or property (i.e., the value based on highest and best use, taking account of any information the Council has about the purchaser's proposals for the land acquired) which is reasonably foreseeable at the date of the approval, and not to the actual money involved.
- 6.24 Any moveable assets located within properties proposed for sale, that would be included as part of the sale (e.g., paintings), will be subject to separate consideration in accordance with section 6.15.
- 6.25 All property transactions must be subject to the Key Decisions criteria set out in the Constitution.
- 6.26 Once land and buildings have been declared surplus to requirements, the Head of Property will arrange for the disposal of these assets in accordance with the Council's property strategy and only then when it is in the best interests of the Council and when best value is obtained.
- 6.27 Cabinet and Commissioner approval must be obtained if it is proposed to dispose of the freehold (or an unexpired leasehold interest) of the Council's interest in a property (in full or in part) at a value which is below market value. In some circumstances approval of the Secretary of State will also be required. Before making recommendations to Cabinet, the Head of Property should consult with the Council's Head of Legal services on this issue and may, in some situations, also need to obtain specialist legal advice.
- 6.28 The proceeds from the sale of all land and buildings previously held by the Council for operational purposes will (subject to certain statutory limitations) be pooled and applied to finance future capital investment or for any other purpose permitted by applicable legislation; no such capital receipts will be earmarked for use by a specific service.
- 6.29 The Head of Property will advise on best practice for disposal of other assets that are deemed surplus to requirements, bearing in mind factors such as environmental issues, security and data protection.

#### **Disposal of other assets**

- 6.30 The Head of Property will ensure that asset use is maximised and that an asset disposal strategy is in place to ensure that all assets not required for operational purposes are disposed of at the best price currently available.
- 6.31 The Executive Director Corporate Services is responsible for ensuring that the standards, policies and guidelines of decommissioning of IT equipment are well defined and

communicated to all staff within the Council. Applicable data protection legislation must be a key consideration in the decommissioning of IT equipment.

### **Consumable stocks and stores**

- 6.32 Executive Directors will make adequate arrangements for the care and custody of consumable stocks and stores held by their services and will maintain inventory records that document the receipt (by purchase or donation) and usage of these items.
- 6.33 The stock of such items should be subject to independent physical checks at least once every financial year. Discrepancies between inventory records and the physical stock must be investigated and pursued to a satisfactory conclusion.
- 6.34 Stocks and stores must be charged to the relevant service revenue account when consumed.
- 6.35 The relevant Executive Director (or operational Budget Holder) must complete a certificate at each financial year end, confirming the number and value (i.e. value represents the lower of cost and net realisable value) of items held in stock as at 31st March.
- 6.36 Obsolete stocks and stores (i.e., items that cannot be sold or consumed) or items no longer held (i.e., due to theft or other loss) must be written off (i.e., charged to the revenue account as an expense) straight away. The minimum levels of approval required to write off stock balances per annum are as set out in the Financial Limits Annex.

### **Cash**

#### **Introduction**

- 6.37 All money in the hands of the Council is controlled by the Section 151 Officer. The Section 151 Officer is thereby responsible for providing assurances that the Council's money is properly managed in a way that balances risk with return, with the overriding consideration being given to security.
- 6.38 In accordance with the Council's Anti Money Laundering Policy, all suspected attempts to use the Council to launder money must be reported to the Chief Internal Auditor who is the Council's Money Laundering Reporting Officer (see section 5.36).

#### **Treasury management**

- 6.39 Treasury management is an important aspect of the overall financial management of the Council. Treasury management activities are those associated with the management of the Council's cash flows and its borrowing and investments. A fundamental aim is to effectively control the risks associated with these activities and to pursue best value, in so far as that is consistent with the effective management of risk.
- 6.40 The Council complies with the CIPFA Treasury Management in the Public Services: Code of Practice and Cross-sectoral Guidance Notes, and has approved:
- a Treasury Management Policy Statement, which sets out the policies and objectives of its treasury management activities;

- a series of Treasury Management Practices (TMP's) which set out the way the Council will seek to achieve its policies and objectives for treasury management; and
- an Investment Strategy and Disinvestment Strategy which set out:
  - the Council's approach to managing surplus cash
  - the Council's approach to rationalising investment holdings which no longer represent good value for money
  - how the Council will take steps to meet CIPFA Treasury Management guidance and Prudential Code requirements in full;
  - a restriction on the Council incurring borrowing for investment purposes; and
  - measures to prevent the Council from being exposed to unnecessary financial risk.

6.41 The Section 151 Officer is responsible for maintaining the Treasury Management Policy Statement and TMP's, and for recommending any changes to Council for approval.

6.42 As noted, the Section 151 Officer will propose an annual Treasury Management Strategy and Debt Reduction Strategy to the Council in advance of the start of the relevant financial year. This Treasury Management Strategy will comply with CIPFA's Code of Practice on Treasury Management, relevant regulations and statutory guidance, and with the Council's own Treasury Management Policy Statement and TMP's. It will set out the parameters within which:

- investment and borrowing activity will be managed during the forthcoming financial year, and
- borrowing levels will be reduced in line with directions from central government departments.

6.43 The Section 151 Officer is responsible for ensuring that all borrowing and investment activity is undertaken in compliance with the approved Treasury Management Strategy and Debt Reduction Strategy approved at the start of the financial year. The Section 151 Officer will report to the Cabinet at regular intervals in each financial year, on treasury management activities undertaken within delegated powers.

6.44 All investments of money, and borrowings, undertaken on behalf of the Council will be made in the name of the Council. The Section 151 Officer will maintain records of such transactions.

### **Loans to third parties**

6.45 The circumstances in which loans may be provided by the Council to third parties, and the approval required to each type of loan is set out in the Financial Limits Annex.

6.46 The rate of interest chargeable on loans falling into categories 3 and 4 above will be determined in consultation with the Section 151 Officer, having due regard to the subsidy

control requirements applicable in the United Kingdom as set out in the Subsidy Control Act 2022.

6.47 The repayments arising from a loan falling into category 3 above are deemed to be capital receipts. These capital receipts will be applied to repay the amounts loaned.

### **Bank accounts**

6.48 The opening or closing of any Council bank account will require the prior approval of the Section 151 Officer and must be managed in accordance with directions issued by the S151 Officer.

6.49 The opening of additional bank accounts (including escrow accounts and performance bonds) in the Council's name is to be avoided if possible. Where money is to be held temporarily as a bond or in joint names, this can usually be more readily achieved by use of a holding account within the Council's accounts.

6.50 As noted in section 6.5.6, cash unrelated to the Council's own activities will not be paid into a Council bank account without the prior approval of the Section 151 Officer.

### **Imprest accounts (petty cash)**

6.51 Wherever possible, purchase cards will be used for low value transactions for which there is no mandated procurement contract in place in accordance with the Council's Purchase Card Policy and these Finance Procedure Rules. However, in the limited circumstances when purchase cards cannot be used, the Section 151 Officer may provide bank imprest (petty cash) accounts to meet minor expenditure on behalf of the Council.

6.52 The Section 151 Officer will:

- Prescribe rules for operating an imprest account.
- Determine the amount of each imprest account.
- Will maintain a record of all transactions and cash advances made; and
- Periodically review the arrangements for the safe custody and control of these advances.

6.53 Employees operating an imprest account will:

- Obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained.
- Make adequate arrangements for the safe custody of the account.
- Produce cash and all vouchers to the total value of the imprest amount.
- Record transactions promptly.
- Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder.



- 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.
- Provide the Section 151 Officer with a certificate of the value of the account held at each 31 March.

As part of year-end financial reporting processes, the Council will exercise appropriate oversight of any cash balances and bank accounts held by schools.

### **Trust funds and funds held for third parties**

- 6.54 All trust funds will be operated subject to oversight by the Section 151 Officer. Wherever possible, all cash funds will be held in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities and other key documentation relating to the Trust (eg Trust Deeds, lease agreements, title deeds etc) with the Section 151 Officer unless the deed provides otherwise.
- 6.55 Trust funds will be operated within any relevant legislation and the specific requirements for each trust. All Trust Funds will be subject to audit or independent examination in line with Charity Commission requirements.
- 6.56 Where funds are held on behalf of third parties, for their secure administration, records will be maintained of all transactions.

### **Staffing**

- 6.57 The Head of Paid Service is responsible for providing overall management to staff and is also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration rate for job roles.
- 6.58 Executive Directors have primary responsibility for their establishment and are accountable for compliance with establishment and financial controls. Executive Directors are responsible for ensuring that positions are only created as new requirements and associated funding emerge and are deleted or modified as needs and funding change. They will 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.
- 6.59 The Section 151 Officer and Executive Director Corporate Services will advise Executive Directors on areas such as National Insurance and pension contributions, as appropriate.
- 6.60 Executive Directors and Budget Holders must ensure that all staff are aware of health and safety standards in relation to employees and third parties. It is the individual duty of each employee to comply with these standards.

### **Intellectual property**

- 6.61 Intellectual property is a generic term that includes inventions and writing. If an employee creates these during the course of employment then, as a general rule, they belong to the Council, not to the employee.

- 6.62 Executive Directors will ensure that their staff are not carrying out private work in Council time and that their staff are aware of the Council's rights with regard to intellectual property.
- 6.63 Instances where intellectual property has been (or may be) created which has, or may have, commercial value to the Council should be referred to the relevant Executive Director.

### **Information Systems**

- 6.64 Where new information systems are introduced, or there are significant amendments to existing systems, the development must conform to standards specified by Council. There must be a full business case (including costs and benefits and how benefits will be realised), a review of business processes, a training needs analysis and adequate project management that meets the Council's standards, including early consideration of internal controls and security.
- 6.65 All staff must comply in full with the Council's IT Security Policy. [The Director of...] should ensure that:
- Adequate control is exercised over computer access through unique user identities, access levels, passwords, and identification of security violations.
  - Systems to back up and store computer data are sufficient.
  - A contingency plan is developed and maintained so that in the event of any disaster, systems and equipment can be reinstated.

## **7. Section 7 – Financial Administration**

### **Introduction**

- 7.1 This section outlines the standards of financial administration, including:
- Being clear on who is authorised to approve financial transactions (orders, payments, payroll, income).
  - Ensuring staff appointments are made in accordance with employment law, that salaries and wages are properly authorised, that the proper deductions are made (statutory and non-statutory) and all payments are properly recorded and correctly charged.
  - Ordering and paying for goods and services according to the Council's Contract Procedure Rules, securing value for money, paying only for what the Council receives and dealing with VAT properly.
  - Ensuring all sources of income to the Council are identified, claimed and collected.
  - Ensuring that a live and complete record of all Council transactions is maintained.
  - Ensuring the Council pays and accounts for tax correctly.

### **Authorisation Levels**

- 7.2 Expenditure should only be incurred, or income raised, if authority to purchase goods and services has been delegated to an employee by an Executive Director under their Directorate Scheme of Delegation.
- 7.3 The Council operates a process of authorised personnel and Executive Directors must supply the Section 151 Officer with a list of employees, including any constraints or limits, who can:
- Place orders and make payments, including via the Council's procure-to-pay system.
  - Certify travel and expense claims.
  - Sign petty cash cheques and claim petty cash reimbursement.
  - Authorise payroll transactions, including starters and leavers, overtime or bonus payment, notification of sickness, salary adjustments.
  - Raise and collect income, including issuing receipts, requesting income adjustments, raising invoices and credit notes, requesting write-offs and invoice cancellations.
- 7.4 Transactions will not be processed unless authorisation has been given. Any changes in authorised personnel must be notified as soon as reasonably practicable to the Section 151 Officer.

## **Income**

### **Introduction**

- 7.5 Effective income collection systems are necessary to ensure that all income due to the Council is identified, collected and banked properly.
- 7.6 Wherever possible, income should be collected in advance of supplying goods or services, to minimise the time and cost required to administer debts and to avoid bad debts.
- 7.7 A charging policy must be established and reviewed annually by the Section 151 Officer. The Cabinet must approve the charging policy. The charging policy should include consideration of:
- Whether the charge should be at full cost or subsidised and, if the latter, the proposed level of subsidy.
  - Who the Council should be charging, and when.
  - Any concessions to meet the objectives of the Council within the relevant legislation.
  - New services that can or should be charged for.
- 7.8 It is the responsibility of Executive Directors to ensure that staff authorised to act on their behalf in respect of income collection are clearly identified.

7.9 Executive Directors will supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable invoices to be raised promptly for sums due to the Council, and to ensure that such amounts are properly recorded as due to the Council.

### **Income collection**

7.10 The Section 151 Officer will agree the arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection.

7.11 The Section 151 Officer and Executive Directors will ensure that:

- All money received by, or on behalf of, the Council is paid fully and promptly into the appropriate Council bank account in the form in which it is received.
- Income is not used to cash personal cheques or other payments.
- Appropriate details are recorded onto paying-in slips to provide an audit trail.
- A record is kept of money received directly by employees of the Council.
- The receiving officer signs for the transfer of funds, and the transferor must retain a copy.
- Wherever possible, at least two employees are present when post is opened so that money received by post is properly identified and recorded; this requirement must be met where post regularly contains money.
- Money collected and deposited is reconciled to the appropriate bank account on a regular basis.
- The responsibility for cash collection is separated from that for identifying the amount due and that responsibility for reconciling the amount due is separated from handling of the amount received.
- Cash is only held on premises up to levels approved by the Section 151 Officer. All such cash will be locked away to safeguard against loss or theft, and to ensure the security of cash handling.
- All appropriate income documents are retained and stored for the defined period in accordance with the Council's Information Management policies and guidance.
- The Section 151 Officer is advised of outstanding income relating to the previous financial year as soon as possible after 31 March, and in line with the timetable for closure of the accounts determined by the Section 151 Officer.

### **Debt recovery**

7.12 Amounts owed to the Council will be recorded by billing the customer or client in accordance with the Council's income management framework.

7.13 Executive Directors will ensure that arrangements are in place within their areas of responsibility that define who is empowered to raise a debt on the Council's behalf.

7.14 Once debts are raised, Executive Directors must assist the Section 151 Officer with collection, recovery and enforcement by responding promptly to queries and assisting with disputes in compliance with the timelines set out in the Council's Income Collection and Debt Recovery Strategy.

### **Writing off debts**

7.15 Executive Directors will critically review outstanding debts on a regular basis, in conjunction with the Section 151 Officer, and take prompt action to write off debts no longer deemed to be recoverable.

7.16 No bona fide debt may be cancelled, other than by formal write off. Debts will only be written off if:

- The Debtor is deceased, insolvent or has absconded.
- The debt is statute barred.
- It is uneconomical to pursue the debt.
- The debt is uncollectable after exhausting all reasonable options.

7.17 The approval required to write off any debt meeting any of the above criteria is as set out in the Financial Limits Annex.

7.18 A record must be maintained for all debts written off. The appropriate accounting adjustments must be made following approval to write-off a debt.

7.19 The Service Manager – Income and Assessments and/or Head of Finance Transactional Services will periodically advise the Section 151 Officer and impacted Budget Holders of the debts written off using their delegated powers. The frequency of reporting will be determined by the Section 151 Officer.

7.20 Where debts have been referred to Legal Services, the Section 151 Officer will have due regard to their advice when considering action relating to bad debts.

### **Credit notes**

7.21 A credit note to cancel or reduce a debt can only be issued following a financial assessment of the amount payable or to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, and once it is confirmed that the debt is not payable.

7.22 Credit notes will not be issued:

- For irrecoverable debts, as the formal write off procedure should be followed.
- Where the debtor cannot afford to pay at that time. The debt should remain, and revised payment terms agreed, as appropriate.
- Where a debt is to be recovered through deductions from payments. In such instances, the deductions made should be offset against the debtor.

- 7.23 Credit notes will be subject to the approval of the Service Manager – Income and Assessments or the Head of Finance Transactional Services, in consultation with the Executive Director or operational budget holder.

### **Purchasing and procurement**

#### **Introduction**

- 7.24 The Council applies a standardised approach to purchasing and procurement, according to the complexity and level of risk involved. Sourcing activity therefore depends on whether the work, goods or services are available via one of the Council's corporate mandated contracts and, if not, on:

- what is being procured;
- the value of the procurement; and
- the contract terms.

- 7.25 Whether there is likely to be a transfer of staff, safeguarding, clinical governance or information security requirements as a consequence of the procurement.

- 7.26 Compliance with the Council's procedures helps to ensure that value for money is obtained from its purchasing arrangements

#### **Purchasing via corporate contracts**

- 7.27 The Council has a number of corporate mandated contracts in place through which standardised supplies and materials must be procured. Details of the corporate mandated contracts are available on the Intranet.

- 7.28 The Council's Purchase-to-Pay system must be used for ordering goods via a corporate mandated contract.

#### **Procurement**

- 7.29 Where there is no corporate mandated contract in place, it is necessary to follow the procurement approach laid out within the Contract Procedure Rules.

- 7.30 There is no requirement for competition for very low risk procurements. Very low risk procurements are those for one off purchases, up to a threshold of £10,000 (or such other limit as set out in the Contract Procedure Rules). Such procurements can be made using:

- Council purchase card (in accordance with the Council's Purchase Card Policy).
- Purchase to Pay system

- 7.31 All other work, goods and services must be procured following a competitive process that reflects the relative risks of the procurement (as set out in the Contract Procedure Rules).

- 7.32 Officers involved with engaging contractors, and/or with purchasing decisions, must declare:

- Any links or personal interests that they may have with purchasers, suppliers and/or contractors (in accordance with section 5.30); and
- Any gifts or hospitality offered by, or received from, purchasers, suppliers and/or contractors (in accordance with section 5.31).

7.33 All new contracts must also be recorded and retained in the corporate contracts register in accordance with the Contract Procedure Rules.

7.34 Where a third party is procuring goods, work or services on behalf of the Council then the relevant officer(s) must ensure that the third party is aware of and complies with the Council's procurement procedures.

7.35 Managers responsible for letting contracts should regularly review contractors' performance and address errors, poor performance and/or misrepresentation, and invoke service credits where applicable.

### **Ordering and paying for work, goods and services**

#### **Orders for work, goods and services**

7.36 Orders for work, goods and services must:

- Be in a form approved by the Section 151 Officer.
- Be raised via one of the Council's Purchase-to-Pay systems and issued to the supplier prior to receipt of goods or services or commencement of works. The only exceptions to this are for periodic payments such as rent, or rates, and payments made from petty cash or using a purchase card.
- Not be raised for any personal or private purchases.
- Be authorised in accordance with the Constitution and by someone of at least the seniority set out below:

7.37 Where the order is issued to reflect a procurement decision taken by members then the order may be authorised by the operational budget holder.

7.38 Where section 7.37 above does not apply, and the order will have effect for more than a year and have a value in excess of £150,000, then the order must be authorised by an Executive Director.

7.39 In all other cases, the order must be authorised in accordance with the Financial Limits Annex.

7.40 Electronic signatures are acceptable if in a form approved by the Monitoring Officer.

#### **Authorised signatories**

7.41 Executive Directors must ensure that a primary approver is assigned to each cost centre code within their respective functional areas. The primary approver is the lowest level authorised signatory for a cost centre code.

- 7.42 Where the primary approver is not the budget holder, the primary approver must be in the line management hierarchy of the budget holder. This is because all requisitions are routed up the primary approver's line management hierarchy until reaching the person with the relevant delegated approval limit.
- 7.43 Directors will identify in each case the delegated limits of the primary and other approvers below the relevant budget holder, and the other staff to whom a primary or other approver can delegate their approval rights to. An approver may only reassign their authorisation rights to an officer with an equivalent or higher delegated limit to their own.
- 7.44 No one may authorise an order unless they are satisfied that:
- They have the delegated power to commit the expenditure.
  - The work, goods and services ordered are appropriate and needed.
  - There is adequate budgetary provision.
  - Where a suitable corporate mandated contract exists, this has been used.
  - Where there is no corporate mandated contract, the Contract Procedure Rules have been adhered to.

#### **Receipt of work, goods and services**

- 7.45 When work, goods and services are received they must be checked against the applicable purchase order, to ensure they are in accordance with that order. Wherever possible, goods should not be received by the person who approved the order.
- 7.46 For work, goods or services ordered via the Council's Purchase-to-Pay system, the quantity of work, goods and services received must be recorded on a timely basis in that system against the original purchase order (referred to as 'receipting' the purchase order). The receipting of the purchase order provides approval to pay the suppliers' invoice (to the value of the work, goods or services received) and results in the expenditure being recognised in the Accounts. No purchase order must be 'receipted' in advance of the Council receiving the relevant work, goods or services.
- 7.47 For work, goods or services obtained using a Purchase Card it is the cardholder's responsibility to ensure that this is done in compliance with the Council's Purchase Card Policy.

#### **Payment of suppliers**

- 7.48 For items ordered via the Council's Purchase to Pay system, the Section 151 Officer will make payments from the Council's funds upon the receipt of an original, certified copy, or valid electronic VAT invoice, provided that:
- a valid purchase order number is quoted on the suppliers' invoice; and
  - confirmation of receipt of the work, goods or services has been provided and the invoice is consistent with the receipted amount.



- 7.49 Invoices received which do not quote an approved purchase order number are not valid and will be returned to the supplier unpaid.
- 7.50 The Section 151 Officer will also make payments from the Council's funds upon the receipt of an original, certified copy, or valid electronic VAT invoice that has been checked, coded and certified in accordance with the thresholds set out in section 7.62, confirming that:
- the receipt of goods or services to the correct price, quantity and quality standards;
  - the invoice has not previously been paid;
  - expenditure has been properly incurred and is within budget provision;
  - prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
  - discounts have been taken, where available; and
  - the correct accounting treatment of tax has been applied.
- 7.51 Payments to creditors will be made as soon as possible within agreed payment terms, in order to avoid late payment charges under the Late Payment of Commercial Debts (Interest) Act 1998, as amended by the Late Payment of Commercial Debts Regulations 2013.
- 7.52 Any invoice in dispute with a supplier must be clearly identified and processed in accordance with guidance issued by the Section 151 Officer.
- 7.53 **It is not permissible to make a payment in advance of the delivery of works, goods or services, or to vary the Council's standard settlement terms, other than with the prior approval of the Section 151 Officer.**
- 7.54 Executive Directors will notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision. In such cases, appropriate budget provision should be sought, either by way of a virement (see sections 3.13 – 3.15) or by way of a supplementary estimate (see sections 3.16 – 3.23).
- 7.55 The normal methods of payment by the Council shall be by:
- BACS payments direct into suppliers' bank accounts.
  - Purchase Card (in accordance with the Council's Purchase Card Policy).
- 7.56 In exceptional circumstances, where suppliers are unable to accept payment via BACS, cheques will be issued by the Section 151 Officer. The use of direct debits to make payments will require the prior agreement of the Section 151 Officer.
- 7.57 All appropriate evidence of the transaction and payment documents will be retained and stored in accordance with the Council's Information Management policies and guidance.
- 7.58 Executive Directors must advise the Section 151 Officer, at the end of each financial year, of outstanding expenditure relating to the financial year just ended, in line with the timetable for closure of the accounts determined by the Section 151 Officer.

- 7.59 The Council will publish a record of all payments to suppliers on its website on a monthly basis in accordance with the Local Government Association's 'Local transparency guidance – publishing spending and procurement information'.

### **Contracts for construction and alterations to buildings / civil engineering works**

- 7.60 The systems and procedures for dealing with the financial aspects of contracts for construction and alterations to buildings and for civil engineering works must be agreed with the Section 151 Officer. This will include the systems and procedures for the certification of interim and final payments, checking, recording and authorising payments, for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

### **Payments to Employees and Members**

#### **Salaries**

- 7.61 Staff appointments will be made in accordance with the Council's Recruitment Guidance and Recruitment Standards, establishments, grades and scales of pay.
- 7.62 The Section 151 Officer and Executive Director, People and Transformation are responsible for all payments of salaries and overtime to staff (with the exception of those schools that have the delegated power to procure their payroll function from elsewhere). The Section 151 Officer and Executive Director, People and Transformation will therefore:
- Arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with prescribed procedures, on the due date.
  - Record and make arrangements for the accurate and timely payment of tax, pensions and other deductions.
- 7.63 The Section 151 Officer is responsible for ensuring there are adequate arrangements for administering pension matters on a day-to-day basis.
- 7.64 Executive Directors must ensure that effective systems and procedures are operated, so that:
- Payments are only made 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.
- 7.65 The Section 151 Officer and Executive Director, People and Transformation will advise upon the employment status of individuals employed on a self-employed consultant or sub-contract basis.

#### **Expenses and allowances**

- 7.66 The Section 151 Officer is responsible for the payment of certified expense claims submitted by employees that are made in accordance with the Council's travel and subsistence policy.
- 7.67 Certification of travel and subsistence claims is taken to mean that journeys were authorised, and expenses properly and necessarily incurred for business purposes, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved.
- 7.68 The Section 151 Officer is also responsible for the payment of Members' travel or other allowances. Members expenses must be claimed in accordance with the provisions set out in the Members Allowance Scheme (as set out within the Constitution).
- 7.69 The Section 151 Officer will ensure that taxable allowances and benefits are accounted for, recorded and returned, where appropriate, to HM Revenue and Customs. Details of any employee benefits in kind must be notified to the Section 151 Officer to enable full and complete reporting within the income tax self-assessment system.
- 7.70 Due consideration should be given to tax implications, ensuring that advice is sought, and the Section 151 Officer is informed where appropriate.

#### **Ex-gratia payments**

- 7.71 Ex-gratia payments are one-off payments made to an employee or former employee as a gesture of goodwill, and not because there is a legal or contractual obligation to do so. They include compromise and other payments made for loss of office.
- 7.72 Ex-gratia payments can be made to employees or former employees subject to obtaining approval as set out in the Financial Limits Annex.
- 7.73 The circumstances of the proposed payment must not have the effect of circumventing other Council pay and allowance policies, tax rules or other legislation.

#### **Taxation**

- 7.74 The Section 151 Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, as a consequence of its own activities, or indirectly, as a result of service delivery through external partners.
- 7.75 To enable the Section 151 Officer to fulfil the requirements of this role, Executive Directors will:
- Ensure that the Section 151 Officer is consulted on all proposals that may alter or affect the Council's tax liability, including proposals to implement alternative service delivery and payment models (as outlined in section 9.1,).
  - Ensure that the VAT guidance issued by the Section 151 Officer is complied with (i.e. to ensure that the correct liability is attached to all income due and that all amounts recoverable on purchases can be claimed).
  - Ensure that, where construction and maintenance works are undertaken, the sub-contractor fulfils the necessary construction industry tax scheme requirements (as advised by the Section 151 Officer).

- Ensure that the Executive Director Corporate Service's guidance on fee payments to consultants, individuals or partners is complied with.

7.76 The Section 151 Officer will maintain the Council's tax records, make all tax payments, receive tax credits and submit tax returns by their due date, as appropriate.

### **Emergency payments**

7.77 Emergency payments may arise as a consequence of unforeseen circumstances (e.g., as a consequence of a natural disaster, a civil emergency or a court order etc.) where budget provision has not been made and the payment cannot be covered within the relevant service's existing budget.

7.78 Emergency payments can only be made in extenuating circumstances with the approval set out in the Financial Limits Annex (as a minimum).

7.79 Details of emergency payments made within the financial year will be reported retrospectively to the Cabinet.

### **Transparency**

7.80 To provide transparency in its stewardship of public funds, the Council makes information available to the public in relation to its spending, regardless of value. Monthly payment transactions made via purchase card, employee expenses and accounts payable are available to download via the Council's Spending Information website.

### **Electronic payments**

7.81 Where payments are to be transmitted electronically, the Section 151 Officer shall approve the necessary arrangements made to safeguard the Council against losses. Requests for electronic transfers through the Banking system must be made to the Corporate Finance (Treasury Management team) in writing by an authorised signatory. The Treasury Management team must be given advance warning when such transfers are required. As a general guide, 7 days' notice is required for payments up to £2,000,000 and fourteen days for payments in excess of £2,000,000. Payment by Direct Debit may only be agreed with the prior approval of the Section 151 Officer. Directorates will be required to take any necessary action to safeguard against loss of VAT recovery.

## **8. Section 8 – External Arrangements**

### **Alternative service delivery models**

#### **Introduction**

8.1 Alternative service delivery models may be considered, including but not limited to:

- Outsource service provision to the private or voluntary sector, or to another public sector organisation.
- Spin out a service to a separate independent enterprise.
- Enable joint working with other public sector bodies.

- Facilitate working with the private or voluntary or public sector, or a combination of these.
- Use a company owned by the Council or by another local authority.

8.2 There is no one model that stands out as the best or dominant model for service delivery. It is necessary to consider any proposals to use an alternative delivery model on a case-by-case basis. However, an alternative delivery vehicle can only be pursued and established in compliance with the decision-making process outlined in section 8.4.

8.3 Given the Council's current financial position and the Disinvestment Strategy now in place, no new limited company, joint venture or other corporate entities are expected to be established in the foreseeable future. Other alternative delivery vehicles will be considered if, and only if, they provide a clear business case for delivering essential Council services with improved value for money and no exposure to additional financial risk.

### **Business cases for alternative delivery vehicles**

8.4 Any proposal to establish an alternative delivery vehicle must be supported by a business case as described in sections 2.46 – 2.50, to ensure that there is a robust planning and decision-making process in place. This should include:

- Governance arrangements for the partnership.
- Risk and opportunity management and risk sharing agreements, including the risk of service failure.
- Financial administration, cash management and accounting arrangements.
- Pensions risk.
- Taxation implications.
- Human resources implications.
- The transfer of assets and liabilities.
- Insurance arrangements.

8.5 If it is proposed to establish any alternative delivery vehicle for the provision of Council services, Part 3 of Chapter 12 of the Constitution must also be adhered to.

8.6 Executive Directors are also responsible for ensuring that Cabinet approval is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

8.7 The Cabinet is responsible for approving the Council's participation in all significant partnerships / joint working arrangements with other local public, private, voluntary and community sector organisations.

8.8 Executive Directors, following advice from the key stakeholders listed above (including the Section 151 Officer and Monitoring Officer), will advise the Cabinet on the key elements of the alternative delivery vehicle, including:

- The arrangements for financial record keeping, accounting, billing customers and paying suppliers, tax, pensions, banking and cash management.
- The arrangements to ensure that the Council can maintain adequate oversight and assurances over the financial performance of the alternative delivery vehicle.
- An assessment of the financial and non-financial risks, together with the plans to mitigate those risks. The financial and reputational impact of failure to deliver services should be considered, with clear plans on how this would be addressed.
- The financial commitments the Council will make (including to provide cash management, working capital and longer-term loan funding and/or financial guarantees), and details of any other financial implications for the Council arising as a consequence of the proposed alternative delivery model.
- Arrangements for providing any information required for the Council's Statement of Accounts to the Section 151 Officer.
- Audit requirements (both internal and external) and arrangements for the Council's auditors, where relevant, to have access to information.
- The governance arrangements for decision making, and how these will be carried out to ensure that the services provided remain aligned to those of the Council.
- Performance measurement arrangements.
- Any proposals to transfer Council assets to the alternative delivery vehicle, and the arrangements for safeguarding their title and use.
- Whether equality, sustainability, recruitment and employment practices, data handling and protection, freedom of information principles, standards and behaviour and arrangements for engaging with citizens and service users are aligned to the Council's legal requirements and policies.
- The pensions arrangements for employees of the alternative delivery vehicle, especially if Council employees are transferring to the alternative delivery vehicle.
- In the event that the proposal is for a local authority trading company, the proposed policy and decision-making process for the retention or distribution of profits. A dividend policy should be agreed that sets out the process by which decisions will be taken regarding the retention or distribution of profits.
- Exit arrangements, and if relevant what would be done to ensure services continue to be delivered in the event of non-delivery by the alternative delivery vehicle.

8.9 Where (subject to section 8.3 above) it is proposed to establish a local authority trading company, the new company will use the Council's support service functions and the Council's property (and its facilities management services) for the delivery of services on behalf of the Council, unless and until otherwise agreed by the Section 151 Officer. The new company will bear the full cost of the services provided by the Council's support service functions.

## **Partnerships**

### **Context**

- 8.10 Partnerships include any arrangements where the Council agrees to undertake, part fund, or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Shared services with other public bodies, including section 75 agreements entered into under the Health Act 2003 or similar arrangements are classed as partnerships. It does not include situations where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project.
- 8.11 It is important to understand and distinguish between a partnership in this context and a supplier who the Council may refer to as a 'partner' due to the status that the Council has contractually awarded to it. Irrespective of the title applied to it, this latter type of partnership is a supplier relationship, which will be entered into in accordance with, and governed by, the Council's Procurement Policy and Procedures.

### **Forming of partnerships**

- 8.12 The approval of both the Section 151 Officer and the Monitoring Officer is required prior to the Council entering into any formal partnership agreement. The approval of the Section 151 Officer must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership. This is to ensure that the:
- Legal status and financial viability of the arrangement are clearly established and that they are acceptable.
  - The Council's financial commitment to the partnership is quantified and can be accommodated within the existing Budget.
  - Financial and corporate governance arrangements in place for the partnership are robust and acceptable from the Council's perspective.
  - The Council is not exposed to undue financial, legal or reputation risk as a result of its involvement in the partnership.
  - The Council's own financial accounting and reporting requirements can be satisfied.
- 8.13 A partnership agreement must be produced that documents each of these matters, and the arrangements for dispute resolution and for exiting from the arrangement.
- 8.14 The Cabinet is responsible for approving delegations and frameworks for all partnerships.
- 8.15 Executive Directors will ensure that:
- The approval of the Section 151 Officer and the Monitoring Officer is obtained prior to entering into a partnership agreement.
  - An appraisal is undertaken which demonstrates that the risks associated with the arrangement are minimal, or that appropriate arrangements are in place to mitigate any such risks.

- The partnership agreement and arrangements will not impact adversely on the services provided by the Council or on its finances.
- The proposed financial contribution by the Council to the partnership can be met from existing budget provision.
- Cabinet approval is secured for all delegations and frameworks for the proposed partnership.

### **Delegation of budget to a partnership**

- 8.16 The delegation of budget to a partnership (whether the arrangement is binding on the parties involved), where money is normally spent in accordance with the wishes of a group of individuals or organisations, is subject to approval as set out in the Financial Limits Annex.

### **Financial administration**

- 8.17 Where the Council is the 'Accountable Body' for a partnership, these Finance Procedure Rules and the Constitution will apply to decisions relating to the spending by that partnership. All expenditure must be authorised by an appropriate Council officer, or by someone else who has a statutory power to authorise such expenditure. Executive Directors are responsible for ensuring that the Council is promoting and applying the same high standards of financial administration to any partnership as those that apply to the Council.
- 8.18 Whenever any such arrangements are made, there must be a written document which clearly establishes the responsibilities of the respective partners for managing the arrangement and the resources made available to the partnership.
- 8.19 This document must also set out the arrangements in respect of unspent funding at each year end (unless this is to be returned to the Council as unspent money) and for addressing any overspend. The Council cannot carry underspent partner contributions forwards from one financial year to another if this is contrary to the partner's own financial procedure rules.
- 8.20 Executive Directors must provide information on the partnership arrangements to the Section 151 Officer, in order that the appropriate disclosures can be made within the Council's annual Statement of Accounts.

### **Documenting and recording of partnership agreements**

- 8.21 Executive Directors must ensure that all partnership arrangements are properly documented, and that all money for which the Council is accountable is spent via a written contract with the recipient (even if the recipient is a party to the arrangements). A register of those contracts must be maintained in accordance with procedures specified by the Section 151 Officer.

### **Representing the Council**

- 8.22 Executive Directors will ensure that the Council has full oversight of the operation of any partnership arrangement. This will usually be by officer support and by members holding positions on the relevant 'partnership board'.



- 8.23 Executive Directors will ensure that appropriate officer input is provided to support members in this role, and that all decisions made by the Council are discharged as permitted within the Scheme of Delegation to Officers.

### **External funding (grants and other contributions)**

#### **Funding conditions**

- 8.24 External funding is an important source of income to the Council. The conditions attached to such funding must be considered carefully before the Council applies or bids for, or accepts, any funding, to ensure that:
- The funding conditions are compatible with the aims and objectives of the Council;
  - The necessary procedures are in place to meet funding conditions and reporting requirements; and
  - Appropriate budget provision is available if 'match funding' is required.
- 8.25 The relevant service finance contact should be notified of all external funding bids and applications and will support the bid or application through the process.

#### **Accounting for external funding**

- 8.26 The Section 151 Officer, in conjunction with Executive Directors, must ensure that all grants and other funding awarded by external bodies is received and properly recorded in the Council's accounts.

#### **External funding claims**

- 8.27 Executive Directors must ensure that appropriate records are maintained to evidence compliance with any applicable conditions placed on external funding by the awarding body, and any instructions issued by the Section 151 Officer.
- 8.28 Executive Directors must also ensure that claims and returns are made by the due date, allowing sufficient time for the Section 151 Officer to review those claims and returns before submission to the awarding body.
- 8.29 Executive Directors will notify the Section 151 Officer if the awarding body requires an external audit of a grant or similar claim to evidence compliance with the grant or funding conditions.

#### **Third party expenditure**

- 8.30 Sometimes, grant funding awarded to the Council may be passed to a third party outside the direct control of the Council. The Council will remain accountable for the grant funding and, as such, will be responsible for ensuring that the terms of the grant are met. Executive Directors must ensure that effective monitoring and reporting procedures are in place to provide assurances over the eligibility of expenditure incurred by any such third party.

### **Work by the Council for other organisations**

#### **Approval to contractual arrangements**

8.31 Work can only be undertaken for other organisations where the Council has the legal powers to undertake the work. Where such legal powers exist, Executive Directors are responsible for:

- Approving the contractual arrangements for any work undertaken by their services for third parties or external bodies.
- Ensuring that the appropriate expertise exists to fulfil the contract.
- Ensuring that no contract adversely impacts upon the services provided by the Council.

#### **Financial aspects of third-party contracts**

8.32 The Section 151 Officer will determine the accounting, banking and other financial arrangements for third party contracts.

8.33 Executive Directors will:

- Comply with any accounting instructions and other guidance issued by the Section 151 Officer.
- Ensure that the appropriate insurance arrangements are made.
- Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
- Ensure that the Council is not exposed to the risk of non-recovery of contract income.

#### **Documenting and recording contracts**

8.34 A written agreement must be put in place between the Council and the relevant third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement.

## FINANCIAL LIMITS ANNEX

### 1 KEY DECISIONS

The following will be Key Decisions:

Approver	Financial Threshold	Conditions
As set out in the Scheme of Delegations	Revenue expenditure/savings with financial implications of up to £500,000	
Chief Executive or Executive Director	Revenue expenditure/savings with financial implications of £500,000 or more	<p>Must consider a written report setting out the justification for the decision.</p> <p>Must consult the relevant Commissioner and Cabinet Member, or in their absence, the Leader, about the decision.</p> <p>Decision should be reported to Cabinet for information and published on the Council's website in accordance with the Access to Information Procedure Rules and circulated to the relevant Overview and Scrutiny Committee.</p>
As set out in the Scheme of Delegations	Capital expenditure/savings with financial implications of up to £1m	

Chief Executive or Executive Director	Capital expenditure/savings with financial implications of £1m or more	<p>Must consider a written report setting out the justification for the decision.</p> <p>Must consult the relevant Commissioner and Cabinet Member, or in their absence, the Leader, about the decision.</p> <p>Decision should be reported to Cabinet for information and published on the Council's website in accordance with the Access to Information Procedure Rules and circulated to the relevant Overview and Scrutiny Committee.</p>
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**For revenue expenditure, the Key Decision Threshold is £500,000.**

**For capital expenditure, the Key Decision Threshold is £1m.**

A decision will also be a Key Decision where it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral wards in the area of the Council.

## 2 AUTHORISATIONS AND APPROVALS

### RESERVES

(section 2.19 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to and including £500,000	Director	Relevant Budget Holder
Above £500,000	Cabinet	Section 151 Officer, Commissioners, relevant Executive Director(s) and relevant Service Cabinet Member

### VIREMENTS, SUPPLEMENTARY ESTIMATES AND CHANGES TO “CONTROLLABLE NET BUDGET”

(sections 3.14 and 3.15 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to and including £25,000 (subject to the aggregation rule in section 3.15)	Director	Relevant Budget Holder
Above £25,000 but no more than £50,000 (subject to the aggregation rule in section 3.15)	Executive Director	Section 151 Officer and relevant Service Cabinet Member(s)
Above £50,000 but no more than £500,000	Cabinet Member for Finance	Relevant Executive Director(s), Section 151 Officer and relevant Service Cabinet Member(s)
Above £500,000	Cabinet	Cabinet Member for Finance, relevant Service Cabinet Member(s), relevant Executive Director(s), Section 151 Officer, Commissioner

### REPROFILING OF CAPITAL EXPENDITURE

(section 3.51 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to and including £25,000	Director	Relevant Budget Holder, and the Section 151 Officer to ensure that there are no adverse implications on capital financing resource
Above £25,000 but no more than £50,000	Executive Director	Section 151 Officer and relevant Service Cabinet Member(s), unless the saving being utilised is more than 25% of the project or 'block' approval that it is to come from, in which case the approval in the next row in this table will apply
Above £50,000 but no more than £1,000,000	Cabinet Member for Finance	Relevant Executive Director(s), Section 151 Officer and relevant Service Cabinet Member(s)
Above £100,000,000	Cabinet	Cabinet Member for Finance, relevant Service Cabinet Member(s), relevant Executive Director(s), Section 151 Officer, Commissioners

## CHANGES TO CAPITAL PROGRAMME

(section 3.54 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £1m	Cabinet Member for Finance	Relevant Executive Director(s), Section 151 Officer and relevant Service Cabinet Member(s)
£1m and above	Cabinet	Cabinet Member for Finance, relevant Executive Director(s), Section 151 Officer and relevant Service Cabinet Member(s), Commissioners

## SETTLING INSURANCE CLAIMS

(section 5.17 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £20,000	Claims Lead	
Above £20,000 and up to £150,00	Risk and Insurance Manager	
Above £150,000 and up to £500,000	Head of Risk and Assurance	Section 151 Officer and Monitoring Officer
Above £500,000	Cabinet	Cabinet Member for Finance, relevant Executive Director(s), Section 151 Officer and relevant Service Cabinet Member(s), Monitoring Officer, Commissioners

## PROPERTY TRANSACTIONS, INCLUDING INVESTMENT PROPERTY AND ASSET DISPOSALS

(section 6.21 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
<b>Operational and surplus properties</b>		
Up to £250,000	Head of Property	
Above £250,000 and up to £1m	Executive Director Place	Executive Member of Place, Cabinet Member for Finance, Section 151 Officer and Monitoring Officer
£1m and above	Cabinet	Cabinet Member for Property and Cabinet Member for Finance, Section 151 Officer, Monitoring Officer and Commissioner
<b>Investment properties</b>		
Up to £250,000	Section 151 Officer	Head of Property
Above £250,000 and up to £500,000	Section 151 Officer	Head of Property
Above £500,000 and less than £2m	Section 151 Officer	Cabinet Member for Finance

Threshold	Minimum approval level	Consultation
£2m and above but less than £5m	Cabinet Member for Finance	Leader and Section 151 Officer
£5m and above	Cabinet	Cabinet Member for Finance, Leader and Section 151 Officer

## DISPOSAL OF ASSETS

(section 6.29 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £250,000	Head of Service	
Above £250,000 and up to £500,000	Service Director	
Above £500,000 and less than £2m	Executive Director	Service Director and Service Cabinet Member
£2m and above but less than £5m	Cabinet Member for Finance	Executive Director and Service Cabinet Member
£5m and above	Cabinet	Cabinet Member for Finance, Service Cabinet Member, Executive Director

## STOCK WRITE OFF

(section 6.35 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £10,000	Budget Holder	
Above £10,000 but not more than £25,000	Director	Budget Holder
Above £25,000 but not more than £50,000	Executive Director	Director
Above £50,000 but not more than £100,000	Section 151 Officer	Executive Director
Above £100,000 but not more than £500,000	Service Cabinet Member	Executive Director and Section 151 Officer



Threshold	Minimum approval level	Consultation
Above £500,000	Cabinet	Cabinet Member for Finance, Service Cabinet member, Section 151 Officer, Monitoring Officer and Commissioner

## LOANS TO THIRD PARTIES

(section 6.44 of the Finance Procedure Rules)

Type of loan	Approval
1. Season Ticket and similar loans made to employees	To be made in accordance with the 'My Employment' guidance on the Council's Intranet.
2. Monies invested with banks and other financial institutions	To be undertaken in accordance with the Council's annual Treasury Management Strategy (see sections 6.38 – 6.43 above).
3. Loans to third parties (including to subsidiaries of the Council) for the purpose of financing expenditure which, if incurred by the Council, would constitute capital expenditure	Such a loan constitutes capital expenditure by the Council (and the repayment constitutes a capital receipt) and so requires approval as part of the Council's Capital Programme (see sections 2.40 – 2.45) and Treasury Management Strategy if funded from borrowing.
4. Loans to third parties (including to subsidiaries of the Council) for other purposes (e.g. to support cash flows)	Subject to the following approval: <ul style="list-style-type: none"> <li>• Less than £0.5m - Section 151 Officer</li> <li>• Over £0.5m Cabinet (following consultation with Cabinet Member with responsibility for Finance, Section 151 Officer, Monitoring Officer and Commissioner)</li> </ul>

## DEBT WRITE OFF

(section 7.17 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £10,000	Service Manager – Income and Assessments or Head of Finance and Transactional Services	
Above £10,000 but not more than £25,000	Director	Budget Holder and Service Manager – Income and Assessments or Head of Finance and Transactional Services
Above £25,000 but not more than £50,000	Executive Director	Director
Above £50,000 but not more than £100,000	Section 151 Officer	Executive Director
Above £100,000 but not more than £500,000	Service Cabinet Member	Executive Director and Section 151 Officer
Above £500,000	Cabinet	Cabinet Member for Finance, Service Cabinet member, Section 151 Officer, Monitoring Officer and Commissioner

## ORDERS FOR WORK, GOODS AND SERVICES

(section 7.39 of the Finance Procedure Rules)

Threshold	Minimum approval required	Allocated cost centre
<b>Above £0.5m</b>	Cabinet or Council Committee	Represents a key decision if not covered by approved Budget at the start of each financial year
<b>Up to £500,000</b>	Executive Director	In consultation with the Section 151 Officer or MO.
<b>Up to £150,000</b>	Officer with delegated authority to act on a Director's behalf	As determined by the relevant Executive Director

## EX-GRATIA PAYMENTS

(section 7.75 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £5,000	Budget Holder	
Above £5,000 but not more than £10,000	Director	Budget Holder
Above £10,000 but not more than £50,000	Executive Director	Director
£50,000 - £100,000	Section 151 Officer	Executive Director

**EX GRATIA PAYMENTS SHOULD BE LIMITED TO £100,000**

## EMERGENCY PAYMENTS

(section 7.82 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Up to £500,000	Executive Director	Executive Director to notify the Section 151 Officer as soon as practicable after the event that the emergency payment has been made
Above £500,000 but not more than £2m	Chief Executive or Section 151 Officer	Cabinet Member for Finance and Monitoring Officer
Above £2m	Cabinet Member for Finance	Chief Executive, Monitoring Officer and Section 151 Officer

**DETAILS OF ALL EMERGENCY PAYMENTS SHOULD BE REPORTED TO CABINET FOR INFORMATION AS SOON AS PRACTICABLE.**

## DELEGATION OF BUDGET TO A PARTNERSHIP

(section 8.15 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Less than £250,000	Director	
£250,000 and above but not more than £500,000	Executive Director	Director
£500,000 and above but not more than £0.5m	Section 151 Officer	Executive Director
Above £0.5m	Cabinet	Cabinet Member for Finance, Service Cabinet Member, Section 151 Officer, Monitoring Officer, Commissioner

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### 3 OTHER

#### CAPITAL EXPENDITURE – DE MINIMIS

(section 2.27 of the Finance Procedure Rules)

De minimis limit	Threshold
General (to be applied where no specific limit is applicable)	£10,000
Schools' capital projects funded or supported by Formula Capital Grant	£2,000
Transport (highways) infrastructure	All transactions charged to capital
Land	All transactions charged to capital

#### 4 CONTRACT FORMALITIES

Contract value	Contract formalities	Signing authority
Up to £150,000		Officer with appropriate delegated authority
Above £150,000 and in effect for more than 1 year	Order must be authorised by an Executive Director	
Above £150,000	Must be a deed	Execution as a deed
Less than £1m	Must be a deed	A person authorised to issue an order for the contracts, or  The Monitoring Officer or the Section 151 Officer or someone nominated by them
Above £1m	Contracts to be in writing and must be a deed. Can only be entered into following Cabinet approval	Executive Director or Chief Executive or under the Council's common seal

## PROCUREMENT THRESHOLDS ANNEX

### 1. Introduction

The Public Contracts Regulations 2015 (“PCR 2015”) set out statutory thresholds (i.e., financial limits) for different types of procurement. Any spend by the Council which is above these thresholds must be conducted in accordance with the requirements set out in the PCR 2015. Spend that is below the statutory thresholds should be conducted as set out in the tables in this Procurement Thresholds Annex.

### 2. Interpretation

Capitalised terms used in this document shall have the meanings given to them in the Council’s Constitution.

This Procurement Thresholds Annex should be read in conjunction with the Contract Procedure Rules set out in Chapter 1, Part 2 of the Constitution.

### 3. Procurement Thresholds

The current statutory spend thresholds are as follows:

<b>Goods and Services</b>	Up to £213,477
<b>Works</b>	Up to £5,336,937
<b>Light Touch Regime</b>	Up to £663,540

When applying the thresholds in this Procurement Thresholds Annex, contract values should be calculated on the basis of the whole life of the contract and should **include VAT**. No deduction should be made for any available VAT recovery and the standard rate of VAT (currently 20%) should be used.

When advertising a contract, and for contract award notices, the estimated contract value should be provided **exclusive of VAT**.

Note that the Procurement Thresholds in the PCR 2015 are subject to change and should be confirmed with Legal Services and Procurement before commencing a procurement exercise.

### 4. Key Decisions

Notwithstanding the rules set out in this Procurement Thresholds Annex, where any procurement requires a Key Decision to be made, that Key Decision must be given and recorded before proceeding to procure. Key Decisions require Cabinet approval as set out in the Constitution.

A Key Decision will be required in respect of any procurement that will:

- (a) incur expenditure of £500,000 or more for revenue spend; or
  - (b) incur expenditure of £1m or more for capital spend; or
  - (c) have a significant impact on two or more electoral wards,
- ("Key Decision Threshold")

## **5. Exemptions**

Any exemption to the Contract Procedure Rules and/or the requirements set out in this Procurement Thresholds Annex must be in accordance with Rule 14 of the Contract Procedure Rules and the Exemptions Annex. An exemption may not be used for an Above Threshold Procurement. The presumption is in favour of competitive process i.e., undertaking further / mini competitions via a Framework Agreement except in circumstances where the only call off process under the Framework is via a direct award.

## **6. Frameworks**

There are a number of procurement organisations that provide Frameworks that have been compliantly procured under the PCR 2015 from which the Council can call off. Each Framework will have its own call-off process, which could be a mini-competition or direct award. The Procurement team will provide support on finding suitable frameworks and support you through the process to award via the Framework.

Any procurement that uses a Framework must be compliant with the terms of the Framework and the PCR 2015.



## GOODS AND SERVICES

The following table sets out the procurement procedures that apply to the purchase of goods and services by the Council.

For the avoidance of doubt, goods and services includes the procurement of consultancy and other professional services, and the procurement of agency staff.

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Up to £30,000 ("Small Procurement Threshold")	Expenditure control panel ("ECP") approval required	At least 1 written quote unless an appropriate contract already exists	Not applicable	Budget Manager, Head of Service, Assistant Director or Executive Director approval given	Must demonstrate Best Value
Above £30,000 and up to £74,999	Approval from Strategic Panel ("SAP") required	Undertake quotation process At least 3 written quotes	Exemption process approved in line with Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> <li>E-tendering Portal</li> <li>Contracts Finder</li> <li>Find a Tender (if Invitation to Tender issued)</li> </ul> <p>Does not apply when procuring via a Framework</p>
£75,000 to £213,477	Approval from SAP required	Competitively advertised tender, in accordance with advice from Procurement	Exemption process approved in line with Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> <li>E-tendering Portal</li> <li>Contracts Finder</li> </ul>

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
		Services, Legal Services and Finance			<ul style="list-style-type: none"> <li>Find a Tender (if Invitation to Tender issued)</li> </ul> <p>Does not apply when procuring via a Framework</p>
Above £213,477 (an Above Threshold Procurement)	Approvals Required from <ul style="list-style-type: none"> <li>SAP; and</li> <li>for contracts with a value over the Key Decision Threshold, Cabinet</li> </ul>	Procurement process to be conducted in accordance with PCR 2015	Exemption process subject to the PCR 2015 and Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> <li>E-tendering Portal</li> <li>Contracts Finder</li> <li>Find a Tender (if Invitation to Tender issued)</li> </ul> <p>Does not apply when procuring via a Framework</p>

## LIGHT TOUCH REGIME

The Light Touch Regime applies to the procurement of public service contracts for social care services and certain other specified contracts pursuant to Regulation 5 of the PCR 15 as follows:

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Up to the Small Procurement Threshold	ECP approval required	At least 1 written quote unless an appropriate contract already exists	Not applicable	Budget Manager, Head of Service, Assistant Director or Executive Director approval given	Must demonstrate Best Value
Above Small Procurement Threshold and up to £663,540	Approvals Required from <ul style="list-style-type: none"> <li>• SAP; and</li> <li>• for contracts with a value over the Key Decision Threshold, Cabinet</li> </ul>	Competitively advertised tender, in accordance with advice from Procurement Services, Legal Services and Finance	Exemption process approved in line with Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> <li>• E-tendering Portal</li> <li>• Contracts Finder</li> <li>• Find a Tender (if Invitation to Tender issued)</li> </ul> Does not apply when procuring via a Framework

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Above £663,540	<p>Approvals required from</p> <ul style="list-style-type: none"> <li>• SAP; and</li> <li>• for contracts with a value over the Key Decision Threshold, Cabinet</li> </ul>	<p>Procurement process to be conducted in accordance with PCR 2015</p>	<p>Exemption process subject to the Public Contracts Regulations 2015 in addition to Rule 14 of the Contract Procedure Rules</p>	<p>Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)</p>	<p>To be published on:</p> <ul style="list-style-type: none"> <li>• E-tendering Portal</li> <li>• Contracts Finder</li> <li>• Find a Tender</li> </ul> <p>Does not apply when procuring via a Framework</p>

## WORKS AND CONCESSIONS

The following table sets out the procurement procedures that apply to the procurement of works and concessions by the Council.

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Up to the Small Procurement Threshold	ECP approval required	At least 1 written quote unless an appropriate contract already exists	Not applicable	Budget Manager, Head of Service, Assistant Director or Executive Director approval given.	Must demonstrate Best Value
Above Small Procurement Threshold and up to £499,999	Approval required from SAP	Undertake quotation process  At least 3 written quotes	Exemption process approved in line with Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	<p>To be published on:</p> <ul style="list-style-type: none"> <li>• E-tendering Portal</li> <li>• Contracts Finder</li> <li>• Find a Tender (if Invitation to Tender issued)</li> </ul> <p>Does not apply when procuring via a Framework</p>

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Above £500,000 and up to £5,336, 937	Approvals required from <ul style="list-style-type: none"> <li>• SAP; and</li> <li>• for contracts with a value over the Key Decision Threshold, Cabinet</li> </ul>	Competitively advertised tender, in accordance with advice from Procurement Services, Legal Services and Finance	Exemption process approved in line with Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> <li>• E-tendering Portal</li> <li>• Contracts Finder</li> <li>• Find a Tender</li> </ul> Does not apply when procuring via a Framework
Above £5,336,937 (an Above Threshold Procurement)	Approvals required from <ul style="list-style-type: none"> <li>• SAP; and</li> <li>• for contracts with a value over the Key Decision Threshold, Cabinet</li> </ul>	Procurement process to be conducted in accordance with PCR 2015	Exemption process subject to the Public Contracts Regulations 2015 in addition to Rule 14 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> <li>• E-tendering Portal</li> <li>• Contracts Finder</li> <li>• Find a Tender</li> </ul> Does not apply when procuring via a Framework

## PROCUREMENT APPROVALS

The approvals in the table below apply to any proposal to:

- (a) proceed to tender;
- (b) award a contract;
- (c) waive any part of the Contract Procedure Rules;
- (d) extend a contract; and
- (e) make a variation to a contract with financial implications above the Key Decision Threshold.

Approver	Financial Threshold	Conditions
Cabinet or Cabinet Member with delegated authority (" <b>Delegated Cabinet Member</b> ")	Contracts with a value above the Key Decision Threshold	
Executive Director in conjunction with the Cabinet Member holding the relevant portfolio, or their delegate	Contracts with a value up to the Key Decision Threshold	For contracts above £350,000, the Executive Director and Cabinet Member must exercise the approval power personally and may not delegate
Executive Director, or their delegate	Contracts with a value up to £500,000	For contracts above £350,000, an Executive Director must exercise the approval power personally and may not delegate

Assistant Director	Contracts with a value up to £350,000	Not to be exercised by their delegate
Executive Director or Assistant Director	N/A	<ul style="list-style-type: none"><li>• the Delegated Cabinet Member has been consulted by means of a written report; and</li><li>• the written report sets down the nature of the contract, the tenders received and a recommendation as to the course of action proposed; and</li><li>• the Delegated Cabinet Member has signified in writing their approval to the course of action proposed</li></ul>



# Chapter 6 – Scheme of Delegation to Officers

## Part 1 – Functions which are Delegated to Officers

### 1. Introduction

- 1.1 This Scheme of Delegation sets out the powers that have been delegated to Officers by the Council and the Cabinet. It provides a framework, set by Members, for Officer decision-making.
- 1.2 Cabinet has delegated “executive decisions” to Officers in order to facilitate the smooth running of the Council. This reflects Members’ role as policy makers and Officers’ role as implementers of policy decisions.
- 1.3 This Scheme of Delegation also sets out specific authorisations granted to Officers by statute. Where an Officer is exercising a power given to them under legislation, they will be acting as the “Proper Officer” in respect of that power. While these powers are not strictly “delegated” by Council, they are included in this Scheme of Delegation to provide clarity on Officer decision-making as a whole. Proper Officers are authorised under statute to make decisions within the scope of that authorisation without recourse to the Cabinet or the Leader.
- 1.4 While this Scheme of Delegation sets out how delegations have been made at a high level, Chief Officers will, by necessity, involve other Officers in the decision-making process. Further detail in relation to how other Officers are authorised to make decisions is set out in section [ ].
- 1.5 This Scheme of Delegation will be kept under regular review to ensure that it provides an appropriate decision-making framework over time.
- 1.6 This Scheme of Delegation should be read in conjunction with the Financial Procedure Rules, the Contract Procedure Rules, the Council-owned Company provisions and the Intervention provisions.
- 1.7 For details of the role of the Commissioners, please see Part 0 of this Constitution. It should be noted that under the current arrangements with DLUHC, certain decisions (e.g., to undertake new borrowing) can only be made with the Commissioners’ agreement.

### 2. Principles of delegation

- 2.1 This Scheme of Delegation has been approved by Full Council and the Leader. It sets out the authorisations that have been given to Officers to make decisions on behalf of the Council. It covers all of the Council’s powers and duties, whether derived from legislation or otherwise, including all incidental powers and duties.

- 2.2 This Scheme of Delegation is intended to empower Officers to make decisions about how the Council's services are managed. As such, it is to be interpreted broadly, within the governance arrangements set out in this Constitution. However, Officers must be mindful when exercising delegated decision-making powers that they should act in a responsible and transparent manner and should not expose the Council to unnecessary risk.
- 2.3 Officers making decisions under this Scheme of Delegation will be politically restricted under section 2(1)(g) of the Local Government and Housing Act 1989. This means that while they hold a decision-making post in the Council, they may belong to a political party but may not have an active political role either in or outside the workplace.
- 2.4 When making a decision under this Scheme of Delegation, Officers should have due regard to any advice provided, and should consult relevant Members and Officers, in relation to the matter for decision. Officers should keep Members (including Local Members) informed (and consulted, where appropriate) about relevant decisions.
- 2.5 Officers should also consult the Monitoring Officer and/or the Section 151 Officer (as appropriate) when making decisions that have legal or financial implications. All reports to members that contain financial or legal implications should be reviewed by the Monitoring Officer and the Section 151 Officer before they are presented to members for decision-making purposes.
- 2.6 An Officer may choose not to make a decision that has been delegated to them if they feel that it is not appropriate for them to make that decision, for example, where the issue is sensitive or contentious, or where the decision could be construed as a policy rather than an operational decision. In these circumstances, the decision should be referred to the relevant Cabinet Member or Committee for decision.
- 2.7 Any person or body that has made a delegation under this Scheme of Delegation may resume responsibility for the function at any time, either in respect of a particular matter or generally, and so may exercise the function despite the delegation.
- 2.8 Certain decisions made under delegated powers must be recorded. Details of how and when decisions should be recorded are set out in section [ ].

### **3. Authorisations**

- 3.1 Specific delegations are made to the named Officers below. Details of the delegations made to each named Officer are set out in Part 2.

Chief Executive

Chief Financial Officer and Section 151 Officer

Executive Director Corporate Services and Monitoring Officer

Executive Director Adults, Housing and Health

Executive Director Children's Services

Director of Human Resources, Organisational Development and Transformation

Executive Director Place

Director of Public Health

Director of Strategy, Engagement and Growth

3.2 In addition, this Scheme of Delegation allows any other Officer to exercise delegated powers if they have been authorised to do so directly by an Officer named in Part 2. These delegations will be documented in an internal scheme of delegation for each Directorate, for which the relevant Executive Director is responsible.

3.3 The following principles apply to authorisations to Officers:

- (a) authorisations can be general or specific in terms of the powers delegated and the Officers to which the authorisation applies;
- (b) delegated powers are subject to any restrictions and limits set out in the authorisation;
- (c) no authorisation may allow an Officer other than the Chief Executive or an Executive Director to:
  - (i) make a decision with financial implications above the Key Decision Threshold (see section 5); or
  - (ii) make a decision which the authorising Officer could not make under this Scheme of Delegation; and
- (d) all authorisations and decisions made by Officers under delegated arrangements must be recorded in a register maintained by the Monitoring Officer.

3.4 An Officer to whom a power is delegated may refer the matter to the Chief Executive, or to the person or body that made the delegation, for their determination. It will be appropriate for the Officer so to refer a matter:

- (a) To the Chief Executive where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of the Council's functions.
- (b) To the person or body that made the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Members to determine; or could, by its scale or complexity expose the

Council to major corporate risk which cannot be contained within Directorate Budgets.

- 3.5 The Chief Executive may exercise any power delegated to another Officer, including a Chief Officer/Director, except the statutory functions of the Monitoring Officer and the Section 151 Officer. The Chief Executive and/or Chief Officers/Directors may exercise any power delegated to an Assistant Director.
- 3.6 The Chief Executive is authorised to make any arrangements required (including re-allocation of delegations) for the necessary discharge of the Council's functions, for example, during a period of absence of an Officer to whom powers have been delegated.

#### **4. Directorate schemes of management**

- 4.1 Each Chief Officer/Director is required to agree with the Chief Executive an internal scheme of management for their Directorate. Each scheme of management will set out how sub-delegations of delegated powers under this Scheme of Delegation have been made. Officers will make decisions in accordance with their Directorate scheme of management.
- 4.2 The internal scheme of management for each Directorate will be approved by the Chief Executive and reviewed annually.

#### **5. Financial limits**

- 5.1 The financial limits for decision making are as set out in the Financial Limits Annex.
- 5.2 Save as provided otherwise in this Constitution, an Officer who is not a permanent employee of the Council may not make any decision with financial implication above the Key Decision Threshold.

#### **6. Limits on delegations**

- 6.1 Officers may not make a decision that is:
- (a) contrary to the Policy Framework (any such decision should be presented to Cabinet, who will make a recommendation to Full Council on whether the decision should be made);
  - (b) contrary to applicable law and this Constitution (including Standing Orders, the Contract Procedure Rules and the Finance Procedure Rules);
  - (c) outside any applicable spending limit;
  - (d) not supported by adequate budgetary provision in respect of its financial implications;

- (e) a Key Decision, other than as specifically set out in this Scheme of Delegation (see section 5);
  - (f) contrary to any procedural or other requirements set out by the Section 151 Officer and/or the Monitoring Officer.
- 6.2 Officers are not authorised to change fees, charges or concession policies, save that Officers may:
  - (a) apply inflationary increases to fees, charges and concession policies;
  - (b) determine fees for one-off events or activities; and
  - (c) determine the fees to be charged to other public bodies for services provided by the Council on a commercial or full-cost recovery basis.
- 6.3 This Scheme of Delegation does not authorise any Officer to make a compulsory purchase order, or the acquisition of an interest in land in anticipation of future requirements.
- 6.4 Unless otherwise specified in this Scheme of Delegation, Officers are not authorised to confirm any order or grant of any permission, consent or licence or other determination where a response is received expressing opposition to the proposed course of action.
- 6.5 An Officer may not appoint or dismiss a Chief Officer or deputy Chief Officer except:
  - (a) to make a temporary or interim appointment of a deputy Chief Officer for up to one year (with any decision to re-appoint or extend the appointment beyond one year being referred to the Senior Management Employment Committee);
  - (b) to dismiss a person appointed above (a) above; or
  - (c) to make a decision relating to a Head of Service reporting to a Director.

Any proposed appointment of a deputy Chief Officer must be notified to the Leader and the Senior Management Employment Committee (if required by the Leader). No Officer is authorised to make a decision about the remuneration of a Chief Officer or deputy Chief Officer other than one appointed under section 6.5(a) above, other than to adjust their pay to the assessed “rate for the job” for their pay grade.
- 6.6 Before making any decision set out below, an Officer must consult the Section 151 Officer and the Monitoring Officer (or their nominee(s)):
  - (a) changing the management structure of the Council;

- (b) a decision that would affect the pay of more than one employee or contractor; and/or
- (c) adopting any policy or plan relating to the exercise of the Council's functions as an employer.

6.7 No Officer other than the Monitoring Officer shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Monitoring Officer.

## **7. Conflicts of Interest**

7.1 Officers are responsible for identifying whether they have a conflict of interest in respect of any matter and notifying any such conflict of interest to the Council. Where an Officer has a conflict of interest in respect of a matter that has been delegated to them, they shall not exercise that delegated power unless approved by their line manager, the Chief Executive, or the Monitoring Officer.

7.2 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the one of the Directors designated by the Chief Executive, where the designated Director is unable to act the matter shall be discharged by the Directors collectively, or by such Officer as they shall determine for this purpose.

7.3 Where a Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter or allocate the matter to another Officer.

7.4 Where the Monitoring Officer is unable to act on a matter in their statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.

7.5 Where the Monitoring Officer is unable to act on a matter of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.

7.6 Where any other Officer is unable to act on a matter that Officer's line manager or the Chief Executive may arrange for another Officer to discharge the matter.

## **8. General delegations**

8.1 Subject to the Financial Procedure Rules and the Financial Limits Annex, the Officers listed in section [2.1] above have delegated authority to exercise any of the Council's functions and powers so far as necessary or conducive to provide the service for which they have management responsibility, including (but not limited to):

- (a) managing the resources available to deliver the service for which they are responsible (including staff, materials and equipment) in

accordance with the Council's policies on pay, recruitment, procurement and any other applicable policy;

- (b) dealing with invitations and acceptances of tenders, and entering into contracts, in accordance with the Contract Procedure Rules;
- (c) implementing a policy or decision previously approved or taken by Full Council, a committee, the Cabinet or a Cabinet Member and/or anything incidental to, or required to facilitate, such a decision;
- (d) taking enforcement action, serving any notice, or making any order; and/or
- (e) authorising other Officers to take steps necessary or conducive to the performance of any function under this section 5.1.

8.2 For the avoidance of doubt:

- anything which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive; and
- any decision identified as a key decision in the Council Constitution will require Cabinet approval unless specific decision-making arrangements as set out in this Scheme of Delegation apply.

## Part 2 – Specific Delegations and Statutory Functions

### 1. Specific delegations

In addition to the general delegations set out in Part 1, the following named Officers shall have additional specific delegations set out in this Part 2.

#### 1.1 The Chief Executive

The following executive functions have been delegated to the Chief Executive:

- (a) To act as the Council's Head of Paid Service and make any decision on behalf of the Council as an employer, including determining the management structure of the Council.
- (b) To exercise corporate Council functions.
- (c) To incur expenditure and delegate responsibility to incur expenditure in the event of a civil emergency.
- (d) In cases of urgency or emergency, to make any decision on behalf of the Council (after consultation with the Leader, or in their absence, the deputy Leader), including Key Decisions and any decision delegated to another Officer under this Scheme of Delegation (save that, the Chief Executive shall not be authorised to make a decision on behalf of the Section 151 Officer or the Monitoring Officer in respect of their statutory duties).
- (e) for the purposes of the Local Government (Contracts) Act 1997, have authority with the Chief Finance Officer, and the Monitoring Officer and Assistant Director of Law and Governance – to sign each certificate given under the Act
- (f) with a nominee of the Director of HR, Organisational Development and Transformation, to make decisions on employee terms and conditions, (including procedures for dismissal), except those relating to:
  - (i) Chief Executive, Chief Officers/Directors or other Senior Officer posts
  - (ii) changes to the Council's corporate pay grade structure
  - (iii) approving redundancies (other than those which arise purely as a matter of law) and early retirement applications, where there is a cost involved, including access to superannuation benefits and discretionary severance payments where the decision will be taken after advice from the Monitoring Officer and in consultation with the Section 151 Officer and the Leader



- (iv) a settlement agreement for Chief Officers/Deputy Chief Officers where the decision will be taken by the General Services Committee
- (g) be responsible for determining Emergency Planning and Management Services with operational responsibility for the provision of these services being delegated to the Strategic Lead as Deputy to the Chief Executive in relation to this matter
- (h) be responsible for making appropriate management arrangements for the discharge of the following functions:
  - (i) Performance Management arrangements throughout the Council
  - (ii) The efficiency programme of the Council
  - (iii) Communications, Policy and Performance
- (i) Overall corporate and commercial management of any external strategic partners of the Council including, Strategic Information and Communication Technology, Strategic Procurement, Strategic Human Resources / Organisational Development and Customer Services
- (j) Efficient management of the Thurrock Local Strategic Partnership, partnerships governance and the development of the sustainable community strategy

The Chief Executive will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Local Government and Housing Act 1989</b>	
Section 4	Chief Executive
<b>Local Government Act 1972</b>	
Section 83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office
Section 84(1)	Receipt of notice of resignation of elected Member
Section 88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair
Section 89(1)	Notice of casual vacancy
Section 100A – 100H (except 100(D))	Admission of public (including press) to meetings

Legislation	Function
Section 100(D)	Compile list of background papers for reports and make copies available for public inspection
Section 115(2)	Receipt of money due from Officers
Section 225	Deposit of documents
Section 248	Officer who will keep the Roll of Freemen
Schedule 12, Para 4(2)(b)	Signing of summons to Council meeting
Schedule 12, Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent
<b>Local Government Act 1974</b>	
Section 30(5)	To give notice that copies of an Ombudsman's report are available
<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
Section 41(1)	The Officer who will certify copies of evidence of resolutions and minutes of proceedings
<b>Representation of the People Act 1983</b>	
Section 8	Electoral Registration Officer
Section 35(1)	Returning Officer
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection
<b>Local Elections (Principal Areas) (England) Rules 2006</b>	
Schedule 2, Rule 53	Retention and public inspection of documents after an election
<b>Local Authorities (Standing Orders)(England) Regulations 2001</b>	
Schedule 1 Part 2	Notification of appointment or dismissal of Officers

## 1.2 Chief Finance Officer and Section 151 Officer

The Chief Finance Officer will act as the Council's Officer appointed under section 151 of the Local Government Act 1972 and to make such decisions as are necessary for the proper administration of the Council's financial affairs. This includes a number of statutory responsibilities, such as:

- overall responsibility for setting and managing revenue and capital Budgets, developing and delivering Treasury Management strategies, and for updating the Council's medium-term financial plans.
- a personal responsibility to consider and report on the adequacy of working balances and reserves
- a duty to issue a public report if they consider that the Council cannot balance its budget in any given financial year, and
- the requirement to maintain adequate accounting records and systems of internal control

The Chief Finance Officer shall also exercise corporate Council functions in relation to accountancy, counter fraud and investigation, internal audit, insurance and risk, revenues and housing benefits, procurement, essential living fund, exchequer services, information technology, democratic services and elections.

Notwithstanding the foregoing, the Chief Finance Officer is not authorised in respect of the following:

- (a) The approval of virements, carry forwards and writing off irrecoverable debts above the limits contained within the Financial Procedure Rules. These require Member approval in accordance with the Financial Procedure Rules and Financial Limits Annex..
- (b) The determination of applications for mandatory and discretionary non-domestic rate relief and discretionary housing benefit outside the approved scheme.

The Chief Finance Officer will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Local Government Act 1972</b>	
Section 151	Chief Finance Officer
Section 146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities
Section 228(3)	Accounts for inspection by any Member of the Council

### 1.3 Executive Director Corporate Services and Monitoring Officer

The Executive Director Corporate Services is authorised:

- (a) To have responsibility for Legal and Member Services.
- (b) To act as the Council's Monitoring Officer under sections 5 and 5A, Local Government and Housing Act 1989.
- (c) To take any action to implement any decision taken by or on behalf of the Council, including the signature or service of statutory and other notices and any document.
- (d) To institute, defend, settle or participate in any legal proceedings in any case where such action is necessary, in the view of the Director of Law and Governance, to give effect to the Council's decisions or in any case where the Director of Law and Governance considers that such action is necessary to protect the Council's interests.
- (e) To instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the Council.
- (f) To enter objections to any proposal affecting the Council, the Council's area or the inhabitants of the Council's area.
- (g) to be responsible for the following:
  - (i) Human Resources, Organisational Development and Payroll.
  - (ii) Resourcing and Improvement.
  - (iii) Information Management.
  - (iv) Transformation.

The Executive Director Corporate Services will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Local Government and Housing Act 1989</b>	
Sections 5 and 5A	Monitoring Officer
Section 2(4)	Receipt of the list of politically restricted posts
<b>Local Government Act 1972</b>	
Section 229(5)	Certification of photographic copies of documents
Section 234	Authentication of documents
Section 238	Certification of byelaws

Legislation	Function
<b>Local Government (Committees and Political Groups) Regulations 1990</b>	
Regulation 8	For the purpose of the composition of Committees and nominations to political groups
<b>Local Authorities (Members' Interests) Regulations 1992</b>	
Regulations 3, 4, 5 and 6	Functions relating to keeping a record of Members' interests
<b>The Local Authorities (Executive Arrangements) Access to Information (England) Regulations 2000</b>	
Regulation 3	Recording of Executive decisions made at meetings of the Executive Board
Regulation 5	Inspection of documents following Executive decisions
Regulation 6	Inspection of background papers
Regulation 9	Individual Executive decisions
Regulation 11	Access to agenda and connected reports
Regulation 12	Publicity in connection with key decisions
Regulation 15	General exception relating to the Forward Plan
Regulation 17	Members' rights of access to documents
Regulation 21	Confidential/exempt information and exclusion of public from meetings

#### 1.4 Executive Director Adults, Housing and Health

The Corporate Director of Adults, Housing and Health shall act as the statutory Officer for adult social services under the Care Act 2014 and will be responsible for all matters relating to the care and support of vulnerable adults and the safeguarding of vulnerable adults. The duties include:

- (a) Adult Social Care Services (commissioning contracts and procurement service).

- (b) Housing Management.
- (c) Adult Social Care Fieldwork (safeguarding and legal intervention, mental health for older people, complex care, learning disabilities, east and west independence and prevention teams, rapid response and assessment, preparing for adulthood disabled young people 14-25, local area co-ordinators and community led support).
- (d) Adult Social Care Provider Services (carers centre services, Collins House residential care home, extra care, joint reablement team, Thurrock homecare and wellbeing teams).
- (e) Health and Care Transformation.
- (f) Community Development and Equalities Team.
- (g) Housing (business improvement, rents and welfare, tenancy services, travellers' service, estate services, sheltered housing, housing asset management, anti-social behaviour, housing safeguarding, private housing services, housing allocation and registration, housing solutions (housing options and temporary accommodation), concierge and CCTV).

The Executive Director Adults, Housing and Health will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Care Act 2014</b>	Corporate Director of Adult Social Services
<b>National Assistance Act 1948</b>	
Section 47	Removal to suitable premises of people in need of care and attention
<b>National Assistance (Amendment) Act 1951</b>	
Section 1	Certification of the need for immediate action

### 1.5 Executive Director Children's Services

The following executive functions have been delegated to the Executive Director Children's Services:

- (a) The Executive Director Children's Services shall act as the statutory Officer under section 18(1) of the Children's Act 2004 and will be responsible for all matters relating to the education of children and young people, for the safeguarding of vulnerable children and for promoting the general wellbeing of children and

families and services as well as all learning and cultural services.  
 The duties include:

- (i) Children's Social Care, youth offending and brighter futures early intervention.
- (ii) Children and Families.
- (iii) Learning and Universal Outcomes (school improvement, children with special needs and disabilities and admissions).
- (iv) Schools Transport.
- (v) Children's Commissioning and service transformation.

The Executive Director Children's Services will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Children Act 2004</b>	
Section 18	Corporate Director of Children's Services

### 1.6 Executive Director Place

The areas of responsibility of the Executive Director Place shall be:

- (a) Business Development.
- (b) Traded Services.
- (c) Property and Development Teams.
- (d) Lower Thames Crossing.

### 1.7 Director Public Health

The Director Public Health shall act as the statutory Officer under section 73A of the National Health Service Act 2006, and in particular will act as lead for the delivery of public health services within Thurrock. The areas of responsibilities of the Director of Public Health shall be:

- (a) Health Improvement (address inequalities, improving wider determinants of ill health, strengthening families and communities, improving lifestyles).
- (b) Healthcare Public Health (improving clinical effectiveness, improving service efficiency, planning new services, audit and

evaluation, clinical governance and ensuring equity of provision of and access to services.

- (c) Health Protection (controlling infectious diseases, chemicals and poisons, radiation, emergency response and environmental health hazards).
- (d) Children and Young People's Public Health.
- (e) Health Improvement and Protection.
- (f) Environment, Place and Community based Public Health.
- (g) Health Intelligence, Healthcare and Social Care Public Health.

The Director Public Health will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>National Health Service Act 2006</b>	
Section 73A	Director of Public Health
Section 73A(1)(a)	The exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1
Section 72A(1)(b)	The exercise by the authority of its functions by virtue of section 6C(1) or (3)
Section 73A(1)(c)	Anything done by the authority in pursuance of arrangements under section 7A
Section 73A(1)(d)	The exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health
Section 73A(1)(e)	The functions of the authority under section 325 of the Criminal Justice Act 2003
Section 73A(1)(f)	Such other functions relating to public health as may be prescribed

### 1.8 Director of Public Realm

The areas of responsibilities of the Director of Public Realm shall be:

- (h) Street Scene and Leisure (clean and green services, recreation and leisure, waste services, enforcement and community protection).



- (i) Highways, Fleet and Logistics (highways infrastructure, network management, passenger transport unit and fleet management).
- (j) Clean and Green Services (street cleaning, parks and open spaces, burial services and arboriculture).
- (k) Recreation and Leisure.
- (l) Waste Services (waste collection, disposal and commercial waste).
- (m) Household Waste and Recycling Centre.
- (n) Enforcement and Community Protection (enforcement, Thurrock Community Safety Partnership, local community and visibility and counter extremism and terrorism).
- (o) Planning Transport and Public Protection.
- (p) Development Management (planning applications, planning committee, planning enforcement and building control).
- (q) Strategic Planning (local plan and joint strategic plan across South Essex).
- (r) Transport Development (supporting growth agenda, local transport scheme, funding bids).
- (s) Public Protection (environmental health, trading standards, emergency planning, food safety, licensing and health and safety).

The Director of Public Realm will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Local Government Act 1972</b>	
Section 191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent
Schedule 14, Para 25	Certification of resolution concerning the Public Health Acts 1875 to 1925
<b>Local Authorities Cemeteries Order 1977</b>	
Regulation 10	To sign exclusive rights of burial
<b>Planning and Compulsory Purchase Act 2004</b>	
Section 33A(1)	Duty to cooperate
<b>Building Act 1984</b>	

Legislation	Function
Section 193	Authentication of documents

### 1.9 Director of Strategy, Engagement and Growth

The areas of responsibility for the Director of Strategy, Engagement and Growth shall be:

- (a) Strategy and Corporate Performance.
- (b) Communications.
- (c) Web.
- (d) Customer Services.
- (e) Performance, Quality and Business Intelligence (Social Care, Education).
- (f) Economic Development.

### 1.10 Chief Planning Officer

The Chief Planning Officer will be the Proper Officer in respect of the following statutory functions:

Legislation	Function
<b>Weights and Measures Act 1985</b>	
Section 72(1)(a)	Chief Inspector of Weights and Measures
<b>Food Safety Act 1990</b>	
Section 49(3)(a)	Authentication of documents
<b>Public Health Act 1936</b>	
Section 85(2)	To serve notice requiring remedial action where there are verminous persons or articles
<b>Public Health Act 1961</b>	
Section 37	Control of any verminous article
<b>Public Health (Control of Disease) Act 1984</b>	
Section 48	Certifying that the retention of a body in a building would endanger health

Section 59	Authentication of documents relating to matters within his/her responsibility
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## 2. Recording decisions

2.1 Any decision made by an Officer under this Scheme of Delegation that:

- (a) grants a permission or licence;
- (b) affects the rights of an individual; or
- (c) awards a contract or incur expenditure which, in either case, materially affects the Council's financial position.

must be recorded in writing. For the purposes of (c) above, expenditure of £500,000 or more will be deemed to have a material effect on the Council's financial position.

2.2 This written record should be produced as soon as practicable after the decision has been made, and should contain the following information:

- (a) the date of the decision;
- (b) details of the decision and the reasons for it;
- (c) details of any alternative options considered and rejected; and
- (d) where the decision has been delegated under a specific express authorisation, the names of any Member who has declared a conflict of interest in relation to the decision.

2.3 The written record of the decision, together with any background papers, must be made available for inspection by Members of the public as soon as reasonably practicable after the decision has been made:

- (a) at all reasonable hours at the Civic Offices;
- (b) on the Council's website; and
- (c) by such other means that the Council considers appropriate.

2.4 The written record of the decision must be retained and made available for public inspection for at least 6 years. Any background papers referred to by the decision-maker should be retained and made available for public inspection for at least 4 years. The relevant retention period will begin with the date on which the decision, to which the written record and any background papers relates, was made.

- 2.5 For the avoidance of doubt, Chapter 8 (Access to Information Procedure Rules) of this constitution shall apply to any record of a decision, and the Council is not required to make public any confidential or exempt information.
- 2.6 Officers are responsible for the following in respect of recording a decision they have made:
- (a) ensuring that it is properly recorded in accordance with this section 2 and that the record of that decision is available to other Officers, to Members and to the public, particularly if the decision relates to a change in policy or practice, or a financial commitment not already included in approved Budget plans;
  - (b) ensuring that any decision they make is implemented in accordance with that decision; and
  - (c) responding to any request for an explanation of their reasons for the decision from, and accounting for its implementation to, other Officers, Members and statutory regulators.

## **Part 3 – Investment Delegations**

### **1. Introduction**

1.1 Local authorities have certain powers to make investments in order to utilise surplus cash, as appropriate (and in accordance with the Constitution), to generate income in a prudent manner that does not expose the Council to unnecessary risk. This section sets out the basis on which the Council is authorised to make investments and the governance controls around investment decision-making.

1.2 Investments include all of the Council's financial assets as well as other non-financial assets that the organisation holds primarily or partially to generate a profit, for example, investment property portfolios. Investments also include loans made by the Council to any Council-owned Company, to a joint venture, or to a third party, and equity investments, for example shares in limited companies. The term does not include pension funds or trust fund investments, which are subject to separate regulatory regimes.

### **2. Investment strategy**

1.3 For each financial year, the Council will prepare an Investment Strategy. The Investment Strategy should contain the disclosures and reporting requirements specified in government's statutory guidance on local government investments.

1.4 The Council has also put in place a Disinvestment Strategy, setting out how it proposes to rationalise previous investment holdings which no longer represent good value for money.

1.5 The Investment Strategy and Disinvestment Strategy will be presented to full Council for approval before the start of the financial year.

1.6 Any material change to these strategies must be approved by full Council before the change is implemented.

1.7 When setting its Investment Strategy, the Council must have regard to:

- relevant statutory requirements, and statutory guidance
- CIPFA guidance, primarily Treasury Management in the Public Services: Codes of Practice and Cross-Sectoral Guidance Notes and the CIPFA Prudential Code for Capital Finance in Local Authorities
- any specific requirements from Commissioners and DLUHC.

### **3. Investment principles and governance controls**

2.2 The following principles shall apply to any decision by the Council to make an investment:

- (a) All investments should be made in accordance with the Council's Treasury Management Indicators.
  - (b) The Council should consider the diversity of its investment portfolio before making a decision to make an investment to ensure that the risk profile of the Council's total investment portfolio is appropriate.
  - (c) Before any significant investment is made, the Council should undertake appropriate due diligence and risk assessment, engaging experts as required. This may require the production of a business case for a specific investment, setting out the risks and anticipated benefits of the investment and the likely returns available to the Council.
  - (d) The risk of any investment should be balanced against the Council's requirement to deliver services and the over-riding requirement to rationalise investment balances in order to reduce debt.
  - (e) The decision to make any significant investment should involve the Executive and the wider Council and should be subject to appropriate scrutiny.
  - (f) Where the Council proposes to invest in private sector markets, appropriate expertise must be engaged to manage commercial entities to ensure that the Council's role remains clear, and those commercial entities are managed effectively.
- 2.3 For the purposes of this section 2 a "significant" investment is one which exceeds £0.5m in value and/or does not relate to the Council's municipal functions (i.e., it would be classed as a commercial investment for the generation of income).
- 2.4 All investment decisions must be approved by the Section 151 Officer, the Chief Executive and the Cabinet Member for Finance.
- 2.5 Investments above £0.5m must be approved by Full Council.
- 2.6 Any proposed investments which would need to be financed from borrowing must be approved by the Commissioners.

## Part 0 – Intervention

### Introduction

In September 2022, the Secretary of State for Levelling Up, Housing and Communities exercised his powers under sections 15(5) and (6) of the Local Government Act 1999 in relation to the Council to secure its compliance with the Best Value Duty. Sections 15(5) and (6) provide as follows:

- (5) *Where this section applies in relation to an authority the Secretary of State may direct the authority to take any action which he considers necessary or expedient to secure its compliance with the requirements of this Part.*
- (6) *this section applies in relation to an authority the Secretary of State may direct—*
  - (a) *that a specified function of the authority shall be exercised by the Secretary of State or a person nominated by him for a period specified in the direction or for so long as the Secretary of State considers appropriate, and*
  - (b) *that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of that function and shall provide such assistance as the Secretary of State or his nominee may require for the purpose of exercising the function.*

The Secretary of State has issued directions to the Council and has appointed Commissioners to oversee the exercise of the Council's functions.

### The role of Commissioners

Commissioners have been appointed to provide intervention support to the Council. Their powers, which are summarised in this Part 0 and set out in full detail in the [Explanatory Memorandum](#) dated 16 March 2023 (as updated from time to time), supersede anything to the contrary in the Constitution.

The Commissioners have full powers, as necessary, to exercise the following functions:

- the governance, scrutiny and transparency of strategic decision making by the Council.
- the financial governance and scrutiny of strategic financial decision making by the Council.
- the requirement under section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Council's financial affairs (see below); and

- to instruct the Council to carry out improvement and transformation work

The intervention package includes the appointment of an independent Managing Director Commissioner, to support the Council's capacity to deliver against its improvement plan.

The Commissioners are accountable to the Secretary of State, in that they have been nominated by them and can have their nomination withdrawn by them. The Commissioners will report to the Secretary of State on the progress of the intervention on a six-monthly basis, or at such other times as the Secretary of State might agree with the Commissioners.

The above interventions will remain in force until 1 September 2025, unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

All references to the discharge of these functions and responsibilities in the Council's Constitution and Financial Procedure Rules should be considered in the context of the Directions summarised above. Although, in practice, most decisions are expected to be taken by the Council, Commissioners will expect to be involved in decisions affecting the Council's financial position and any proposed changes to corporate governance arrangements. The following additional requirements will also apply:

### **Managing Director Commissioner**

For the duration of his appointment, the Managing Director Commissioner shall exercise the role, powers and duties of the Chief Executive, including Head of Paid Service. Any reference in this Constitution to the Chief Executive (including, for the avoidance of doubt, in the Scheme of Delegation) shall be read as a reference to the Managing Director Commissioner.

### **Section 114 notice**

Section 114(3) of the Local Government Finance Act 1988 requires that:

*The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.*

On 19 December 2022, the Section 151 Officer issued a report under section 114(3) ("Section 114 Notice"). As a consequence, the Council is restricted from making any new expenditure, with the exception of expenditure required to safeguard vulnerable people, to provide statutory services, and to meet pre-existing financial commitments.

Permitted expenditure includes:

- existing staff payroll and pension costs;



- expenditure on goods and services that have already been received;
- expenditure required to deliver Council services to a minimum level;
- urgent expenditure to safeguard vulnerable residents;
- expenditure required under existing contracts and legal agreements;
- expenditure funded through ring-fenced grants; and
- expenditure required to achieve value for money and/or mitigate additional costs.

### **Measures in place following the Section 114 Notice**

Local authorities are under a duty to deliver a balanced budget. CIPFA guidance suggests that this is a financial plan based on sound assumptions which shows how income will equal spend over the short- and medium-term. While the Council is unable to do this, the following restrictions associated with the Section 114 Notice will remain in effect:

1. Council purchasing will only be approved for essential items and as permitted under legislation. Any expenditure that is not essential, or can be postponed, should not be incurred, and essential spending will be monitored.
2. Treasury Management strategies will be focused on reducing Council borrowing and maximising capital receipts.
3. New capital expenditure will only be approved for essential operational purposes. Prudential borrowing should not be used to fund new commitments other than in very exceptional circumstances, as approved by the Chief Finance Officer.
4. The Council will implement spending control panels to reduce revenue and capital spending.

Guidance on how this is to be delivered in practice will be provided by the Chief Finance Officer and must be complied with by Officers.

The Commissioners' role in relation to these measures is to provide scrutiny, advice and challenge to the Council to ensure that it implements an effective savings plan, achieves financial sustainability, and closes the short- and long-term budget gaps identified in the Medium Term Financial Strategy.

## **Status of this Part 0**

This Part 0 shall apply for the period during which powers are transferred to the Commissioners and/or the Section 114 Notice remains in effect (as applicable). This Part 0 (or part thereof) may be disappplied by the Monitoring Officer when its provisions cease to apply. The Monitoring Officer may amend the provisions of this Part 0 as required, in consultation with the Chief Finance Officer and the Commissioners.

Approval of Full Council will not be required for the disapplication of, or amendment to, this Part 0. However, any such disapplication or amendment should be notified to Full Council at the next appropriate meeting.

## **Conflict of provisions**

Where a provision of this Constitution (including, for the avoidance of doubt, in the Scheme of Delegation, the Finance Procedure Rules and/or the Contract Procedure Rules) conflicts or is inconsistent with this Part 0, the provisions of this Part 0 shall prevail.

## **Part 3 – Council-owned Companies**

### **Introduction**

The Council has various statutory powers to enable it to set up a company or companies, which may take various forms. This Part 3 refers to Council-owned Companies but applies equally to any vehicle the Council may incorporate or otherwise establish under its statutory powers. The provisions in this Part 3 apply to existing Council-owned Companies and any similar vehicles that the Council sets up or in which it decides to participate.

Any Council-owned Company must be managed effectively, and the Council must ensure that any Council-owned Company delivers the objectives for which it was established. There must also be transparent and robust governance in place for any Council-owned Company so that the Council has effective and appropriate oversight of its activities.

Due to the Council's current financial circumstances, it is not envisaged that any new limited company arrangements will be established unless they can clearly demonstrate the capacity to deliver significant financial savings with limited financial outlay and minimal exposure to risk. However, for completeness, the following considerations should apply:

### **Considerations for setting up a Council-owned Company**

Before setting up a Council-owned Company, the Council should take the following factors into consideration:

- The legal form the Council-owned Company will take;
- A realistic assessment of all potential risks;
- How the Procurement Regulations apply, including the Teckal exemption;
- How and when the Council-owned Company will be incorporated and registered;
- The provisions of the Council-owned Company's Articles of Association;
- How, and in what circumstances, the Council will exit the Council-owned Company in the future;

- Who the directors of the Council-owned Company will be, including how the Council will be represented on the board;
- The Shareholder arrangements for the Council-owned Company;
- The reporting and monitoring arrangements for the Council-owned Company; and
- The business case and the business plan for the Council-owned Company, setting out its alignment with the Council's objectives, and the potential financial impact of the Council-owned Company (including the amount and timing of any financial support it will require).

When setting up a Council-owned Company, the Council should review its proposals against the checklist appended to this Part 3.

### **Project plan for setting up a Council-owned Company**

Once the decision to set up a Council-owned Company has been made, the Council will need to deal with implementing the project plan. This will include practicalities such as:

- IT system;
- setting up a new bank account;
- payroll providers;
- year-end accounts;
- VAT returns;
- establishing budgets and monitoring procedures;
- establishing procurement processes;
- establishing clear lines of authority and accountability in all areas;
- data storage and handling;
- internal and external audit requirements; and
- discussing an exit strategy.

## **Council-owned Company governance**

Decisions and recommendations in relation to Council-owned Companies should be made by reference to the principles set out below:

### **Integrity and Accountability**

The Council should ensure that its Council-owned Company procedures operate in a way that protects the commercial interests of the Council-owned Company while ensuring that that the Council can carry out its functions as an investor, as a trustee of public funds and as a Council committed to due responsibility for the exercise of its functions. The Council should also ensure that Council-owned Companies are managed in a way that seeks to avoid and/or mitigate exposure to unnecessary financial risk or to unexpected financial outlays.

In addition:

- an Executive Committee or the Leader should be able to make decisions based on complete and accurate consideration of Council-owned Company business plans or proposals;
- an Executive Committee or the Leader should be able to evaluate social and financial benefits and returns in line with the business plan;
- the Overview and Scrutiny Committee(s) should be able to exercise their powers in relation to the Executive's decision making in respect of Council-owned Companies; and
- any requests for additional funding should be subject to the Council's usual authorisation requirements as set out in the Scheme of Delegation and Financial Limits Annex.

### **Controls and Freedoms**

A Council-owned Company needs to have sufficient freedom that it can achieve its objectives. However, this needs to be balanced against the need for the Council to retain sufficient control to ensure that:

- its investment is protected,
- appropriate social and financial returns on investment can be achieved in line with the Council-owned Company's business case and business plan,

- activities of the Council-owned Company are conducted in line with the values of the Council, and
- activities undertaken by the Company do not expose the Council to financial risk.

### **Councillors**

Councillors have an important role to play in the governance of Council-owned Companies. The Council should ensure that Councillors are provided with sufficient training (at induction, and on an ongoing basis) so that they understand their role in relation to Council-owned Company governance.

Councillors should be mindful of:

- their legal duties;
- stewardship of assets;
- the provisions of a Council-owned Company's governing documents;
- the external environment; and
- the structure of the Council and how Council-owned Companies fit within it.

Councillors should consider these issues in their various roles, including as Members of the Council, Executive Members, Overview and Scrutiny Committee members / chairs, members of the [Shareholder Committee], and as directors of a Council-owned Company board (as appropriate).

### **Officers**

Officers should also be aware of Council-owned Company governance and should ensure that it is complied with effectively and that the Lawyers in Local Government Code of Practice and the CIPFA local authority owned companies good practice guide are followed. [ ] is responsible for obtaining and reviewing monthly financial report packs including cash flow and P&L forecasts.

Where Officers are appointed as Board members of a Council-owned Company, they should be made aware of the potential for conflicts of interest and how this can be

avoided. Before accepting any Board member appointments, Council Officers should ensure that they have:

- appropriate levels of relevant expertise and experience;
- sufficient time capacity to undertake the role effectively;
- sufficient knowledge and understanding of the content of the Financial Procedure Rules and this Part 3 (Council-owned Companies) to enable them to perform the role in line with the governance principles they contain; and
- sufficient authority to make decisions on the Council's behalf.

### **Decision Making**

Roles and responsibilities of all parties connected with a Council-owned Company need to be clearly defined, and clear decision-making processes should be put in place.

The creation of any new Council-owned Company (including a subsidiary of an existing Council-owned Company), or a significant change in the purpose of an existing Council-owned Company is a Key Decision and will require a business case. The relevant Portfolio Holder will be consulted on the development of the business case, which must be approved in accordance with the executive decision-making provisions in this Constitution.

The Council is the Shareholder (i.e., the owner) of each Council-owned Company. The Shareholder can appoint a Shareholder Representative (usually the Chief Executive of the Council or a Corporate Director) to attend General Meetings of Council-owned Companies. The Shareholder Representative may vote on behalf of the Council (as Shareholder) at any meeting of the Council-owned Company board, based on a direction of the Shareholder Committee.

The Council has a Shareholder Committee that receives reports in relation to Council-owned Companies and the Shareholder Representative for any Council-owned Company will report to this Committee. It is also the primary decision-making body in relation to Council-owned Companies on behalf of the Council.

Reserved matters (i.e., matters reserved for decision by the Council) are approved by the Shareholder or Shareholder Committee or referred to an Executive Committee or the Leader (as appropriate). Reserved matters should be recorded in a Council-owned Company's Articles of Association or Shareholder Agreement.

Decisions on reserved matters follow the Council's executive decision-making processes. The process for approving and recording decisions relating to reserved matters should be defined in the relevant Shareholder Agreement and should be consistent across all Council-owned Companies as far as possible.

Decisions on reserved matters relating to companies in which the Council has an interest but is not the sole Shareholder, will be taken in the same manner as for wholly owned Council-owned Companies. Where the Council is not the sole Shareholder of a company, an Executive Decision in relation to that company is subject to the consent of its other Shareholders and shall be governed in accordance with the provisions of the relevant Shareholder Agreement.

### **The Board**

Each Council-owned Company will be governed by a formally constituted Board which is tasked with delivering the Shareholder's objectives and keeping the Shareholder informed about strategic and key operational matters.

The appointment and dismissal of Council-owned Company Directors (including Non-Executive Directors) is a reserved matter for the Shareholder(s). Directors are responsible for the management of the business of the Council-owned Company, except reserved matters.

The Council should ensure that the Directors appointed to the Board have appropriate knowledge and expertise, including specialist knowledge where required. Directors should be provided with appropriate training before taking up their posts, and on an ongoing basis, and should be made aware of their personal risk in acting as a Director. Training should cover:

- the requirements of the Shareholder(s) and the relevant company documents and policies;
- the requirement for Directors to make an annual statement of compliance and assurance against an original list of documents (updated as required);
- the expected time commitment per annum and fees if applicable (non-executive directors);
- the code of conduct, confidentiality and data usage for Directors;
- a declaration of other interests at appointment and through the register of interests and at meetings of the Board; and



- the duties of Directors, reminding them to act in the best interests of the company.

Board meetings should be held at regular intervals to ensure that the Council-owned Company is run effectively.

To avoid excessive churn of Directors, consideration should be given to whether non-executive Directors will be remunerated and/or asked to commit to a minimum term.

### **Scrutiny**

The Overview and Scrutiny Committee is responsible for scrutiny of Executive Decisions in relation to Council-owned Companies and can make recommendations to the Executive on Council-owned Company-related matters. Executive Decisions on Council-owned Companies are subject to the Call-in processes outlined Part 3 of Chapter 4 (Scrutiny Procedure Rules) of this constitution.

Overview and Scrutiny Committees can invite Council-owned Company representatives to attend meetings to provide information to support the scrutiny of the Executive. This does not extend to scrutiny of the Council-owned Company and its performance.

### **Conflicts of interest**

A Council-owned Company's conflicts of interest policy should:

- provide a definition of conflicts of interest;
- state the company's commitment to addressing the issue of conflicts of interest;
- define the nature of conflict of interest risk in the company and set out clearly the actions or behaviours that individuals are expected to follow, or avoid;
- set out staff and Directors' obligations in relation to the conflicts of interest policy;
- set out guidance for identifying conflicts of interest that may arise and arrangements for reporting them;
- set out a process for managing conflicts of interest, including responsibilities for decision-making and the decision-making criteria;
- establish a mechanism for recording interests that can commonly give rise to a conflict; and

- set out the consequences of non-compliance with the policy, e.g., disciplinary action.

### **Client-side management**

Where a Council-owned Company delivers services to the Council, the shareholder relationship will be insufficient to oversee the day-to-day activities of the Council-owned Company and there should be client-side arrangements in place to manage that relationship. This should include mechanisms for:

- monitoring of contract(s) between the Council and the Council-owned Company;
- service level agreements setting out the services to be delivered, applicable KPIs, other performance measures, and performance management arrangements; and
- memoranda of understanding between the Council and the Council-owned Company setting out the respective responsibilities and obligations of each party.

### **Access to Information**

Decisions on reserved matters are Executive Decisions and are covered by Chapter 8 (Access to Information Procedure Rules) of this constitution.

Documentation relating to a Council-owned Company (see below), and details of the individuals who sit on the Board of Directors and the company's Shareholders are accessible by Councillors and members of the public, unless it contains exempt or confidential information.

### **Documentation**

Each Council-owned Company must maintain a strong controls framework with adequate financial records which meet appropriate company standards. Each Council-owned Company should have the documents set out below:

- Business Case assessing the risks and benefits involved in the creation of the Council-owned Company;
- Articles of Association setting out the Council-owned Company's constitution;
- Shareholder Agreement setting out the rights of the Shareholder(s) and how those rights can be exercised;

- Funding Agreement setting out what financial assistance is to be provided by the Council to the Council-owned Company and on what terms;
- Business Plan which should be forward looking and should set out what the Council-owned Company will do, and the objectives of the business and how they are to be achieved; and
- Shareholder Annual Report which should look back to provide a review of progress against the one year business plan.

## Reporting

Each Council-owned Company should provide, as a minimum, the following reports to the Council:

- General Meeting agenda and summary or meeting discussions and decisions;
- monthly performance reports;
- monthly management accounts; and
- year-end financial statements.

The Council has a responsibility to maintain a watching brief over a Council-owned Company's activities to ensure that they are in line with the Business Plan and the company's objectives.

The Council's Section 151 Officer should liaise with limited company external auditors to ensure that:

- year-end accounts are produced in line with the Council's statutory reporting requirements and the timetables produced by Council to support year-end close;
- year-end accounts are produced in a format which is consistent with the Council's own financial reporting framework, for the purposes of consolidation and review; and
- transactions and balances between the Company and the Council are clearly identified.

## **Changing the nature of a Council-owned Company**

The Board of a Council-owned Company must gain the approval of the Council before making pursuing any an opportunity to diversify or grow in a way that changes its scope and is not in accordance with its mandate. Such changes could include:

- change of use / scope;
- change in investment / returns / yield;
- change to company constitution;
- change to risk profile;
- change of ownership or share of ownership;
- sale or divestment; and/or
- wind-up.

Such opportunities should be considered on their own merit and will require a business case. The Board should consider any impact on existing governance arrangements and set this out for the Council following a process set by the Council.

The Council-owned Company's purpose must remain aligned with the Council's overall strategy. Where this is not the case, the company may require a constitutional change to realign objectives and, where this is not possible, consideration must be made as to its future.

## **Reviewing Council-owned Company arrangements**

Council-owned Company arrangements should be kept under regular review by the Council to ensure that they are operating effectively and remain fit for purpose. The Shareholder Committee should report to Full Council quarterly on the activities being carried out by Council-owned Companies and how these activities are meeting the Council's objectives.

## Appendix

Good practice governance checklist for Council-owned Companies:

	Articles of Association / Shareholder Agreement / Other (please specify)	Complete
<b>Incorporation and processes of the Council-owned Company</b>		
Company purpose and objectives		<input type="checkbox"/>
Authorised share capital		<input type="checkbox"/>
Voting rights		<input type="checkbox"/>
Shareholder rights		<input type="checkbox"/>
Policy for declaring conflicts of interest		<input type="checkbox"/>
Procedure for general meetings of the Shareholder(s)		<input type="checkbox"/>
Procedure for Board meetings, including quorum		<input type="checkbox"/>
Indemnities and insurance		<input type="checkbox"/>
Process for appointing Directors, including the Council's right to appoint and remove Directors		<input type="checkbox"/>
Provision for Director requirements		<input type="checkbox"/>
Process for keeping Board appointments under review		
Auditor access and appointment		<input type="checkbox"/>
Registered office		<input type="checkbox"/>
<b>Council-owned Company management and reporting</b>		
Flow of information between Council and company, including frequency		<input type="checkbox"/>

	<b>Articles of Association / Shareholder Agreement / Other (please specify)</b>	<b>Complete</b>
Approval of the business plan and annual budget by the Council		<input type="checkbox"/>
Process for recording Board decisions		<input type="checkbox"/>
Performance reporting arrangements – consider whether a standard form report is required and how often performance should be reported to the Council (usually quarterly)		<input type="checkbox"/>
Financing arrangements for the Council-owned Company		<input type="checkbox"/>
Dividend arrangements		<input type="checkbox"/>
Subsidiaries		<input type="checkbox"/>
Management of the Council-owned Company and its affairs		<input type="checkbox"/>
Stakeholder groups		<input type="checkbox"/>
Business plan compliance		<input type="checkbox"/>
Reporting and accounting matters		<input type="checkbox"/>
Banking arrangements		<input type="checkbox"/>
The circumstances in which the Shareholder Agreement will terminate		<input type="checkbox"/>
Carve out for unlawful fettering of Council-owned Company / Council powers		<input type="checkbox"/>
Sub-contracting arrangements		<input type="checkbox"/>
Severance		<input type="checkbox"/>
Partnership and agency		<input type="checkbox"/>
Confidentiality provisions		<input type="checkbox"/>

	Articles of Association / Shareholder Agreement / Other (please specify)	Complete
Conflict with Articles of Association		<input type="checkbox"/>
Where the Council is not the sole Shareholder, Events of Default and their consequences (e.g., right of non-defaulting Shareholder to acquire defaulting Shareholder's shares)		<input type="checkbox"/>
Where the Council is not the sole Shareholder, the process for resolving deadlock		<input type="checkbox"/>
<b>Matters reserved to the Council</b>		
Power to remove and appoint Directors		<input type="checkbox"/>
Power to restrict the Council-owned Company's rights to issue new shares and/or admit new members		<input type="checkbox"/>
Power to limit the Council-owned Company's borrowing rights?		<input type="checkbox"/>
Power to require the Council-owned Company to provide regular information		<input type="checkbox"/>
Power to approve the annual business plan and in-year amendments, including proposals to expand trading with third parties		<input type="checkbox"/>
Power to require compliance with restrictions on political activity or any other requirements		<input type="checkbox"/>
Power to appoint auditors		<input type="checkbox"/>
Power to amend the Articles of Association		<input type="checkbox"/>

	<b>Articles of Association / Shareholder Agreement / Other (please specify)</b>	<b>Complete</b>
Power to vary the ownership structure of the Council-owned Company		<input type="checkbox"/>
Power to approve the Council-owned Company entering into contracts that are outside the business plan and/or increase the risk to the company		<input type="checkbox"/>
Power to issue dividends		<input type="checkbox"/>
Material legal proceedings outside the Council-owned Company's ordinary business		<input type="checkbox"/>
Power to select the chair of the Board		<input type="checkbox"/>

DRAFT



# Thurrock Financial Regulations Member Constitution Working Group

Page 151

14 November 2023

Madeleine Humphrey

Phil Gibby

# Agenda

- Page 152
- Overview of the Financial Regulations
  - Our approach
  - Commissioners, s114 and Intervention
  - Key decision threshold
  - Detail of changes:
    - Finance Procedure Rules
    - Contract Procedure Rules
    - Scheme of Delegation
  - Council-owned Companies
  - Guidance and technical notes

# Overview of the Financial Regulations

The updated Financial Regulations are comprised of the following:

1. NEW Intervention Chapter
2. Finance Procedure Rules, including a new Financial Limits Annex
3. Contract Procedure Rules, including a new Procurement Thresholds Annex
4. Scheme of Delegations
5. NEW Council-owned Companies Chapter

# Our approach

We have:

- Reviewed the Financial Regulations
- Made changes to reflect best practice and the position Thurrock is in currently
- Reflected the s114 notice and the accompanying restrictions
- Reflected the fact that Commissioners have been appointed and Thurrock is under government intervention
- Taken onboard input from Cabinet, Officer and Member Constitution Working Groups; Chief Finance Officer, Monitoring Officer, Democratic Services, Finance technical support

# Commissioners, s114 and Intervention

Page 155

- Commissioners were appointed by DLUHC in September 2022 and March 2023
- Thurrock issued a s114 notice on 19 December 2022
- The s114 notice means that the Council must stop all spending and cannot enter into new agreements that will incur a cost. Any proposed new spending must now be reviewed on a case-by-case basis by a formal spending review panel

# Commissioners, s114 and Intervention

The Council can only spend on:

- existing staff payroll and pension costs
- goods and services that have already been received
- provision of statutory services at a minimum possible level
- services urgently needed to safeguard vulnerable citizens
- items required under existing legal agreements and contracts
- areas of activity funded through ring-fenced grants
- achieving value for money or reduce extra in-year costs
- refunds where required to do so

# Commissioners, s114 and Intervention

- The Commissioners have full powers, as necessary, to exercise the following functions:
  - the governance, scrutiny and transparency of strategic decision making by the Council
  - the financial governance and scrutiny of strategic financial decision making by the Council
  - the requirement under section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Council's financial affairs, and
  - to instruct the Council to carry out improvement and transformation work
- Intervention is expected to last until 1 September 2025

## Key decision threshold

- Key decision threshold increased for capital decisions
- **£500,000** for revenue
- **£1m** for capital



# NEW Intervention Chapter

Page 159

- Part 0 of the Constitution
- Overrides contrary provisions in the Constitution
- Sets out the role of the Commissioners and their powers to direct Intervention
- Also sets out the restrictions imposed by the s114 notice
- Confirms the role of Managing Director Commissioner as de facto Chief Executive

# NEW Intervention Chapter

*Local authorities are under a duty to deliver a balanced budget. CIPFA guidance suggests that this is a financial plan based on sound assumptions which shows how income will equal spend over the short- and medium-term. While the Council is unable to do this, the following restrictions associated with the Section 114 Notice will remain in effect:*

Page 160

- Council purchasing will only be approved for essential items and as permitted under legislation. Any expenditure that is not essential, or can be postponed, should not be incurred, and essential spending will be monitored.*
- Treasury Management strategies will be focused on reducing Council borrowing and maximising capital receipts.*
- New capital expenditure will only be approved for essential operational purposes. Prudential borrowing should not be used to fund new commitments other than in very exceptional circumstances, as approved by the Chief Finance Officer.*
- The Council will implement spending control panels to reduce revenue and capital spending.*

*Guidance on how this is to be delivered in practice will be provided by the Chief Finance Officer and must be complied with by Officers.*

# Finance Procedure Rules

Page 161

- Roles and responsibilities (Section 1)
- Financial planning (Section 2)
- Financial management (Section 3)
- Accounting records and financial systems (Section 4)
- Risk and opportunity management including insurance (Section 5)
- Control of resources and asset management (Section 6)
- Financial administration (Section 7)
- External arrangements (Section 8)
- Financial limits (Section 9)

# Roles and responsibilities (Section 1)

- This section sets out the roles and responsibilities of Officers, Members and Council bodies in relation to financial matters
- All responsibilities relating to finance have been collated in one place
- This includes:
  - Full Council
  - Cabinet
  - Overview and Scrutiny
  - Standards and Audit
  - Statutory Officers
  - Internal and External Audit
  - Other Officers and employees

## Roles and responsibilities (Section 1)

- Clearer definition of roles and responsibilities
- Checks and balances across roles
- Corporate responsibility for financial matters
- Implementing Commissioners' directions
- The role played by ALL Members and staff in relation to good financial governance
- An aide memoire for financial duties to the Council at all levels

## Financial planning (Section 2)

- Page 164
- Financial planning was not covered in sufficient detail and the Finance Procedure Rules did not set out the process for individual elements of the Revenue Budget and Capital Programme
  - More detail added to define the process and to provide more clarity e.g.,
    - separate provisions to cover revenue, capital and reserves, and
    - more detail on the procedures for financial planning

## Financial planning (Section 2)

- Business cases for capital schemes
  - Reference to HM Treasury Green Book
  - *“A business case must be approved by the relevant Executive Director and the Chief Finance Officer before a capital scheme will be submitted for approval to the Capital Programme.”*
  - Detailed guidance/business case templates to be prepared

## Financial management (Section 3)

- Detailed framework for budget control
- More comprehensive scheme of virement and supplementary estimate provisions
  - *“Carry forward of any under- or overspend is not permitted.”*
  - *“In-year under- and/or overspends should be addressed through the virement or supplementary estimate procedures”*
- Also covers ring-fenced funds and capital monitoring and control



## Financial management (Section 3)

- This section also covers the responsibilities of Executive Directors. They should ensure that:
  - all income and expenditure is properly recorded and accounted for
  - an appropriate Budget Holder structure is in place to ensure that responsibility is assigned for each item of income and expenditure their control
  - individual policy budgets are not overspent
  - a monitoring process is in place
  - they report regularly to the relevant Cabinet Member(s)
  - prior approval by Cabinet is sought (as appropriate) for new proposals
  - they and their Directorates comply with the scheme of virement
  - they agree with the relevant Executive Directors where it appears that a Budget proposal, including a virement proposal, may impact on their service area(s)
  - relevant training is delivered to all staff assigned responsibility for budget management

# Accounting records and financial systems (Section 4)

- Section consolidating provisions relating to record keeping and systems
- Includes:
  - Maintenance of proper accounting records
  - The Council's statutory responsibility in relation to the annual Statement of Accounts
  - The Section 151 Officer's responsibility to ensure that the Council's financial systems (including any financial elements of non-financial or integrated systems) are sound, properly maintained and held securely

## Risk and opportunity management including insurance (Section 5)

*“It is essential that robust, integrated systems for identifying and evaluating all significant strategic and operational risks to the Council are developed and maintained. This should include the proactive participation by all those with responsibility for planning and delivering services.”*

# Risk and opportunity management including insurance (Section 5)

- Expanded responsibilities in relation to risk and insurance
- Added/strengthened provisions around:
  - Internal control and governance
  - Preventing fraud and corruption e.g., anti-bribery; gifts and hospitality
  - Internal and external audit
- Guidance/policies will need to be updated to support these rules

# Control of resource and asset management (Section 6)

- More detailed provisions relating to:
  - Asset inventory
  - Asset security
  - Use of assets
  - Disposal of assets
  - Treasury management
  - Banking and cash management
  - Intellectual property and IT systems

# Financial management (Section 7)

- This section outlines the standards of financial administration, including:*
- Being clear on who is authorised to approve financial transactions (orders, payments, payroll, income)).*
  - Ensuring staff appointments are made in accordance with employment law, that salaries and wages are properly authorised, that the proper deductions are made (statutory and non-statutory) and all payments are properly recorded and correctly charged.*
  - Ordering and paying for goods and services according to the Council's Contract Procedure Rules, securing value for money, paying only for what the Council receives and dealing with VAT properly.*
  - Ensuring all sources of income to the Council are identified, claimed and collected.*
  - Ensuring that a live and complete record of all Council transactions is maintained.*
  - Ensuring the Council pays and accounts for tax correctly.*

# Financial management (Section 7)

- Updated provisions relating to:
  - Income collection
  - Debt recovery
  - Debt write-off
  - Credit notes
  - Purchasing and procurement (see also Contract Procedure Rules)
  - Payments to employees and members
  - Taxation
  - Emergency payments

## External arrangements (Section 8)

- This section covers Alternative Delivery Arrangements, the circumstances in which the Council may use them and the relevant governance arrangements
- Includes provisions around business cases for Alternative Delivery Arrangements
- Also covers Partnerships with external bodies and external funding



# Financial Limits Annex

Page 175

- References to financial limits and thresholds have been removed throughout the Finance Procedure Rules and put into a separate Financial Limits Annex
- The Annex can be updated from time to time as thresholds move without the need to amend the Constitution
- The Annex must be cross-referred to when making decisions where financial thresholds apply e.g., Key Decisions and virements

# Contract Procedure Rules

- Fewer changes have been made to these rules
- The key change is to reflect the restrictions on spending under the s114 notice
- Other changes include:
  - Provisions setting out the consequences of breaching the rules
  - New parameters for extension of contracts
  - Removal of references to financial thresholds throughout – these have been added to a separate Procurement Thresholds Annex
- **Note that changes to the Public Contracts Regulations 2015 are due in Spring 2024 and the Contract Procedure Rules will need to be updated to reflect this**

# Contract Procedure Rules

*“As a result of the Section 114 Notice, and the subsequent appointment of Commissioners to the Council, spending controls are in place which restrict the Council’s spending to essential items. Spending should only be incurred to support “Business As Usual”. Full guidance relating to procurement during the period for which the Section 114 Notice is in force will be as issued by the Section 151 Officer, and these Contract Procedure Rules should be read in the context of that guidance.*

Page 177

*Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:*

- *Furthers its corporate objectives;*
- *Restricts spending to essential items only;*
- *Prioritises spending plans in line with any Section 114 Notices in place and any further instructions from the Commissioners or central government departments;*
- *Uses its resources efficiently;*
- *Purchases quality goods, services and works, consistent with the priorities of the Council and which provide value for money; and*
- *Safeguards its reputation from any implication of dishonesty or corruption.”*

# Scheme of Delegations

- Page 178
- Reference to the role of Commissioners and cross-reference to Part 0
  - Statutory delegations have been moved to sit with specific roles, and have been updated where required
    - Role titles updated to reflect new corporate structure
    - New section codifying investment delegations to formalise governance
    - Internal schemes of management to be produced by each Directorate – to be approved by the Chief Executive and reviewed annually

# NEW Council-owned Companies Chapter

Page 179

- New section to set out the governance requirements for setting up and operating a Council-owned Company
- Includes a good practice governance checklist for Council-owned Companies – incorporation; management and reporting; Council reserved matters
- Given the s114 notice and intervention, Council-owned Companies are not expected to be established, but these rules apply if required in exceptional circumstances

# Guidance and technical notes

- Finance Procedure Rules set out the principles of financial management and governance for the Council
- More detailed sets of guidance and technical notes will be required for specific processes and procedures e.g., a Procurement Handbook
- Current guidance to be reviewed and updated/added to as a separate exercise

**DRAFT Constitution Working Group  
Work Programme  
2023/2024**

<b>Topic</b>	<b>Date</b>	<b>Working Group</b>	<b>Notes</b>
Update and Review of Finance Procedure Rules (CIPFA) <i>(Chapter 9, Part 2)</i>	August	OCWG	To receive an update from CIPFA on their work and agree potential training schedule for officers.
Overview and Scrutiny Rules <i>(Chapter 4)</i>	August	OCWG	To review chapter 4 and make any technical or professional comments in preparation for CfGS activity.
Council Procedure Rules <i>(Chapter 2)</i>	August	OCWG	To make any technical or professional comments on Chapter 2 in preparation going to the Member Group.
Update and Review of Finance Procedure Rules (CIPFA) <i>(Chapter 9, Part 2)</i>	September	MCWG	To review draft of the Finance Procedure Rules.
Overview and Scrutiny Rules <i>(Chapter 4)</i>	September	MCWG	To review chapter 4 and make any technical or professional comments in preparation for CfGS activity.
Council Procedure Rules <i>(Chapter 2)</i>	September	MCWG	To make any comments on Chapter 2 in preparation of redrafting of this section.
Officer Scheme of Delegation <i>(Chapter 6)</i>	October	OCWG	To make any technical or professional comments on Chapter 6 in preparation going to the Member Group. Views on what officers would like to see to help their daily work will be helpful.
Contract Procedure Rules <i>(Chapter 9, Part 2)</i>	October	OCWG	To make any technical or professional comments on Chapter 9, Part 2 in accordance with new Finance Procedure Rules
Revisit any further issues from September's meeting	November	MCWG	To pick up any outstanding items or updates on issues discussed.

Committees ( <i>Chapter 5</i> )	November	MCWG	To make any comments on Chapter 5 in preparation for consideration at OCV
Committees ( <i>Chapter 5</i> )	December	OCWG	To make comments on Chapter 5 in preparation for drafting new section.
Leader/Cabinet Executive ( <i>Chapter 3</i> )	December	OCWG	To make any technical or professional comments on Chapter 3 in preparation going to the Member Group.
Contract Procedure Rules ( <i>Chapter 9, Part 2</i> )	January	MCWG	To make any comments on Chapter 9, Part 2 in accordance with new Finance Procedure Rules.
Leader/Cabinet Executive ( <i>Chapter 3</i> )	January	MCWG	To make any comments on Chapter 3 in preparation for redrafting.
Ethical Governance ( <i>Chapter 7</i> )	February	OCWG/ MCWG	To make any comments on Chapter 3 in preparation for redrafting.
Officer Employment Procedure Rules ( <i>Chapter 10</i> )	February	OCWG/ MCWG	To make any comments on Chapter 3 in preparation for redrafting.
Miscellaneous ( <i>Chapter 12</i> )	February	OCWG/ MCWG	To make any comments on Chapter 3 in preparation for redrafting.