

ACCESS TO INFORMATION PROCEDURE RULES

ACCESS TO INFORMATION PROCEDURE RULES

1 SCOPE

These rules apply to all meetings of the Council, its committees, sub-committees, working parties and public meetings of the Executive (together called meetings).

2 ADDITIONAL RIGHTS TO INFORMATION

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

3 RIGHTS TO ATTEND MEETINGS

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

4 NOTICES OF MEETING

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at Westleigh House, Carnarvon Road, Clacton-on-Sea, (the 'designated office').

5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda, reports and background papers open to the public available for inspection at the designated office on request at least five clear working days before the meeting. Where a report is added to the agenda after the summons has been sent out, the Executive Corporate Support Manager shall make each such report together with any background papers available to the public as soon as the report is completed and sent to councillors.

6 SUPPLY OF COPIES

The Council will supply copies of:

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

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

7 ACCESS TO MINUTES ETC AFTER THE MEETING

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

(Cream)

ACCESS TO INFORMATION PROCEDURE RULES

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

8 BACKGROUND PAPERS

8.1 List of Background Papers

Authors of reports will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

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

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

8.2 Public Inspection of Background Papers

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

9 SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and be available to the public at Westleigh House, Carnarvon Road, Clacton-on-Sea.

10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – Requirement to Exclude Public

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

ACCESS TO INFORMATION PROCEDURE RULES

10.2 Meaning of Confidential Information

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

Confidential information shall include financial information and supporting documentation relating to a company or individual that is provided to the Council for the purposes of an Open Book Financial Appraisal and shall only be available to those who have been authorised to see it by the person submitting it.

10.3 Exempt Information – Discretion to Exclude Public

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of Exempt Information

Exempt information means any information falling within the following 7 categories (subject to any condition):

Category	Condition
1 Information relating to any individual.	
2 Information which is likely to reveal the identity of an individual.	
3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information if it is required to be registered under:- <ul style="list-style-type: none"> (a) The Companies Act 1985; (b) The Friendly Societies Act 1974; (c) The Friendly Societies Act 1992; (d) The Industrial and Provident Societies Acts 1965 to 1978; (e) The Building Societies Act 1986; or (f) The Charities Act 1993.

(Cream)

ACCESS TO INFORMATION PROCEDURE RULES

Category	Condition
4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6 Information which reveals that the authority proposes:- (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment.	
7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
7A Information which is subject to any obligation of confidentiality.	7A-7C apply only to a meeting of the Standards Committee or a Sub-Committee of the Standards Committee
7B Information which relates in any way to matters concerning national security.	

ACCESS TO INFORMATION PROCEDURE RULES

Category	Condition
7C The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	

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

Information which:-

- (a) falls within any of categories 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the condition relating to category 3 or the above paragraph,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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

12 APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 24 apply to the Executive. If the Executive meets to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A "key decision" is defined in Article 13.03 of this Constitution.

If the Executive meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 or Rule 16 apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief members.

(Cream)

ACCESS TO INFORMATION PROCEDURE RULES

13 PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 and Rule 16, a key decision may not be taken unless:

- (a) a notice (the forward plan) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14 THE FORWARD PLAN**14.1 Period of Forward Plan**

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

14.2 Contents of Forward Plan

Each forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, individual members of the Executive or officers in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

ACCESS TO INFORMATION PROCEDURE RULES

The forward plan must be published at least 14 days before the start of the period covered. The Executive Corporate Support Manager will publish once a year a notice in at least one newspaper circulating in the area, stating:

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

Exempt information need not be included in a forward plan and confidential information cannot be included.

15 GENERAL EXCEPTION

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

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Executive Corporate Support Manager has notified the Chairman of the relevant Overview and Scrutiny Committee of the matter in respect of which the decision is to be made;
- (c) the Executive Corporate Support Manager has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear working days have elapsed since the Executive Corporate Support Manager complied with (b) and (c).

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ACCESS TO INFORMATION PROCEDURE RULES

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

16 SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. In the absence of the Chairman of the relevant Overview and Scrutiny Committee, the Vice-Chairman of that Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Chairman of the Council's consent shall be required and in their absence the Vice-Chairman of the Council's consent.

17 REPORT TO COUNCIL**17.1 When an Overview and Scrutiny Committee can Require a Report**

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

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement under Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Executive Corporate Support Manager, who shall require such a report on behalf of the Committee when so requested by the Chairman. Alternatively the requirement may be made by resolution passed at a meeting of an Overview and Scrutiny Committee.

17.2 Executive's Report to Council

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

17.3 Reports on Special Urgency Decisions

The Leader will submit a report to the next practicable ordinary meeting of Council on the executive decisions taken in the circumstances set out in Rule 16 since the previous such report. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

ACCESS TO INFORMATION PROCEDURE RULES

18 RECORD OF DECISIONS

After any meeting of the Executive, whether held in public or private, the Executive Corporate Support Manager or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

Executive meetings relating to matters that are not key decisions will be held in public unless the Executive determines otherwise.

20 NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

Members of the Executive will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

21 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

All Members of the Executive will be served notice of, and are entitled to attend, all private meetings of the Executive or committees of the Executive.

The Chief Executive and any member of Management Team are entitled to attend any meetings of the Executive. The Monitoring Officer and Chief Financial Officer are entitled to attend when presenting a report to fulfil the requirements of their statutory duties.

In addition, where the Executive is to consider any financial matter where there is a fundamental disagreement by the Chief Financial Officer on the advice being reported by Management Team the Chief Financial Officer will have the right to report direct to the Executive. The Executive may not meet unless the Monitoring Officer has been given reasonable notice that the meeting is to take place.

Determination of the attendance of other Members of the Council at private meetings of the Executive will rest with the Executive.

22 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**22.1 Reports Intended to be Taken Into Account**

Subject to Rule 16, where an individual member of the Executive receives a report which he intends to take into account in making any key decision, then he will not make the decision until at least 5 clear working days after receipt of that report.

22.2 Provision of Copies of Reports to Overview and Scrutiny Committees

On giving of such a report to an individual decision maker, the Executive Corporate Support Manager will give a copy of it to the Chairman of the relevant Overview and Scrutiny Committee as soon as reasonably practicable and make it, together with any background papers, publicly available at the same time.

ACCESS TO INFORMATION PROCEDURE RULES

22.3 Record of Individual Decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive or a key decision has been taken by an officer, he will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

23 OVERVIEW AND SCRUTINY COMMITTEES - ACCESS TO DOCUMENTS**23.1 Rights to Copies**

Subject to Rule 23.2 below, the Overview and Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Executive, which is relevant to their terms of reference and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive or
- (b) any decision taken by an individual member of the Executive.

23.2 Limit on Rights

The Overview and Scrutiny Committees will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise;
- (c) the advice of a political adviser; or
- (d) prior access to, or foresight of papers in relation to private decisions of the Executive before the decision is made.

24 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**24.1 Material Relating to Previous Business**

All Members will be entitled to inspect any document that is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a private meeting unless it contains exempt or confidential information, or the advice of a political adviser.

ACCESS TO INFORMATION PROCEDURE RULES

24.2 Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any key decision unless paragraph 24.1 above applies.

24.3 Nature of Rights

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

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**1 The Framework for Executive Decisions**

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

2 Process for Developing the Policy Framework

The process by which the Policy Framework shall be developed is:

(a) The Executive will publicise in the forward plan a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the Policy Framework, and the Executive's arrangements for consultation after publication of those initial proposals. The Chairman of each Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 3 weeks.

(b) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If an Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. The Executive will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.

Proposals from the Executive shall include recommendations regarding any aspects of the proposed plan or strategy that they consider full Council should delegate to the Executive the ability to vary.

(c) Once the Executive has approved firm proposals, the appropriate Management Team member or Head of Department will report them at the earliest opportunity to the Council for decision.

(d) In reaching a decision, the Council may adopt the Executive's proposals, amend them, substitute its own proposals in their place or, with the exception of proposals in relation to the Corporate Plan, refer them back to the Executive for further consideration.

(i) If the Council decides not to adopt the Executive's proposals, the Council must inform the Leader of the objections which it has to the draft plan or strategy and instruct the Leader to require the Executive to reconsider the draft plan or strategy in the light of those objections.

(ii) Where the Council gives instructions in accordance with Rule 2 (d)(i), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may:-

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BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (1) Submit a revision of the draft plan or strategy as amended by the Executive (the “revised draft plan or strategy”), with the Executive’s reasons for any amendments made to the draft plan or strategy, to the Executive Corporate Support Manager for consideration; or
 - (2) Inform the Executive Corporate Support Manager of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.
- (e) If it accepts the recommendation of the Executive without amendment, the Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective on the expiry of the period specified in Rule 2(d)(ii) unless the Leader has submitted in writing to the Executive Corporate Support Manager a revision of the plan or strategy or informed him in writing of any disagreement that the Executive has with the Council in accordance with Rule 2(d)(ii).
- (h) In that case, the Chairman of the Council will call a Council meeting to be held on a date within 10 working days of receipt of the Leader’s written submission. The Council will be required to re-consider its decision taking into account the written submission provided by the Leader (which may either include a revised draft plan or strategy with reasons or the reasons for the Executive disagreeing with the Council’s objections to the draft plan or strategy). The Council may:-
- (i) approve the Executive’s recommendation by a simple majority of votes cast at the meeting; or
 - (ii) approve a different decision that does not accord with the recommendation of the Executive by a simple majority.
 - (iii) approve the Executive’s proposed plan or strategy (whether in the form of a draft or revised draft) by a simple majority of votes cast at the meeting; or
 - (iv) approve a different decision that does not accord with the proposed draft or revised draft plan or strategy of the Executive by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (j) In approving the Policy Framework, the Council will also specify the degree of in-year changes to the Policy Framework that may be undertaken by the Executive, in accordance with paragraph 7 of these Rules. Any other changes to the Policy Framework are reserved to the Council.
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BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

3 Process for Developing the Budget

Subject to Rule 4 of these Procedure Rules, the process by which the Budget shall be developed is:

- (a) The Executive will publicise in the forward plan a timetable for making proposals to the Council for the adoption of the budget and the Executive's arrangements for consultation after publication of those proposals. The Chairman of each Overview and Scrutiny Committee will also be notified.
- (b) Prior to making any budget proposals in paragraph 3(a) above, the Executive will draw up a draft Financial Strategy setting out the basis on which the budget proposals are intended to be formulated. The Executive shall consult the relevant Overview and Scrutiny Committee on the draft Financial Strategy. The consultation period in this instance shall be not less than 3 weeks. At the end of that period the Executive shall agree the Financial Strategy having regard to the response from that Overview and Scrutiny Committee.
- (c) The Executive shall draw up and consult on proposals for the budget having regard to the draft or agreed Financial Strategy. If the relevant Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. The consultation period shall be not less than 2 weeks.
- (d) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. The Executive will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (e) Once the Executive has approved the firm proposals, the appropriate Management Team member or Head of Department will report them at the earliest opportunity to the Council for decision.
- (f) In reaching a decision, the Council may adopt the Executive's proposals, amend them, or substitute its own proposals in their place.
- (g) If it accepts the recommendation of the Executive without amendment, the Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (h) Where the Council makes an in principle decision, it shall immediately inform the Leader of any objections which it has to the Executive's proposals and shall give him instructions requiring the Executive, within 5 working days beginning on the day after the date on which the Leader receives those instructions, to reconsider in the light of those objections, the proposals submitted to it.
- (i) An in principle decision will automatically become effective at the end of 5 working days beginning on the day after the date on which the Leader receives those instructions referred to in sub-paragraph (h) above, unless within that time the Leader:

(Cream)

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (a) submits to the Executive Corporate Support Manager in writing a revision of the proposals as amended by the Executive (“the revised proposals”) together with the Executive’s reasons for any amendments made to the proposals; or
 - (b) informs the Executive Corporate Support Manager in writing of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.
- (j) In that case, the Chairman of the Council will call a Council meeting to be held on a date within 6 working days of receipt of the revised proposals or the Executive’s disagreement. The Council will be required to re-consider its decision and to take into account the revised proposals, the Executive’s reasons for any amendments made to the proposals, any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.

The Council may by a simple majority of votes cast at the meeting:-

- (i) confirm its original decision; or
 - (ii) adopt (with or without modification) the original proposal or, if there is one, the revised proposal; or
 - (iii) amend the original proposal or, if there is one, the required proposal; or
 - (iv) substitute its own proposals.
- (k) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (l) In approving the budget, the Council will also specify the extent of virement within the budget that may be undertaken by the Executive. Any other changes to the budget are reserved to the Council.

4 Submission of Budget Proposals before 8th February

In the event of the Executive submitting their firm proposals for the budget to Council before 8th February in any financial year and the Council has any objections to those proposals, the actions set out in Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 shall be followed.

5 Decisions Outside the Budget or Policy Framework

- (a) Subject to the provisions of Rule 3(l) the Executive, individual members of the Executive and any officers discharging executive functions may only take decisions which are in line with the budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 6.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (b) If the Executive, individual members of the Executive and any officers discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and / or the Chief Financial Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and / or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 6 shall apply.

6 Urgent Decisions Outside the Budget or Policy Framework

- (a) The Executive, an individual member of the Executive or officers discharging Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) If it is not practical to convene a quorate meeting of the full Council; and
 - (ii) If the Chairman of the relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of that Overview and Scrutiny Committee, the consent of the Vice-Chairman of that Overview and Scrutiny Committee will suffice. In their absence the Chairman of the Council's consent will suffice, and in their absence of the consent of the Vice-Chairman of the Council.

- (b) Following the decision, the Leader will provide a full report to the next practicable ordinary meeting of Council explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

7 Virement

The Council's budget can only be varied by the Council except as provided for in the Financial Procedure Rules. These rules make provision for:

- (a) Virements – the transfer of sums between budgetary heads
- (b) Supplementary Estimates – the provision from reserves or from a specific provision of sums to increase the overall budget or the approval or negative Supplementary Estimates for the specific purpose of reducing the Council's net expenditure.

These rules specify the limits and procedures governing approval of these budget variations and may be varied from time to time by the Council to meet changing service and portfolio operational needs.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

8 In-Year Changes to Policy Framework

The responsibility for agreeing the budget and Policy Framework lies with the Council, and decisions by the Executive, an individual member of the Executive or officers discharging executive functions must be in line with it. No changes to any plan or strategy that make up the Policy Framework may be made by those bodies or individuals except those:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (d) relating to aspects of any plan or strategy where full Council has delegated to the Executive the ability to vary.

9 Call-in of Decisions Outside the Budget or Policy Framework

- (a) Where an Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and / or Chief Financial Officer.
- (b) In respect of functions that are the responsibility of the Executive, the Monitoring Officer and / Chief Financial Officer's written report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated to a Portfolio Holder or officer or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's written report and to prepare a written report to Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, and to the relevant Overview and Scrutiny Committee if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the written advice from the Monitoring Officer and / or the Chief Financial Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, the relevant Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request from the relevant Overview and Scrutiny Committee. At the meeting it will receive a written report of the decision or proposals and the advice of the Monitoring Officer and / or the Chief Financial Officer. The Council may either:
 - (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and Policy Framework. In this case no further

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

- (ii) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer / Chief Financial Officer.

EXECUTIVE PROCEDURE RULES

EXECUTIVE PROCEDURE RULES

1 HOW DOES THE EXECUTIVE OPERATE?

1.1 Who May Make Executive Decisions?

The Executive functions of the Authority will be discharged by:

- (a) the Executive as a whole
- (b) an individual member of the Executive
- (c) officers operating under powers delegated to them in accordance with Part 3 of the Constitution

1.2 Designation of Portfolio Holders

The Leader will allocate executive functions i.e. delegate powers, amongst himself, Cabinet, individual members of the Cabinet and officers. The Leader will present to the Council a written record of his allocation of portfolios to individual councillors. This will include the names, addresses and wards of the people so appointed.

1.3 Sub-Delegation of Executive Functions

Where an executive function has not been allocated by the Council the Leader may decide who is to discharge it.

1.4 The Council's Scheme of Delegation and Executive Functions

- (a) The Council's scheme of delegation in respect of executive functions as set out in Part 3 may only be amended by the Leader.
- (b) The Leader may dismiss a portfolio holder at any time and appoint another councillor to that post. The Leader is empowered to vary the portfolios or any of the associated delegated powers set out in Part 3 of the Constitution.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 7 of this Constitution.
- (b) If any member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 7 of this Constitution.

EXECUTIVE PROCEDURE RULES

- (c) If the exercise of an executive function has been delegated to a Member or an officer, then in the event of a conflict of interest arising, the function will be exercised in accordance with the table below and otherwise as set out in the Council's Code of Conduct for Members in Part 7 of this Constitution.

Delegated to:	Function to be exercised by:
Officer	Portfolio Holder
Portfolio Holder	Leader
Leader	Cabinet

1.6 Executive Meetings – When and Where?

The Executive will meet at times to be agreed by the Leader. The Executive shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader.

1.7 Public or Private Meetings of the Executive

Meetings of the Executive, when key decisions are to be made will be held in public except where confidential or exempt information is to be discussed.

1.8 Quorum

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

1.9 How are Decisions to be Taken by the Executive?

Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 5 of the Constitution.

2 HOW ARE EXECUTIVE MEETINGS CONDUCTED?**2.1 Who Presides?**

The Leader will preside at any meeting of the Executive at which he is present and may appoint another member of the Executive to chair Cabinet meetings in his absence. If he does not do so, those present at the meeting may appoint one of their number to chair it.

2.2 Who May Attend?

Right of attendance at meetings of the Executive are as set out in the Access to Information Rules in Part 5 of this Constitution.

The Chief Executive and Management Team members may attend all meetings. The Chief Financial Officer and Monitoring Officer may attend when presenting a report to discharge their statutory duties whenever necessary. Other officers may attend at the Chief Executive's discretion.

(Cream)

EXECUTIVE PROCEDURE RULES

Where the Cabinet is to consider any financial matter where there is a fundamental disagreement by the Chief Financial Officer on the advice being reported by Management Team, the Chief Financial Officer will have the right to report direct to the Cabinet.

The Constitution includes no provision for substitute members at meetings of the Executive.

2.3 Conduct

(a) Disturbance by Public - Removal of Member of the Public

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he continues to interrupt, the Leader will order his removal from the meeting room.

(b) Clearance of part of meeting room

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

2.4 What Business?

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

- (a) consideration of the minutes of the last meeting
- (b) matters referred to the Executive (by the Overview and Scrutiny Committees or the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution
- (c) consideration of reports from the Overview and Scrutiny Committees; and
- (d) matters set out in the agenda for the meeting and which shall indicate which are key decisions, and which are not, in accordance with the Access to Information Procedure Rules set out in Part 5 of this Constitution.

2.5 Business Plan

The Executive will prepare and update from time to time a Business Plan setting out the planned timetable of work on the elements of the Budget and Policy Framework.

2.6 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

EXECUTIVE PROCEDURE RULES

All reports to the Executive will include details of all appropriate officer advice in respect of the matter under consideration, in particular advice from the Chief Executive, Chief Financial Officer and the Monitoring Officer.

2.7 Who Can Put Items on the Executive Agenda?

The Leader will decide upon the schedule for the meetings of the Executive. He may put on the agenda of any executive meeting any matter which he wishes, whether or not authority has been delegated to the Executive, any member or officer in respect of that matter. The Executive Corporate Support Manager will comply with the Leader's requests in this respect.

Matters may be included in the agenda of a meeting of the Executive as follows: -

- (a) Any member of the Executive may require the Executive Corporate Support Manager to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he receives such a request the Executive Corporate Support Manager will comply.
- (b) The Executive Corporate Support Manager will make sure that an item is placed on the agenda of the next available meeting of the Executive where an Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Executive. However, there may only be up to 2 such items on any one agenda.
- (c) Any member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This Member will be invited to attend the meeting for this item only, whether or not it is a public meeting.
- (d) The Monitoring Officer and / or the Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and may require a meeting to be called in pursuance of their statutory duties. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.
- (e) The Chief Executive or any member of Management Team may place an item on the agenda of any meeting of the Executive.

2.8 Members' Written Questions

Any Member has the right to submit a written question to the Cabinet on any item on their agenda and to attend to present it a written at the meeting of the Cabinet when the item is to be considered. Such question shall be submitted at least two clear working days before this Cabinet meeting. The Member may withdraw their question at any time.

(Cream)

EXECUTIVE PROCEDURE RULES

2.9 Executive Decisions

Decisions of the Executive will be publicised and will come into force as set out in Rule 15 (a) and (b) of the Overview and Scrutiny Procedure Rules.

OVERVIEW AND SCRUTINY PROCEDURE RULES

OVERVIEW AND SCRUTINY PROCEDURE RULES

1 OVERVIEW AND SCRUTINY COMMITTEES

The Council will have three Overview and Scrutiny Committees (“the Committees”), which together will perform all overview and scrutiny functions on behalf of the Council. They will each consist of 8 members, who will be appointed by the full Council at its annual meeting. Their terms of reference and functions will be as set out in Part 3.

The Committees can scrutinise all activities of the Council, but, where a Committee is reviewing the work of another Council committee or sub-committee it will not normally scrutinise the individual decisions made by such committees, including decisions in respect of development control, licensing, registration, consents and other permissions and any such scrutiny must not be used as an alternative to normal appeals procedures.

2 MEMBERSHIP

All councillors except members of the Executive may be members of the Committees. However, no Member may be involved in scrutinising a decision which he has been directly involved.

3 CO-OPTees

The Committees are entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

4 MEETINGS OF THE COMMITTEES

There will usually be at least six ordinary meetings of the Committees in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Committee meeting may be called by the Chairman of that Committee, or by the Executive Corporate Support Manager if he considers it necessary or appropriate.

5 QUORUM

The quorum for the Committees shall be as set out in Part 4.

6 CHAIRMEN

The Chairmen of the Committees shall be appointed as set out in Part 4.

The Chairmen of the Committees will meet regularly with the Overview and Scrutiny Manager to co-ordinate the business of the Committees and determine which Committee will assume responsibility for any particular issue.

OVERVIEW AND SCRUTINY PROCEDURE RULES

7 WORK PROGRAMME

Each Committee will submit a work programme for the year ahead and a review of the previous years activities to the Annual Meeting of the full Council for approval. In addition it will be responsible for co-ordinating and prioritising its work programme on an ongoing basis.

In preparing, co-ordinating and prioritising its programme, each Committee will take into account: -

- requests from the Executive to carry out reviews;
- the planned work on the preparation of elements of the Budget and Policy Framework as set out in the Council's Business Plan;
- the need for statutory timetables to be met;
- the wishes of all members of the committee; and
- any other requests.

8 AGENDA ITEMS

Any member of a Committee shall be entitled to give notice to the Executive Corporate Support Manager that he wishes an item relevant to the terms of reference and the functions of the Committee to be included on the agenda for the next meeting of that Committee. Such notice must be given by delivering it in writing (or by personal e-mail) to the Executive Corporate Support Manager no later than midday 7 working days before the day of the meeting. On receipt of such a notice the Executive Corporate Support Manager will ensure that the item is included on the agenda.

Each Committee will respond, as soon as their work programme permits, to requests from the Council or the Executive to review particular areas of Council activity and will report their findings and any recommendations back to the Executive and/or Council in accordance with Rule 10.

9 COUNCILLOR CALL FOR ACTION

Any Member may give written notice to the Executive Corporate Support Manager that they wish an item that falls within the scope of an overview and scrutiny committee, to be included on the agenda of the relevant Committee. Where the Executive Corporate Support Manager receives such a notification, the Chairmen of the overview and scrutiny committees will determine whether the request should be accepted and which Committee should consider the matter. They will also agree the earliest opportunity that the relevant Committee could reasonably consider the item, taking account of agreed priorities in the existing work plan.

10 POLICY REVIEW AND DEVELOPMENT

- (a) The role of the Committees in relation to the development of the Council's budget and Policy Framework is set out in detail in the budget and Policy Framework Procedure Rules.

OVERVIEW AND SCRUTINY PROCEDURE RULES

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

11 REPORTS FROM A COMMITTEE

- (a) Once it has formed recommendations on a particular area of activity or proposals for development, a Committee will prepare a formal report and submit it to the Executive Corporate Support Manager for consideration by the Executive. If the Executive is in agreement with the recommendations, and those recommendations would require a departure from or a change to the agreed budget or Policy Framework, they shall be referred to the Council for consideration.
- (b) If a Committee cannot agree on one single final report to the Executive, then one minority report may be prepared and submitted for consideration by the Executive with the majority report.
- (c) Following submission of the report by the Committee to the Executive Corporate Support Manager:
- where referred to the Executive, it shall be considered within six weeks of the report being submitted to the Executive Corporate Support Manager; and
 - where referred to full Council by the Executive, it shall be considered at the next practicable meeting of full Council following submission of the report to the Executive Corporate Support Manager;

12 SCRUTINY OF PROPOSED DECISIONS

The Committees will, at their ordinary meetings, review the new and/or amended items relevant to their terms of reference contained in the latest forward plan. If they wish to enquire into any forthcoming decisions, such an enquiry might consist of questioning members of the Executive and officers and seeking the views of local stakeholders and other interested parties. The Executive will take into account any views expressed by the Overview and Scrutiny Committees when determining the final decision.

Matters may only be raised on the forward plan at Committee meetings where the Member has notified the Executive Corporate Support Manager in writing (or by personal email) of the question he wishes to ask no later than midday 7 working days before the day of the meeting.

OVERVIEW AND SCRUTINY PROCEDURE RULES

13 RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as councillors, members of the Committees have the additional right to documents, and to notice of meetings set out in the Access to Information Procedure Rules.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and any Committee as appropriate.

14 MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) In addition to reviewing documentation, any Committee, or their Chairmen or Vice-Chairmen, may require any member of the Executive, the Head of the Paid Service and/or a member of the Council's Management Team and/or any senior officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and / or
 - (iii) their performance.

and it is the duty of those persons to attend if so required. It would not normally be expected that officers below the level of assistant Head of Department would be asked to attend.

- (b) Where any member or officer is required to attend a Committee, the Chairman of the Committee will inform the Executive Corporate Support Manager. The Executive Corporate Support Manager shall inform the Member or officer in writing giving at least seven working days notice of the meeting at which he is required to attend. The notice will state the nature of the item on which he is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, the Committee, their Chairmen or Vice-Chairmen shall, in consultation with the Member or officer, arrange a substitute or an alternative date for attendance.

15 ATTENDANCE BY OTHERS

Each Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 13 above to address them, discuss issues of local concern and / or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and may invite such people to attend.

(Cream)

OVERVIEW AND SCRUTINY PROCEDURE RULES

16 CALL-IN

- (a) When a decision is made by the Executive, an individual member of the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 5 working days of being made. The Chairman of the relevant Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Decisions will also be sent to all Members.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called-in.
- (c) During that period, the Executive Corporate Support Manager shall call-in a decision for scrutiny by the relevant Overview and Scrutiny Committee following:
- A written and signed request (or a personal e-mail) from the Chairman of the relevant Committee; or
 - Written and signed requests (or personal e-mails) from any three non-executive members of the Council,

and shall then notify the decision-taker of the call-in. He shall call a meeting of the relevant Overview and Scrutiny Committee on such date as he may determine, where possible after consultation with the Chairman of the Committee, and in any case within 15 working days of the decision to call-in. The Councillor(s) requesting the call-in shall be entitled to attend the meeting of the Committee to explain their objections to the decision and to participate in the discussion of the matter.

The Councillors requesting the call-in of a decision shall state in writing or by e-mail the reason(s) for the call-in and whether they consider that the decision in question is contrary to the budget and Policy Framework when making their request to the Executive Corporate Support Manager.

- (d) If the Committee does not object to the decision, it comes into force. If, having considered the decision, the Committee objects to it, the Committee may refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If, having had regard to the advice of the Monitoring Officer, the Committee consider the decision is contrary to the budget or Policy Framework, the Committee may refer the matter to the next practicable meeting of the Council, subject to the provisions of Council Procedure Rules 3. Where the Committee refer the decision back to the decision maker he/the Executive shall then reconsider the decision within a further 15 working days, amending the decision or not, before adopting a final decision.

(Cream)

OVERVIEW AND SCRUTINY PROCEDURE RULES

- (e) If following the call-in of a decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of that meeting, or the expiry of that further 15 working day period, whichever is the earlier.
- (f) If the matter was referred to full Council and the Council does not object to a decision that has been made, then no further action is necessary and the decision will be effective on the date of the Council meeting. However, if the Council does object, it has no ability to make decisions in respect of an executive decision unless it considers it is contrary to the Policy Framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall within a further 15 working days, choose whether to amend the decision or not before reaching a final decision and implementing it.

Decisions referred back to the Decision Maker

The comments and views provided by the Council or Overview and Scrutiny Committee when referring a decision back for reconsideration shall be final and no further representations shall be made to the decision maker.

The decision maker will send a report to the relevant Overview and Scrutiny Committee, once a decision has been referred back to the decision, and that report should include the reason why the decision maker has either reconfirmed his original decision or why he has changed his original decision.

Exceptions

- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay:-
- decisions by the Cabinet to adopt initial proposals or 'provisional' or 'in principle' decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment shall not be subject to call-in;
 - decisions by the Cabinet to adopt firm proposals or other decisions where the issue is to be referred to a meeting of the Council shall not be subject to call-in; and
 - decisions by the Cabinet where the issue has been referred to them by the Council or an overview and scrutiny committee for their view or comment shall not be subject to call-in.

Call-In and Urgency

- (h) The call-in procedure shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.

OVERVIEW AND SCRUTINY PROCEDURE RULES

The Chairman of the relevant Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the relevant Committee, the Vice-Chairman of that Committee's consent shall be required. In the absence of both, the Chairman of the Council's consent shall be required and in their absence the Vice-Chairman of the Council's consent.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency.

- (i) Where full Council has delegated to the Executive the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of Rule 16(h) above. In such circumstances the Chairman of relevant Committee, or other Chairman or Vice Chairman so authorised by Rule 16(h) to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.
- (j) The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 15 of this constitution and a report submitted to Council with proposals for review if necessary.

17 PROCEDURE AT COMMITTEE MEETINGS

- (a) The Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) questions raised on the forward plan in accordance with Rule 12
 - (iii) responses of the Executive to reports of the Overview and Scrutiny Committee; and
 - (iv) responses of the Executive to called in decisions referred for reconsideration
 - (v) consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision.
 - (vi) the business otherwise set out on the agenda for the meeting.

OVERVIEW AND SCRUTINY PROCEDURE RULES

- (b) Where a Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings that are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

FINANCIAL PROCEDURE RULES**FINANCIAL PROCEDURE RULES****1. INTRODUCTION**

- 1.1** Subject to meeting any requirements contained in the Key Decision Rules and the Decision Making Rules, the Council will conduct its financial affairs based upon its Budget and Policy Framework Procedure Rules, together with these Financial Procedure Rules and the Contract Procedure Rules. These Financial Procedure rules set out the responsibilities and management arrangements that will be followed to ensure that the Council, Members and its officers exercise due probity and accountability for the public monies for which they have responsibility. These rules and the Contract Procedure Rules apply to all financial transactions of the Council either for itself or where it is acting as the Accountable Body or Agent.
- 1.2** The Chief Financial Officer shall keep under review these Financial Procedure Rules and the Contract Procedure Rules and ensure that they are appropriate to the running of the Council. Any proposed changes must be recommended by the Cabinet and subsequently agreed by the Council.

The Financial Procedure rules are set out as follows.

SECTION	TOPIC COVERED
2.	Definitions
3.	Responsibilities
4.	Financial Planning and Budget approval
5.	Authority to Incur Expenditure
6.	Changes to budgets after approval by Council
7.	Financial management of budgets during the year
8.	Final accounts, out-turn and Statement of Accounts
9.	Financial administration
10.	Write-Offs of Sums due to the Council
11.	Insurances
12.	Inventories stocks and stores
13.	Banking Arrangements
14.	Investments, Loans and Borrowing
15.	Land and Property transactions
16.	External Funding
17.	Proceeds of Crime Act 2002 (anti-money laundering)

2. DEFINITIONS

For the purpose of these regulations the following definitions will apply:

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FINANCIAL PROCEDURE RULES

TERM	DEFINITION
Head of Department	The term Head of Department refers to the officer to whom responsibility for a department, function or action has been delegated in accordance with the Council's Scheme of Delegation.
Service	Service shall be those services as set out in the Council's published budget book.
Estimate	Each line of budget included within each service, or each project line included in the Capital Programme, in the Council's published budget book.
Forecast	An estimate of the likely budget for the years following the financial year for which an estimate has been approved.
Expenditure	All direct expenditure as detailed in the Council's published budget book.
Income	All direct income as detailed in the Council's published budget book.
Virement	A virement is the transfer of a sum from one estimate to another and may include an increase in expenditure provided it is financed by additional income not already provided in the approved budgets.
Supplementary Estimate	This is an increase in the budget approved by Council and can be in respect of either capital or revenue. A transfer from reserves would finance the additional expenditure.
Negative Supplementary estimate	A Negative Supplementary Estimate is the reverse of a Supplementary Estimate and has the effect of reducing an otherwise available budget with the specific purpose of reducing the Council's net expenditure. A transfer to reserves would arise as a result of reducing expenditure.
Section 106 agreement	Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

3. RESPONSIBILITIES

- 3.1** The Leader, each Portfolio Holder and Head of Department shall consult with the Chief Financial Officer, in advance, in respect of any report/proposal which seeks provisional or final approval to any proposed revenue or capital expenditure or service investment or income which is not included in the Council's approved budgets (without reservation). The Chief Financial Officer will bring all such matters to the immediate attention of Management Team.
- 3.2** The Chief Financial Officer shall be responsible, under the general direction of the Chief Executive and Management Team for the financial administration of the Council's activities.

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FINANCIAL PROCEDURE RULES

- 3.3 The Chief Financial Officer is responsible for ensuring that the Finance and Asset Management Portfolio Holder is informed of and consulted on all significant financial issues.
- 3.4 The Chief Financial Officer shall inform and advise Management Team about the Council's finances and financial performance of its activities, who will in conjunction with the Finance and Asset Management Portfolio Holder ensure that the Leader, each Portfolio Holder, Committees and Council are advised appropriately.
- 3.5 The Chief Financial Officer shall ensure that adequate and prudent financial planning, including annual budgets and longer-term forecasting, is undertaken by the Council to protect its finances.
- 3.6 Any requirement in these Financial Procedure Rules and the Council's other procedures to obtain approval for or to report to the Council, Committee, Cabinet or Portfolio Holder, on any action shall include the requirement to consult with the Chief Financial Officer where Council finances are concerned.
- 3.7 The Chief Financial Officer has a duty to ensure that the financial implications of decisions made by Heads of Department in respect of services are not to the detriment of the Council as a whole.

4. FINANCIAL PLANNING AND BUDGET APPROVAL

- 4.1 In accordance with the timetable and format determined by the Head of Resource Management, Heads of Department will prepare:
 - 4.1.1 Detailed revised estimates of income and expenditure of revenue accounts for the current financial year
 - 4.1.2 Detailed revised estimates of expenditure on capital projects for the current financial year
 - 4.1.3 Detailed forecasts of expenditure on capital projects for the forthcoming financial years, the number of which is to be determined by Cabinet.
 - 4.1.4 Detailed forecasts of income and expenditure of revenue budgets for the forthcoming financial years, the number of which to be determined by Cabinet.
- 4.2 The information prepared by the Heads of Department will be collated and checked by the Head of Resource Management.
- 4.3 Each financial year, and in accordance with the agreed Financial Strategy determined in accordance with the Budget and Policy Framework Procedure Rule 3, the Chief Financial Officer will submit to Management Team for their consideration:
 - 4.3.1 A forecast of net revenue expenditure for the forthcoming year(s);
 - 4.3.2 A forecast of capital expenditure for the forthcoming year and the following four years together with known and anticipated funding streams. All such schemes

FINANCIAL PROCEDURE RULES

must be in accordance with the Council's approved Capital Strategy and will have been subjected to an investment appraisal in accordance with the Prudential Code and will only be included if it can be demonstrated that the investment is prudent and within affordable and sustainable levels;

- 4.3.3** The forecast position of the Council's Reserves over the period of the forecast;
- 4.3.4** The Council Tax rate for the forthcoming financial year(s) resulting from the proposals;
- 4.3.5** Initial draft revised prudential indicators for the current year and the following 3 years based on the draft capital programme.
- 4.3.6** Any other information required in accordance with the Financial Strategy agreed for the year in question.

4.4 Management Team will then, in the light of the Chief Financial Officer submission in 4.3 above, and in accordance with the Budget and Policy Framework Procedure Rule 3, make recommendations to the Cabinet setting out proposed draft budgets.

4.5 The Cabinet will, in accordance with the Budget and Policy Framework Procedure Rule 3, draw up firm proposals for consideration by the Council.

4.6 In submitting the budget to the Council the Cabinet may attach a reservation to any item and, subject to the approval of the Council, no avoidable expenditure shall be incurred in respect of any such item until the Council has withdrawn the reservation.

5. AUTHORITY TO INCUR EXPENDITURE

In relation to all expenditure both revenue and capital, however funded, and in accordance with delegated powers part 3.19 no. 13 and part 3.75 no. 6 an approved scheme is one where there is:-

- (a) Provision of a service consistent with an historic nature and level that is, and has in prior years, been specifically allocated and defined within the ongoing base Budget;
- (b) Any change to a service set out in 1 above where the appropriate authority to the change has been obtained in accordance with delegated powers;
- (c) Otherwise, a scheme that has the necessary approval from Council, Cabinet, Portfolio Holder or Officer in accordance with delegated powers.

For any expenditure to be incurred the necessary budget must also be in place. Where the necessary budget is not in place then amendments to the budget agreed by Council can only be made in accordance with section 6 below.

FINANCIAL PROCEDURE RULES

6. CHANGES TO BUDGETS AFTER APPROVAL BY COUNCIL**6.1 Supplementary estimates**

- 6.1.1** A supplementary estimate will increase the Council's net expenditure and will, if it relates to revenue expenditure, result in a reduction in the Council's reserves. If it relates to capital expenditure it will either increase the Council's use of capital receipts, increase the amount needed to be borrowed or, as in the case of revenue expenditure, reduce the Council's reserves. Therefore a supplementary estimate is needed in all cases of increased overall net expenditure, whether capital or revenue.
- 6.1.2** A supplementary estimate should not normally be considered unless the matter is essential and unavoidable and all other options for applying a virement have been considered.
- 6.1.3** Once the Council Tax for any financial year is set any subsequent increase in items (a) to (d) for that same year will require a supplementary estimate. This does not have to be approved before a commitment is made, if in the opinion of the Chief Financial Officer, the matter is urgent. The Chief Financial Officer shall report any increase in the Council's overall net expenditure to the Cabinet at the earliest opportunity and recommend to Cabinet whether the increased expenditure should be financed by virement or supplementary estimate. If the supplementary estimate is outside the scope of the Cabinet's authority as set out in 5.4.5 below appropriate recommendations will be made to Council.
- (a) Salaries, wages and pensions increases arising from nationally negotiated decisions, and variations in contributions under the National Insurance and Superannuation Acts;
 - (b) Price increases in connection with continuing contracts for revenue services where, in the opinion of the Chief Financial Officer, such increases are reasonable;
 - (c) Reductions in the amount of income from government, local or public authority sources;
 - (d) Interest rates or other similar financing factors;
- 6.1.4** No specific supplementary estimate approval is required at any time for the following:
- (a) Expenditure which is being funded entirely by income received under section 106 agreements and held in the section 106 receipts in advance holding account where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Head of Resource Management must agree the expenditure, and the financing.

FINANCIAL PROCEDURE RULES

- (b) Debt written off for which specific provision was made in the Council's bad debt provision at the end of the previous financial year.
- (c) Expenditure on a specific activity that has previously been approved in accordance with the Council's constitution and for which the funding of that expenditure in future years has been placed in a dedicated earmarked reserve, and the expenditure is to be financed by the use of that reserve. In these circumstances the Head of Resource Management must agree the expenditure, and the financing.
- (d) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years.

6.1.5 A supplementary estimate can be approved as follows:

- (a) **Finance and Asset Management Portfolio Holder** may approve a supplementary estimate of any single item (revenue or capital) up to £50,000 subject to a maximum aggregate value of £150,000 for such single items in any one financial year and providing any single supplementary estimate does not cause the total of supplementary estimates approved by the Finance and Asset Management Portfolio Holder and Cabinet to exceed £500,000 for General Fund Services (capital or revenue) (or £750,000 in respect of the Housing Revenue Account or the capital Housing Investment Programme) for the financial year concerned.
- (b) **Cabinet** may approve a supplementary estimate of any single item (revenue or capital) up to £200,000 subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and Finance and Asset Management Portfolio Holder to exceed £500,000 for General Fund Services (capital or revenue) (or £750,000 in respect of the Housing Revenue Account or the capital Housing Investment Programme) for the financial year concerned.
- (c) **Council** may approve a supplementary estimate up to any amount for General Fund, Housing Revenue Account or the capital Housing Investment Programme. However Council must be advised if any decision is likely to result in the Council's agreed minimum working balance not being maintained for the current financial year and the length of the Council's approved financial strategy. In the case of the Housing Revenue Account, Council must be advised if any decision is likely to result in the Revenue Account balance being in deficit over the same period.

6.1.6 Where a Head of Department wishes to apply for a supplementary estimate a report shall be made, following consultation with the Chief Financial Officer, to Management Team. Management Team will then make a recommendation where appropriate to the Finance and Asset Management Portfolio Holder or Cabinet. Cabinet must recommend any request for a supplementary estimate that requires the approval of Council to Council.

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FINANCIAL PROCEDURE RULES

6.2 Negative Supplementary Estimates

A negative supplementary estimate (having the effect of reducing an otherwise available budget) with the specific purpose of reducing the Council's net expenditure may be approved as follows

- (a) **Finance and Asset Management Portfolio Holder** may approve a negative supplementary estimate of any single item (revenue or capital) up to £50,000 subject to a maximum aggregate value of £150,000 for such single items in any one financial year and providing any single supplementary estimate does not cause the total of negative supplementary estimates approved by the Finance and Asset Management Portfolio Holder and Cabinet to exceed £500,000 for General Fund Services (capital or revenue) (or £750,000 in respect of the Housing Revenue Account or the capital Housing Investment Programme) for the financial year concerned.
- (b) **Cabinet** may approve a negative supplementary estimate of any single item (revenue or capital) up to £200,000 subject to that supplementary estimate not causing the total of negative supplementary estimates approved by the Cabinet and Finance and Asset Management Portfolio Holder to exceed £500,000 for General Fund Services (capital or revenue) (or £750,000 in respect of the Housing Revenue Account or the capital Housing Investment Programme) for the financial year concerned.
- (c) **Council** may approve a negative supplementary estimate of any single item (revenue or capital) for any value for General Fund, Housing Revenue Account or the capital Housing Investment Programme.

6.3 Virements

6.3.1 A virement, unlike a supplementary estimate, will not increase the Council's overall net expenditure. However to ensure that the budget, functions and service levels approved by council are not compromised virements can only be undertaken under the following conditions.

6.3.2 Virement rules do not need to be followed in the following circumstances but a scheme will still need to be approved including agreement of what is to be delivered:-

- (a) Where expenditure is being funded entirely by income received under section 106 agreements and that income has been received and accounted for in the current financial year and where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Head of Resource Management must agree the expenditure, and the financing.
- (b) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years. In these circumstances the Head of Resource Management must agree the expenditure and the financing.

(Cream)

FINANCIAL PROCEDURE RULES

If there are additional costs to the Council that expenditure must be financed in accordance with these Financial Procedure Rules

- (c) Subject to the agreement of the Head of Resource Management:-
 - (i) Where a decision requires an amendment to the budgetary analysis within the Council's financial information system in order that the Council's accounts can properly reflect the financial transactions of that decision.
 - (ii) Where the budgetary analysis within the Council's financial information system needs to be amended in order to comply with required accounting standards or to properly reflect the costs of an activity or function.

6.3.3 Virement rules are required to be followed in the following circumstances:

- (a) The transfer of a sum from one estimate to another, which can be within or between services
- (b) Where an expenditure estimate is to be increased and offset by a known increase in an income estimate including fees and charges.
- (c) Where reduced income is to be offset by a sustainable reduction in expenditure.

6.3.4 The conditions for a virement are:

All virements must be made within the terms and limits prescribed in these Financial Procedure Rules (see 6.3.5):

- (a) Subject to (b) to (h) below a Head of Department can apply a virement provided that the department is able to ensure that:
 - (i) Overall, the minimum agreed level of service would still be provided
 - (ii) The net service cost will be contained within the overall approved budget and the Council's overall costs will not be increased
 - (iii) There are no additional budgetary implications in future years
 - (iv) The service being provided is within the Council's approved policy
- (b) All virements between **revenue and capital budgets** must be as set out in 6.3.5 (g) below.

(Cream)

FINANCIAL PROCEDURE RULES

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- (c) Cabinet must approve all virements from Employees budgets except as set out in 6.3.5 (a) below
 - (d) A virement cannot be made where the proposed expenditure or reduction in income relates to an item which has **previously been considered** and been rejected by the Council, the Cabinet or responsible portfolio holder.
 - (e) Where a virement is proposed and the expenditure is in respect of an item not provided for within an approved budgeted service level, but can be met by fortuitous savings (such as from a tendering process or against growth items identified in the Financial Strategy), such expenditure if in excess of £5,000, shall be referred to Cabinet for approval. This excludes savings from minor restructuring. In respect of savings against Financial Strategy Growth Items, the limit will apply to the aggregated value of all requested virements from such budgets.
 - (f) Cabinet must approve all virements, which are likely to result in a further and/or additional burden on future years' Council tax and revenues.
 - (g) Where significant virements are necessary, it is NOT acceptable to disaggregate the total sum into a number of smaller virements so that these smaller sums fall within the rules/limits of these Financial Procedure Rules. The limits will apply to the aggregated value of the transfer to or from any one estimate.

6.3.5 The terms and limits for applying virements are as follows and apply to the current financial year. Virements, which have an ongoing effect in respect of future years' budgets, will be incorporated into the budget process.

(a) **From employee costs to temporary agency staff estimates**

Virement Value	Approval Required
Not more than £15,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	Finance and Procurement Manager.
Over £15,000 but not more than £30,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	The Head of Resource Management with the approval of the Management Team and Finance and Asset Management Portfolio Holder.

FINANCIAL PROCEDURE RULES

Over £30,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	The Head of Resource Management with the approval of the Management Team, Finance and Asset Management Portfolio Holder and Human Resources Committee.
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(b) **Transfers within an approved estimate**

Virement Value	Approval Required
No limit	The Head of Department providing the expenditure does not impose an ongoing commitment on the Council, which has not already been approved and budgeted for.

(c) **General Fund Revenue and HRA (excluding Employees)**

Virement Value	Approval Required
Not more than £15,000	The Head of Department.
Over £15,000 but not more than £30,000	The Head of Department, with the approval of the Management Team together with the Portfolio Holder(s) and/or Committee(s)
Over £30,000 but not more than £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and the Finance and Asset Management Portfolio Holder
Over £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and Cabinet

(d) **For approved General Fund Capital schemes (excluding HIPs and between ICT projects)**

Virement Value	Approval Required
Not more than £15,000	The Head of Department.
Over £15,000 but not more than £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and the Finance and Asset Management Portfolio Holder.
Over £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and Cabinet.

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FINANCIAL PROCEDURE RULES

(e) Housing Investment Programme (HIPs) (including General Fund Housing)

Virement Value	Approval Required
Not more than £100,000	Head of Life Opportunities, provided that the total HIP allocation as approved is not exceeded and provided the Head of Resource Management advises that no increase to Housing Revenue Account and General Fund Revenue costs results.
Over £100,000	Housing Portfolio Holder provided the total HIP allocation as approved is not exceeded and provided the Head of Resource Management advises that no increase to Housing Revenue Account and General Fund revenue costs results.
In all cases where there is a increase to the General Fund revenue costs	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.

(f) Between ICT projects

Virement Value	Approval
No limit as long as the total for General Fund ICT Items is not being increased in any one year and the ongoing revenue costs of ICT are not increased.	Customer and Central Services Portfolio Holder on the recommendation of Management Team following a report from the relevant Head of Service.
In all cases where there is a increase to the General Fund revenue costs	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.

(g) Between Capital and Revenue

Virement Value	Approval
(i). Increase in an approved Capital budget, which is to be financed by a virement from an existing revenue budget.	<p>a) The increase in the cost of the project is a supplementary estimate and must be agreed in accordance with these Financial Procedure Rules.</p> <p>b) The financing from an existing revenue budget is a virement between the revenue financing of capital expenditure budget and the revenue budget which is being reduced and normal virement rules as set out in these Financial Procedure Rules are to apply. In these circumstances the Head of Resource Management must agree the expenditure and the financing.</p>

(Cream)

FINANCIAL PROCEDURE RULES

Virement Value	Approval
(ii). Increase in an approved capital budget which is to be financed by an increase in borrowing or use of capital receipts	This is a supplementary estimate, which must be agreed in accordance with these Financial Procedure Rules
(iii). Increase in an approved revenue budget, which is to be financed by a reduction in an approved capital budget which results in a reduction in the revenue financing of capital expenditure sufficient to meet the entire increase in the revenue budget.	This is a virement between the revenue financing of capital expenditure budget and the revenue budget, which is being increased, and normal virement rules as set out in these Financial Procedure Rules are to apply. In these circumstances the Head of Resource Management must agree the expenditure and the financing.
If none of the above circumstances set out in (i) , (ii) and (iii) above apply.	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.
Irrespective of the above in all cases where there is a increase to the General Fund revenue costs	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.

6.4 The Head of Resource Management shall ensure that all virements comply with these Financial Procedure Rules and will amend the Council's financial information systems as appropriate.

6.5 The Head of Resource Management will maintain an up-to-date record of all virements and supplementary estimates that have been actioned to date and make this available to the Finance Portfolio Holder on request.

7. FINANCIAL MANAGEMENT OF BUDGETS DURING THE YEAR

7.1 Once the Council has approved the budget, officers to whom authority has been delegated, may incur expenditure within the amount provided under each head of estimate as varied by any supplementary estimate or virement approved under these Financial Procedure Rules provided that:

- (a) The matter is not one to which the Cabinet has attached a reservation
- (b) Where appropriate any necessary external consent has been obtained.
- (c) Contract Procedure Rules have been complied with

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FINANCIAL PROCEDURE RULES

- 7.2** Responsibility for the control of capital and revenue expenditure (including the award of grants) and income for a service or function shall rest with the appropriate Head of Department. Each Head of Department shall notify the Head of Resource Management of any actual or prospective overspending of expenditure or shortfall in income in excess of the budget which cannot be met by virement as set out in these Financial Procedure Rules.
- 7.3** The Chief Financial Officer has a duty under Section 28 of the Local Government Act 2003 to monitor budgets and the underlying assumptions formulating the budget throughout the year. Where an approved expenditure budget is likely to be overspent or there is likely to be a shortfall in an income budget the Chief Financial Officer shall ensure that corrective action is taken. In exercising this duty the Chief Financial Officer services may, irrespective of section 6.2, above examine all budgets and seek explanations from Heads of Department as necessary. The Head of Department shall provide the Chief Financial Officer with any information and explanation requested.
- 7.4** The Head of Resource Management shall provide Heads of Department with adequate and timely accounting information and reports, in appropriate detail, to enable those Heads of Department to carry out budgetary control of their budgets.
- 7.5** The Head of Resource Management shall determine the level and detail at which budgets and financial management reports are maintained for use by officers and for reporting to Members.
- 7.6** The Chief Financial Officer shall in conjunction with the Management Team ensure that Portfolio Holders, Cabinet and the Council are fully informed of the Council's financial position.

8. FINAL ACCOUNTS, OUT-TURN REPORT AND STATEMENT OF ACCOUNTS

- 8.1** An Outturn Report for the previous financial year will be prepared by the Chief Financial Officer, in respect of revenue and capital items (including Housing), in accordance with the timetable necessary to produce the Statement of Accounts by the statutory deadline. The outturn report will seek Cabinet approval for
- 8.1.1** Any transfers to and from reserves.
- 8.1.2** The funding treatment of capital expenditure and the treatment of capital receipts.
- 8.1.3** The carrying forward of capital slippage and revenue commitment sums (and the consequential amendments to budgets) in respect of any unspent monies in one year to a later year or to reserves.
- 8.1.4** The carrying forward of overspent sums in respect of Capital projects and revenue budgets that will be financed by a reduction in the following years budget (and the consequential amendments to budgets) in respect of any overspent monies in one year to a later year or to be financed from reserves.

FINANCIAL PROCEDURE RULES

- 8.2** The Chief Financial Officer will prepare the Council's Statement of Accounts in accordance with statutory requirements and will incorporate all decisions approved by the Cabinet in 7.1 above.
- 8.3** All Heads of Department shall supply the Head of Resource Management with accurate and timely information as may be required for the compilation of the final and other accounts and matters incidental thereto to enable the above requirements to be achieved. That information shall be supplied in a format specified by the Head of Resource Management.

9. FINANCIAL ADMINISTRATION**9.1 Internal Audit**

- 9.1.1** The designated Head of Internal Audit is the Council's officer for the purposes of compliance with statutory Section 151 responsibilities in respect of Internal Audit.
- 9.1.2** The designated Head of Internal Audit shall ensure that independent internal audit staff examine and audit the expenditure, income and property and other assets of the Council and its officers. To enable the designated Head of Internal Audit to achieve this, Internal Audit shall have the right of entry to all establishments and the right to examine all records, cash, stores and other properties belonging to or appertaining to the finances of the Council and to carry out such checks and require and receive such explanations as considered necessary.
- 9.1.3** Following completion of each audit a written report shall be submitted to the Head of Department, who must determine and notify the designated Head of Internal Audit of the action they propose to take.
- 9.1.4** In planning the conduct of these audits the designated Head of Internal Audit shall arrange, as far as possible, for the views of the Head of Department to be taken into account.
- 9.1.5** Heads of Department shall report **any financial irregularity or suspected irregularity**, including those affecting cash, stores or property to the designated Head of Internal Audit **immediately the irregularity or suspected irregularity becomes known**.

9.2 Accounting Arrangements

- 9.2.1** The Chief Financial Officer shall determine, provide, and manage the Council's Financial Information System.
- 9.2.2** All financial returns to Government, the Council's Statement of Accounts and all budget monitoring reports will be prepared from the information in the Council's Financial Information System or such other system that the Chief Financial Officer has agreed can be used to provide the information.

FINANCIAL PROCEDURE RULES

- 9.2.3** Each Head of Department is required to obtain the approval of the Chief Financial Officer for all accounting procedures and records that are proposed. This shall include any computer-based systems that store, utilise or process **any** financial information and must be capable of interfacing and/or integrating with the Council's Financial Information System.
- 9.2.4** All Heads of Department shall ensure that their approved accounting procedures and records are reconciled to the Council's Financial Information System and that adequate records are maintained to demonstrate this.
- 9.2.5** In this respect each Head of Department shall provide the Chief Financial Officer with details of all authorised officers within their department, setting out matters that those officers are authorised to deal with and, where appropriate, the financial limits and shall notify the Chief Financial Officer of those officers' appointment or departure.
- 9.2.6** Any officer having in their charge money, equipment, stores or other property for which they are accountable to the Council shall take all reasonable precautions for its safe custody and proper use.

9.3 Responsibilities for Computer System Legislation

- 9.3.1** All Heads of Department whose services utilise computer installations and software shall be responsible for the security and privacy of all data held in those installations, and for ensuring compliance with all relevant legislation in respect of the licensing and use of that software. This includes taking all necessary action to safeguard against computer viruses or other form of data corruption.
- 9.3.2** Heads of Department shall also ensure that all necessary registrations are made under the Data Protection Act and that those registrations are regularly monitored and updated where necessary. Staff shall also be reminded of their individual responsibilities under this Act and the Freedom of Information Act.
- 9.3.3** Similarly, each Head of Department shall ensure that all other relevant computer system legislation is complied with, in particular copyright and patents acts concerning the use of software, scanners and other electronic storage means, for which the appropriate (licence) fee has not been paid, and the Computer Misuse Act.

9.4 Orders for Work, Goods and Services

- 9.4.1** All official orders and associated documents shall bear the name and logo of Tendring District Council and shall be in an agreed standard format and produced by the approved ordering system. They shall be issued only by Heads of Department and their authorised staff and be in accordance with these Financial Procedure Rules and the Contract Procedure Rules.

FINANCIAL PROCEDURE RULES

9.5 Certification and Payment of Invoices

9.5.1 Invoices for payment by the Council shall not be made out by any officer of the Council, other than in circumstances agreed in advance with the Chief Financial Officer, nor shall an officer add any item to an invoice rendered by a supplier.

9.5.2 The reasons for any amendment to an invoice shall be recorded and retained in a safe and secure manner in accordance with the directions issued by the Chief Financial Officer.

9.5.3 Any Head of Department who issues an order shall be responsible for ensuring the examination, verification and certification of the relative invoice(s), except in circumstances as determined by the Chief Financial Officer, and for correctly and promptly recording on the Council's approved ordering system the receipt of goods, works, or services.

9.5.4 Before certifying an invoice the certifying officer must be satisfied, within the tolerances specified by the Chief Financial Officer, that:

- (a) The invoice conforms with the official order
- (b) That the goods have been received, examined and approved for quality and quantity and that any services have been rendered or any work done satisfactorily and receipted on the approved order system.
- (c) That the prices charged are correct
- (d) That the expenditure is, to the best of the certifying officer's belief, lawful and has been duly authorised
- (e) That no invoice for the same goods, service or work has previously been passed for payment
- (f) The invoice is arithmetically correct
- (g) That the expenditure has been properly analysed to the appropriate accounting code(s)
- (h) That the allocation of VAT has been correctly made
- (i) That the expenditure can be financed from within the appropriate approved estimate

Where a grant has been approved, the above should be followed by the certifying officer where appropriate.

9.5.5 It is the responsibility of a Head of Department receiving goods or materials to ensure that appropriate entries are made in inventories, stores or other records.

FINANCIAL PROCEDURE RULES

- 9.5.6** Wherever practicable the respective duties of ordering, receiving and certifying the relevant invoices for payment of goods, services or work shall not be performed by one and the same officer, and in no case shall an invoice be finally certified for payment by an officer assuming personal control over the goods, works or services to which the invoice relates.
- 9.5.7** The Head of Resource Management shall examine, so far as he/she considers necessary, invoices passed for payment and shall make all such enquiries and receive all such information and explanations, as shall be required.
- 9.5.8** All Heads of Department shall ensure that the Council's obligations to meet Best Value Performance Indicator 8 (prompt payment of invoices) are met.

9.6 Income

- 9.6.1** All arrangements for the collection of monies due to the Council and the issuing of debtor invoices shall be as directed by the Chief Financial Officer.
- 9.6.2** All monies received shall, without delay, either be paid to the Council's cashiers at the Council's cash offices or as may be required by the Chief Financial Officer, be banked in the Council's name to the bank accounts designated by the Chief Financial Officer.
- 9.6.3** Heads of Department must ensure that where an invoice is to be issued for sums due to the Council, that the invoice is issued immediately the sum due is known. Where a large sum is likely to be due, interim invoices are to be issued.
- 9.6.4** Where an invoice is to be issued the Head of Department issuing the invoice must ensure that the invoice is correct and the sum demanded is properly due to the Council.
- 9.6.5** Each officer who banks money to the credit of the Council's bank account shall enter on the paying-in slip, and on the duplicate thereof, particulars of the payment. In the case of each cheque paid in he/she shall record:-
- (a) The amount of the cheque
 - (b) A reference which shall connect the cheque with the debt or debts in respect of which it was received
- 9.6.6** Where monies are due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements entered into which involve the receipt of money by the Council, the Head of Department shall provide the Head of Resource Management with all relevant particulars, as soon as possible.
- 9.6.7** Each Head of Department who, under arrangements approved by the Chief Financial Officer, is responsible for the collection or recovery of sums due to the Council shall take prompt action to expedite collection. This action shall comply with the Council's debt recovery procedures as determined and directed by the Chief Financial Officer.

FINANCIAL PROCEDURE RULES

- 9.6.8** Official receipt forms, receipt books, tickets and other documents of a similar nature used to collect revenue due to the Council shall be in a format approved by the Chief Financial Officer.
- 9.6.9** Heads of Department stocking such stationery shall ensure that appropriate security is maintained at all times.
- 9.6.10** Each officer authorised to receive monies on behalf of the Council shall do so only on official receipt forms, tickets or other documents of a similar nature as approved by the Chief Financial Officer, except in respect of payments by cheque or drafts where no receipt is requested, or for payments received by the Legal Services Manager for which he/she is satisfied it is appropriate to give a receipt otherwise than in the official form.
- 9.6.11** Money received shall not be used to cash personal or any other cheques whatsoever except where, due to exceptional circumstances, the Chief Financial Officer has given prior approval.
- 9.6.12** Where payment is made to the Council by debit or credit card the Head of Department accepting payment must ensure that all sums due to the Council by the Credit Card or Debit Card Company is received in full by the Council and reconciled.

9.7 Remuneration, Gratuities and Allowances

- 9.7.1** Heads of Department shall provide the Head of Resource Management with all appropriate details to enable the payment of all salaries, wages, compensation, gratuities and other emoluments in respect of employees or former employees.
- (a) The Human Resources Manager must notify the Finance and Procurement Manager immediately of all appointments, dismissals, resignations, suspensions, transfers and changes in the rate of remuneration of employees (other than normal increments).
 - (b) Heads of Department shall notify the Finance and Procurement Manager of all overtime or additional hours worked for which payment is to be made and all absences through sickness or other absences affecting the payment due to employees.
 - (c) Claims for travelling and subsistence allowances shall be assessed monthly by Heads of Department who, within four working days of the end of each month shall notify the Finance and Procurement Manager of amounts due to be paid.
 - (d) Each Head of Department shall notify the Chief Financial Officer of the names and specimen signatures of those officers who are authorised to certify salaries, wages and allowances documents.

FINANCIAL PROCEDURE RULES

9.7.2 The Head of Resource Management shall examine, so far as he/she considers necessary, all claims for payment of salaries, wages or allowances and subject to that examination, shall make all such payments which are certified by the appropriate Head of Department or other officer authorised by them in writing or in an electronic format approved by the Chief Financial Officer.

9.8 Petty Cash and Other Imprest Accounts

9.8.1 The Finance and Procurement Manager shall make imprest advances to Heads of Department, where appropriate, for the purpose of defraying petty expenses. The use of any alternative means of meeting expenses shall be agreed, in advance, with the Chief Financial Officer.

9.8.2 The amount of each advance and the system of operation shall be determined in consultation between the Head of Department and the Chief Financial Officer.

9.8.3 Whenever an officer leaves the employment of the Council or ceases to be entitled to hold an imprest advance he/she shall account to the Finance and Procurement Manager for the unexpended balance of their advance.

9.8.4 All procurements made using a petty cash imprest shall be in accordance with the Procurement Procedure Rules. All procurements must be evidenced by the production, and retention with the petty cash imprest records, of a valid receipt. Where VAT is to be accounted for a valid VAT receipt shall be obtained.

10. WRITE-OFFS OF SUMS DUE TO THE COUNCIL

10.1 The Council has a duty to collect all sums due to it. However there are occasions when it is not possible or cost effective to proceed with recovery of the debt. In these cases the debt needs to be written off and the following conditions, delegations, and limits apply.

10.2 Where a debt has been raised in error or is incorrectly calculated then the debt should be either reduced or cancelled by the issue of a credit note or similar reversal of the original charge. Such reversal must be authorised by a responsible officer other than the one who raised the original debt.

10.3 All write-offs of debt must be set against the budget to which the original income was credited or an appropriate provision if one has been made.

10.4 If the write-off will result in that income budget not being achieved the Head of Department must advise the Head of Resource Management immediately.

10.5 That part of any debt written off, for which provision has been made in the Council's bad debt provision at the end of the previous financial year can be written off without further action as set out in 5.4.4 (b) of these financial procedure rules

10.6 If the Head of Resource Management advises that the whole or part of the debt was not included in the Council's bad debt provision at the end of the previous financial year then the Head of Department must apply a virement or seek a supplementary estimate

FINANCIAL PROCEDURE RULES

in accordance with section 5 of these Financial Procedure Rules to finance that part of the debt not provided for within that provision.

10.7 The authority to write off debts is delegated by the Council as follows:

Item For Potential Write Off	Authority To Write Off Delegated To
<p>Debt due to the Council where the amount owing is a Council Tax or NNDR debt which is either:-</p> <ol style="list-style-type: none"> 1. A ceased account and the debt is equal to the amount charged as summons costs making the debt uneconomical to collect, or 2. Not a ceased account but the amount owing is less than the cost of second class postage 3. The debt due to the Council is Housing Benefit and the amount owing is less than the cost of second class postage 	<p>Head of Customer Services</p>

Item For Potential Write Off	Authority To Write Off Delegated To
<p>Specific Debts where :-</p> <ol style="list-style-type: none"> (a) There is a personal bankruptcy, company insolvency, Individual/ Company Voluntary Arrangement or a Debt Relief Order. (b) The Bailiff has been unable to obtain payment and has returned the debt as "nulla bona". (c) The company has been struck off by Companies House. (d) The death of a debtor who dies insolvent and the claim against the estate has been made. (e) Death of a debtor who has died with no executor with whom to register a claim. (f) Council Tax Debts – Removal outside the jurisdiction of the Magistrates Courts of the debtor. 	<p>The Head of Resource Management on receipt of a written report from the appropriate Head(s) of Department</p>

(Cream)

FINANCIAL PROCEDURE RULES

(g) All other debts – Removal outside the UK of the debtor.	
(h) The remission of debts by the Magistrates or other court.	
(i) The committal to prison of the debtor in respect of the non-payment of the debt or associated debt.	
(j) The abscondment of a debtor where a tracing or other appropriate agency has failed to make a trace.	
Individual debts not exceeding £2,000	The Head of Resource Management on receipt of a written report from the appropriate Head(s) of Department
Individual debts exceeding £2,000 but below £25,000	The Finance and Asset Management Portfolio Holder on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Legal Services Manager which should include a recommendation as to how the write-off will be financed.
Individual Debts of £25,000 and above	The Cabinet on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Legal Services Manager which should include a recommendation as to how the write-off will be financed.

11. INSURANCE

- 11.1** The Head of Resource Management shall be responsible for the provision of the Council's insurances. This shall include authority to accept annual renewal terms from the appointed insurer subject to such terms being within the terms of the original contract and the approved budget available. Heads of Department shall be responsible for providing the Head of Resource Management with all necessary information to do this in the most effective manner.
- 11.2** Each Head of Department shall give prompt notification to the Head of Resource Management of all new risks, properties or vehicles which require to be insured, and of any alterations affecting existing insurances, indicating the amount or variation in cover required.
- 11.3** Each Head of Department shall also notify the Head of Resource Management of any other risk which in their opinion should be included within the Council's insurance cover arrangements.

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FINANCIAL PROCEDURE RULES

- 11.4** Heads of Department shall, as soon as they become aware of such circumstances, notify the Head of Resource Management in writing of any claim or likely claim. Heads of Department shall **not** admit any liability or take any action that may commit the Council or its insurers in respect of any potential or actual claim.
- 11.5** Each Head of Department shall consult the Legal Services Manager regarding the terms of any indemnity which the Council has been requested to give before authority is sought for the giving of the indemnity.
- 11.6** Each Head of Department shall consult the Head of Resource Management in any case where, in their opinion, the nature or situation of any equipment, stores or other property for which they are accountable to the Council requires the provision of special security arrangements.
- 11.7** The Head of Resource Management shall, periodically, provide Heads of Department with full details of the risks insured by the Council so that they may check and review the items for which they are responsible.

12. INVENTORIES STOCKS AND STORES

- 12.1** Inventories shall be properly maintained by Heads of Department to record appropriate items in the possession of the Council regardless of whether an item has been leased, rented, borrowed or purchased.
- 12.1.1** All assets of the Council shall be recorded in inventories or registers maintained by Heads of Department in a form approved by the Chief Financial Officer and in accordance with procedures agreed with him/her.
- 12.1.2** Separate registers will be maintained by Head of Resource Management for:
- (a) Land and Buildings
 - (b) IT equipment
- 12.1.3** The level or value of items to be listed shall be determined by each Head of Department in consultation with the Chief Financial Officer.
- 12.1.4** Heads of Department are responsible for the checking and certifying of inventories within their control at least once a year to ensure the security of all property under the Council's control.
- 12.1.5** The Council's property, equipment and other facilities shall not be removed other than in the ordinary course of the Council's business nor shall they be used for any other purpose. Heads of Department should ensure that where equipment is removed from Council premises to be used for work purposes elsewhere, including officers' homes, that an appropriate record is maintained of such movements and that adequate insurance cover exists (including whilst in transit).

FINANCIAL PROCEDURE RULES

- 12.1.6** Heads of Department shall ensure that a record is maintained, in a format approved by the Chief Financial Officer, of all items written off. This record shall detail date, description, reason and include appropriate authorisation.
- 12.2** Where appropriate a Head of Department shall notify the Head of Resource Management of any acquisition, disposal or change of an item, which is included in the Authority's balance sheet or where changes in the Council's insurance cover may be necessary.
- 12.3 Stocks And Stores**
- 12.3.1** All records of stocks and stores shall be in a form approved by the Chief Financial Officer.
- 12.3.2** Procedures for the receipt and issue of stocks and stores shall be approved by the Chief Financial Officer.
- 12.3.3** Each Head of Department shall be responsible for the custody and physical control of all stocks and stores under their control.
- 12.3.4** Each Head of Department shall arrange for continuous stock checking of stocks in hand and shall ensure that all items of stocks are checked at least once in every financial year.
- 12.3.5** Each Head of Department shall furnish the Finance and Procurement Manager with a certificate showing the value of stock and stores in hand under their control as at 31 March in each year in accordance with the timetable necessary to produce the Statement of Accounts by the statutory deadline.
- 12.4 Disposal of Stocks and Stores and Items owned or managed by the Council**
- 12.4.1** Where a Head of Department identifies items of equipment on an inventory or stocks or stores no longer required they shall arrange disposal as follows:
- (a) Details of the items/stores, including their estimated value, shall be circulated to all Heads of Department
 - (b) If the items/stores are of no use to the Heads of Department then they shall be offered for sale to the staff/Council Members generally
 - (c) The item will be sold to the member of staff or Council Member offering the highest price.
- Only then:
- (d) If the total estimated value of the items is in excess of £1,000 then disposal shall be by means of public auction or open tender
 - (e) If the estimated value of an individual item is less than £100 or the total estimated value of a group of items does not exceed £1,000 the Head of Department shall determine the most appropriate method of disposal
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(Cream)

FINANCIAL PROCEDURE RULES

12.4.2 Whatever method of disposal is applied, where the value of the items to be disposed of needs to be written from the accounts, the cost shall be allocated to a separately identifiable write-off code provided by the Chief Financial Officer.

12.4.3 Income from any disposal shall similarly be identifiable using a code provided by the Finance and Procurement Manager.

12.5 Where there is a net cost of disposal the Head of Department must finance the cost by virement or supplementary estimate in accordance with these Financial Procedure Rules.

13. BANKING ARRANGEMENTS

13.1 Only the Chief Financial Officer shall be authorised to open bank accounts for monies under the control of the Council and these shall be in the name of the Council. Day to day operation of bank accounts shall be determined by the Head of Resource Management.

13.2 The conduct of the Council's business with their bankers shall be made by, or under arrangements approved by, the Chief Financial Officer.

13.2.1 A bank account or accounts shall be maintained by the Council into which all monies received by the Council shall be paid. Withdrawals from these accounts and transfers from one account to another shall be made only on the authority of the Chief Financial Officer or other officer authorised by him/her in writing.

13.2.2 Payments made on the Council's behalf shall be made using BACS transfers wherever possible or otherwise by crossed cheques. The Chief Financial Officer, or other officer authorised by him/her in writing, may make alternative arrangements where they consider it necessary or appropriate, in the interest of the Council.

13.2.3 Cheques drawn on banking accounts of the Council shall bear the pre-printed signature of the Chief Financial Officer.

13.2.4 Manual signatures of the Chief Financial Officer, or other officers authorised by him/her in writing, shall be required in accordance with arrangements determined by the Chief Financial Officer.

14. INVESTMENTS, LOANS AND BORROWING

14.1 The Council has adopted the CIPFA Treasury Management in Public Services Code of Practice (The Code) 2009.

14.1.1 All securities in the name of the Council and the title deeds of all property in the ownership of the Council shall be held in the custody of the Executive Corporate Support Manager or the Chief Financial Officer as appropriate.

FINANCIAL PROCEDURE RULES

- 14.1.2** This Council will create and maintain, as the cornerstones for effective treasury management:-
- (a) A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
 - (b) Suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 14.1.3** The contents of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.
- 14.2** The Council will receive reports on its treasury management policies, practices and activities as follows:-
- 14.2.1** Each year in accordance with statutory requirements and before the start of the forthcoming year Full Council will, following a recommendation by Cabinet and consideration by Corporate Management Committee, approve an Annual Treasury Strategy for the forthcoming year. The Annual Treasury Strategy will include an investment strategy and a borrowing strategy. The investment strategy will include a schedule of those instruments the Council will consider using for investments in the forthcoming financial year. The borrowing strategy will include a statement of the anticipated borrowing requirement for the following financial year. The Annual Treasury Strategy will also include the prudential and treasury indicators for the forthcoming year and at least the subsequent 2 years.
- 14.2.2** The Annual Treasury Strategy will be reviewed as necessary throughout the year. As a minimum the Chief Financial Officer will review the strategy as at the end of September and report the findings of that review to Cabinet, which may at its discretion, forward the report to Council.
- 14.2.3** The Chief Financial Officer will report to Cabinet at the earliest opportunity after 31 March in any year on the Council's Treasury Management performance and activities in the preceding financial year.
- 14.2.4** The Chief Financial Officer will report during the course of the financial year on the Council's Treasury Management performance and activities. Such reports to be considered by Cabinet and the Corporate Management Committee.
- 14.3** The Chief Financial Officer shall, in accordance with the Council's TMPs and the Council's approved Annual Treasury Strategy, be authorised to
- (a) Borrow sums of money.
 - (b) Reschedule or restructure the existing debt portfolio.
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FINANCIAL PROCEDURE RULES

- (c) Invest surplus funds.
- (d) Determine those counterparties and countries that meet the Council's credit rating criteria.
- (e) Determine the money brokers the Council will use for temporary borrowing and investment and long term borrowing.
- (f) Amend as necessary and in accordance with the Council's Treasury Management Practices those schedules set out therein.
- (g) Take urgent action to safeguard the Council's investments, including where necessary temporarily breaching the conditions set out in the TMP's. The Finance and Asset Management Portfolio Holder is to be advised of the action taken as soon as practicable.

14.4 The execution and administration of treasury management decisions is the responsibility of the Chief Financial Officer, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

15. LAND AND PROPERTY TRANSACTIONS

15.1 All land and property transactions must be undertaken in accordance with the Council's **Property Dealing Policy**.

15.2 Any amendments to the **Property Dealing Policy** will be made in accordance with the Budget and Policy Framework Procedure Rules.

16. EXTERNAL FUNDING

16.1 External funding refers to applications to external organisations, including Government departments and agencies for the funding of expenditure. The expenditure may be for the Council's own services or for those services provided in partnership with other public bodies, voluntary sector bodies or private sector organisations.

16.2 In any partnership arrangement the Chief Financial Officer must ensure that there are adequate controls in place in respect of the Council's own financial liabilities to the partnership and that there are adequate controls in place for the partnership itself.

16.3 Any application for external funding to finance or contribute to the financing of a function, investment or activity for which the Council is either the sole provider or is the accountable body must be approved by the Chief Financial Officer.

16.4 When making application for payment of funds from the body awarding the grant it is a statutory obligation that all figures in the claim be supported by adequate, and comprehensive working papers. All such working papers will be in a format and detail as determined by the Chief Financial Officer.

17. PROCEEDS OF CRIME ACT 2002 (ANTI-MONEY LAUNDERING)

17.1 The Proceeds of Crime Act 2002 sets out some of the obligations placed on individuals and organisations to report known or suspected money-laundering activities. This means that both the Council itself and individual officers within the Council are bound by

(Cream)

FINANCIAL PROCEDURE RULES

this act. All employees of the Council must report any suspicions. Failure to do so is a criminal offence.

- 17.2** It is the Council's policy is to do all it can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements especially with regard to reporting of actual or suspected cases.
- 17.3** All Heads of Department will ensure that all staff for whom they are responsible and who are involved in financial transactions are aware of the Council's and their own obligations in respect of money laundering.
- 17.4** The Chief Financial Officer, or officer(s) nominated by him/her will be responsible for anti-money laundering measures within the Council to ensure compliance with the Proceeds of Crime Act 2002 and fulfil the Council's policy in respect of money laundering.
- 17.5** The following instances could be an attempt at money laundering and should raise suspicions and must be reported to the Chief Financial Officer or nominated officer(s). The Chief Financial Officer will determine the limits and procedures to be followed in the event of these activities arising.
- 17.5.1** Payment in cash of an unusually large sum of money.
- 17.5.2** Payment in cash of a sum in excess of the amount owing; particularly if a double payment is made, followed by a request for a non-cash refund.
- 17.5.3** The use of Trusts or offshore funds for handling proceeds or settlement of a transaction should be questioned.
- 17.5.4** Care should be exercised and further enquiries may be needed in the following instances.
- (a) A third party intermediary becomes involved in a transaction
 - (b) The identity of a third party is hard to establish or is undisclosed
 - (c) A party is evasive as to the source or destiny of funds
 - (d) A third party uses a vehicle company and the ultimate ownership is concealed or difficult to establish.

18. STATE AID

- 18.1** State aid rules are in place to protect the European Community free market by ensuring state resources are not used to distort competition or give an unfair advantage. State aid rules can apply to voluntary and non-profit making organisations. State aid has four characteristics:
- (a) It is granted by the State or through state resources (this includes local authorities);

FINANCIAL PROCEDURE RULES

- (b) It favours certain undertakings, or the production of certain goods (this can include voluntary and non-profit making organisations if they are engaged in economic activity);
- (c) It distorts or threatens to distort competition;
- (d) It affects trade between member states;

If all four characteristics are present the state aid is prohibited, subject to certain exemptions. State aid takes many forms, it relates to a financial advantage of any kind.

18.2 Any support given to organisations must not breach state aid rules.

18.3 Issues regarding state aid must be checked prior to the award of support and advice sought as appropriate (guidance is available from the Department for Business Enterprise and Regulatory Reform).

18.4 Where state aid rules are considered to apply appropriate approvals must be obtained from the European Commission prior to the award of the support unless specific regulations do not require advance approval, for example they are covered by a block exemption (limits apply) or the de minimis regulations.

18.5 If state aid is being given under a block exemption the aid must comply with every condition stated in the block exemption regulation and appropriate procedures for notifying the Commission of the award must be followed.

18.6 If state aid is being given under the de minimis regulation all relevant procedures must be followed, in particular;

- (a) the recipient must be informed of the de minimis nature of the grant.
- (b) full information must be obtained from the recipient about other de minimis aid received during the previous three years.
- (c) new de minimis aid must only be granted if it will not raise the total aid received in the relevant period of three years over the de minimis limit applicable at the time.
- (d) all records of de minimis aid paid must be kept in accordance with the regulations and for the relevant minimum time period.

18.7 All aid given must be notified to the Head of Resource Management. Financial records must separately identify any aid given.

PROPERTY DEALING POLICY

PROPERTY DEALING POLICY**1. Negotiation of Property Deals**

- 1.1** Members must not engage in negotiations of any kind relating to any property dealing or proposed property dealing. In this context, property dealing means the acquisition or disposal by the Council of any interest in land, including freehold, leasehold, by way of tenancy, any rent review, lease variation, lease renewal or any other dealing or proposed dealing with an interest in land or licence to use land.
- 1.2** Any proposed property dealing involving the grant or renewal of a lease at less than open market value or rent review (not in accordance with the rent review provisions of the applicable lease) at less than open market value, which the Legal Services Manager and Corporate Property Officer consider to be valid and lawful shall be decided by the Cabinet. A full written officer report shall be made to Cabinet, giving full and proper reasons for the proposed discounted value.

2. Procedure for Property Disposal

- 2.1** In this section “disposal” means any disposal by the Council comprising property dealing as defined in paragraph 1.1 above. Every request to the Council from any party for a disposal shall be referred to the Corporate Property Officer. This procedure does not relate to the sale of dwellings under right-to-buy requirements nor to the granting of licences or tenancies at will by Heads of Department in consultation with the Legal Services Manager for one year or less. “Disposal Process” or “DP” means all applicable steps of this Procedure leading up to a final decision on disposal.
- 2.2** The Corporate Property Officer will carry out a basic feasibility appraisal and decide whether it is appropriate to submit a brief written report to the Finance and Asset Management Portfolio Holder seeking authority for the initiation of formal consideration of potential property dealing. The report may also seek a decision from the Finance and Asset Management Portfolio Holder that the Council intends to dispose of any of the land which is public open space and authority that notice of this intention be advertised in accordance with paragraph 2.9 below unless the Corporate Property Officer, having carried out his investigations, consultations and negotiations referred to below is satisfied that he will not recommend disposal of any of that open space to Cabinet in accordance with paragraph 2.10 below.
- 2.3** Where the Finance and Asset Management Portfolio Holder grants any authority in accordance with paragraph 2.2 above, the Corporate Property Officer will then undertake:
- 2.3.1** appropriate consultations and investigations regarding whether some or all of the land is or could be surplus to requirements; and
- 2.3.2** negotiations, marketing and/or other actions in accordance with this Process which lead up to a formal decision on whether to dispose of the property.
- 2.4** As part of the consultations and investigations, the Corporate Property Officer will take all appropriate steps identified in Appendix A and:

(Cream)

PROPERTY DEALING POLICY

- 2.4.1** consult with the Council Department that uses the land
- 2.4.2** consult with the relevant Portfolio Holder(s) for that Department and the relevant Ward Councillor(s)
- 2.4.3** consult all TDC Departments to ascertain whether the land or property is or could be surplus to requirements
- 2.5** The Corporate Property Officer will appoint professional valuers on such terms as he sees fit to provide professional valuations and advise how best to maximise the likely sale proceeds. The professional valuations will be based on existing use or (where applicable) any increased value likely to be realised by any means of disposal advised by the valuer.
- 2.6** The Corporate Property Officer will lead the Disposal Process including any negotiation, marketing, tenders, preparations for auction or other measures which the Corporate Property Officer in consultation with the valuer considers necessary, expedient or in the Council's interest.
- 2.7** Any face-to-face meetings carried out during the negotiations will be attended by the Corporate Property Officer and at least one other Officer. All negotiations will be fully documented and be "subject to contract" and "without prejudice" as applicable. The proposed final agreement will be subject to any other terms and conditions deemed advisable by the Legal Services Manager.
- 2.8** All terms proposed must comply with the Council's duty under Section 123 of the Local Government Act 1972 to achieve the "best consideration reasonably obtainable"; unless lower consideration is approved by the Cabinet under the General Disposal Consent (England) 2003 or other statutory provision.
- 2.9** Where land which is public open space is subject to an Officer recommendation or proposed recommendation that it is declared surplus to requirements, the Corporate Property Officer will cause advertisement of the proposed disposal in a newspaper for 2 consecutive weeks in accordance with Section 123(2A) of the Local Government Act 1972.
- 2.10** The Corporate Property Officer and/or such other Head(s) of Department as required by the Chief Executive will prepare a full report to Cabinet. Unless the Corporate Property Officer advises against disposal, recommendations to Cabinet will include any one or more of the following:
- 2.10.1** If the Council has already received one or more written objections to a proposed disposal of public open space within the consultation period stated in the newspaper advertisement(s), details of such objections and an Officer recommendation on whether or not to proceed with the disposal
- 2.10.2** That the land or property (or some of it) is declared surplus to Council requirements
- 2.10.3** Specific terms and conditions for the disposal
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2.10.4 An authority for specific Officer(s) to conclude the disposal

2.10.5 Any other relevant provisions

2.10.6 Where land declared surplus to requirements is public open space, authority to advertise the proposed disposal in a newspaper for 2 consecutive weeks in accordance with Section 123(2A) of the Local Government Act 1972

3. Procedure for Property Acquisition

3.1 This procedure will apply where the Corporate Property Officer is of the opinion that one or more of the following criteria are satisfied:

- the acquisition of property by the Council would, on balance, accord with Council's overall corporate objectives
- the Council has a legal obligation which necessitates the acquisition of land or property
- the acquisition of the property would be substantially in the Council's financial interests

3.2 In this section "acquisition" means any purchase by the Council comprising property dealing as defined in paragraph 1.1 above. Every request to the Council from any party for an acquisition shall be referred to the Corporate Property Officer. This procedure does not relate to the acquisition of nomination rights to social housing, acquisition of open space or other land under planning agreements pursuant to Section 106 of the Town and Country Planning Act 1990, nor to the agreement of licences by Heads of Department for one year or less. "Acquisition Process" or "AP" means this Procedure for property acquisition or the relevant part or parts of this Procedure.

3.3 The Corporate Property Officer will carry out a basic feasibility appraisal and decide whether it is appropriate to submit a brief written report to the Finance and Asset Management Portfolio Holder, seeking authority for the initiation of formal consideration of potential property dealing. Any such report must also identify with reasons which of the criteria in paragraph 3.1 the Corporate Property Officer considers is/are satisfied.

3.4 Where the Finance and Asset Management Portfolio Holder authorises as 3.3 above, the Corporate Property Officer will then undertake appropriate negotiations, tendering, bidding and/or other actions in accordance with this Process which lead up to a formal decision on whether to acquire the property.

3.5 As part of the consultations, the Corporate Property Officer will take all appropriate steps identified in Appendix B to this Procedure and:

3.5.1 consult with the Council Department that would use the land

3.5.2 consult with the relevant Portfolio Holder(s) for that Department and the relevant Ward Councillor(s)

PROPERTY DEALING POLICY

- 3.5.3** consult all TDC Departments to ascertain whether the land or property could be used more effectively than originally envisaged
- 3.5.4** consult the Chief Financial Officer regarding any budgetary or other financial implications
- 3.6** The Corporate Property Officer will appoint professional valuers on such terms as he sees fit to provide professional valuations and advise how best to minimise the likely purchase costs. The professional valuations will be based upon existing use or (where applicable) any increased value likely to be realised by any means advised by the valuer.
- 3.7** The Corporate Property Officer will lead the proposed acquisition process including any negotiations, tendering, preparations for auction or other measures which the Corporate Property Officer in consultation with the valuer considers necessary, expedient or in the Council's interests.
- 3.8** Any face-to-face meetings carried out during the negotiations will be attended by the Corporate Property Officer and at least one other Officer. All negotiations will be fully documented and be "subject to contract" and "without prejudice" as applicable. The proposed final agreement will be subject to any other terms and conditions deemed advisable by the Legal Services Manager.
- 3.9** The Corporate Property Officer will prepare a full report to the Cabinet. Unless the Corporate Property Officer advises against acquisition, recommendations to Cabinet will include:
- 3.9.1** specific terms and conditions for the acquisition
 - 3.9.2** identification of the source of required funding
 - 3.9.3** any other relevant provisions
 - 3.9.4** an authority for specific Officer(s) to conclude the acquisition

APPENDIX A**Supplemental internal procedure – Disposal**

During the Disposal Process, before agreeing any provisional terms and reporting to Cabinet the Corporate Property Officer or authorised Officer or agent will:

1. Appraise of relevant plan(s) in the Council's title deeds and an Ordnance Survey extract plan of the site.
2. Carry out a site inspection.
3. Examine the title deeds to identify any relevant covenants and easements and, where appropriate how these may be varied or discharged.
4. Identify whether there are any physical constraints on site which are likely to affect its value, such as boundary encroachment or underground services and make appropriate enquiries with the statutory undertaker or other interested parties where appropriate.
5. Provide details of the property to Essex County Council to ascertain if they may wish to acquire it.
6. Consult the Head of Planning and Regeneration regarding the prospects of planning permission for the proposed or a more valuable use.
7. In consultation with the valuer, appraise the likely effect on price of selling the Council's land with adjoining land owned by the Council or a third party.
8. Where the land is subject to a lease or licence, ensure that the valuer fully considers whether the merger of legal interests in the land could increase the overall freehold value.
9. Take any other steps which he considers necessary, advisable or in the Council's interests.

APPENDIX B**Supplemental internal procedure – Acquisition**

During the Acquisition Process, before agreeing any provisional terms and reporting to Cabinet the Corporate Property Officer or authorised Officer or agent will:

1. In consultation with the valuer, identify areas of land adjacent to the property (owned by the Council or by a third party) where ownership of the sites could increase their overall value or benefit to the Council.
2. Carry out a site inspection.
3. Where more than one property may satisfy the Council's requirements the relative merits of each shall be compared, appraised and documented.
4. Consult the Head of Planning and Regeneration regarding the prospects of planning permission for the proposed or a more valuable use.
5. If acquisition is likely, obtain a copy of the title deeds to ascertain the existence of any restrictive covenants and easements and, where appropriate, how these may be varied or discharged.
6. Identify where there are any physical constraints on site which are likely to affect its value, such as boundary encroachment or underground services and make appropriate enquiries with the statutory undertaker or other interested parties where appropriate.
7. Sufficient notes and evidence shall be entered on the standard valuation form which must be prepared by the Corporate Property Officer.
8. Take any other steps which he considers necessary, advisable or in the Council's interests.

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PROCUREMENT PROCEDURE RULES

PROCUREMENT PROCEDURE RULES**SECTION 1 - PREAMBLES****1.0 Document Layout**

This document has been prepared in six distinct sections: -

- SECTION 1 – Introduction and General Rules / Guidance
- SECTION 2 – Official Order Rules
- SECTION 3 – Central Purchasing Rules
- SECTION 4 – Quotation Rules
- SECTION 5 – Tender Rules
- SECTION 6 – Other Contract Rules

1.1 Introduction To and Purpose of Procurement Procedure Rules

Procurement Procedure Rules apply to the procurement of ALL goods, work or services.

The Council's approved computerised ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

The following rules will determine the procedures which the Council, the Cabinet, a Portfolio Holder / Committee or Officer under delegated authority may be required to make in the proper conduct of the Council's business.

A Member of the Council shall not issue an order in respect of any works which are being carried out on behalf of the Council or claim by virtue of any membership of the Council any right to inspect or to enter upon any lands or premises which the Council has the power or duty to inspect or enter.

1.2 General Requirements

- (a) The Council's Procurement Strategy requires that the procurement of ALL goods, works or services must : -
- (i) Be made within the Council's regulatory framework as laid down in the Constitution, these Procurement Procedure Rules, Financial Procedure Rules, as well as all applicable legislation
 - (ii) Be transparent, accountable and fully documented
 - (iii) Be capable of generating the most advantageous balance between quality, appropriateness, cost and timescale
 - (iv) Embrace the Council's corporate policy and best value objectives
 - (v) Encourage competition and challenge, where appropriate

(Cream)

PROCUREMENT PROCEDURE RULES

- (vi) Allow the development of alternative procurement, partnership and consortia arrangements
 - (vii) Avoid over-complex administration for routine tasks and transactions
 - (viii) Operate within the Council's financial strategy and service budgetary targets
 - (ix) Maintain an auditable record of decision making and reasoning
 - (x) Meet the requirements of the Council's Procurement Strategy
 - (xi) Promote equality of opportunity – racially, socially, and ethically.
- (b) All procurement must take account of any decisions of the Council, the Cabinet, a Portfolio Holder or a Committee having appropriate delegated authority.
 - (c) Procurement can only take place where budgetary provision is available to fund the goods, works or services required (See Financial Procedure Rules).
 - (d) Where the procurement is the engagement of Consultancy services or Specialist Professional advice, a Head of Department only has delegated authority for schemes where fees are expected to be £15,000 or below. For schemes where fees are expected to exceed £15,000 consultation with the Portfolio Holder or Committee Chairman is required.
 - (e) Where the Council contracts with a third party (who is not an officer of this Council) to supervise a contract on its behalf, the Head of Department entering into that contract will be required to ensure that the third party complies with the requirements of these Procurement Procedure Rules.
 - (f) Where the Council enters into or administers a contract either as an agent, or on behalf of another public body the Council's Procurement Procedure Rules will apply unless written instructions have been received by the Council to the contrary.
 - (g) These Procurement Procedure Rules will not apply where statute or subordinate legislation prescribes otherwise.
 - (h) Definitions – in these Procurement Procedure Rules the terms "Head of Department" and "authorised officer" shall have the meaning given in Financial Procedure Rules.

1.3 Exemptions from Procurement Procedure Rules

- (a) Procurement Procedure Rules will not be wholly appropriate to all procurement that the Council wishes to undertake. Exemption from specific parts of Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances.
- (b) Where no specific exemption is provided elsewhere in Procurement Procedure Rules, and where the total value of the contract, or procurement, is estimated to exceed £250,000 the Cabinet, or a Committee may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a record of the exemption must be made in the minutes of the Cabinet, or Committee.

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PROCUREMENT PROCEDURE RULES

- (c) Where no specific exemption is provided elsewhere in Procurement Procedure Rules, and where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Finance and Asset Management Portfolio Holder may, on the recommendation of the Chief Financial Officer grant exemption. In such cases a formal Portfolio Holder decision must be made.

Where no specific exemption is provided elsewhere in Procurement Procedure Rules and where the value of the contract, or procurement is estimated to be less than £50,000 exemption may be granted by the Chief Financial Officer in consultation with the Finance and Asset Management Portfolio Holder.

- (d) Where the outcome of service reviews indicates the need to seek alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements will not be subject to Procurement Procedure Rules, given the number and combination of different procurement routes and processes that may be applicable, but must: -
- (i) Comply with all relevant statutory provisions including European Procurement Directives
 - (ii) Follow a documented process determined by the responsible Head of Department, the Chief Financial Officer and the Legal Services Manager, and agreed by Management Team and the Cabinet, in advance of the process. The process must demonstrate compliance with the principals of openness and accountability.
 - (iii) Be capable of providing clear probity trails, particularly in respect of the opening and evaluation of any associated bids or tenders.
 - (iv) Comply with any Procurement Procedure Rules that remain applicable, or offer alternatives that meet the requirements of the Chief Financial Officer and the Legal Services Manager.
- (e) Where the necessary skills and capacity already exist within the Council the service can be provided in-house.

1.4 Contract Clauses

Every contract entered into as a result of these Procurement Procedure Rules shall include clauses regarding: -

- (a) British Standards, and British Standard Codes of Practice as issued by the British Standards Institution, or any European standard or equivalent current at the time of tender.
- (b) Prevention of corruption, empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation.
- (c) Freedom of Information

PROCUREMENT PROCEDURE RULES

- (d) Professional indemnity insurance where consultancy services or specialist professional services are to be procured. Evidence of the proof of such insurance shall be required to be provided.
- (e) Equality and diversity
- (f) Any other standard clauses as are deemed necessary, from time to time, by the Legal Services Manager.

1.5 Authorised Officers

- (a) Each Head of Department is responsible for advising the Chief Financial Officer, in writing, of those officers who are empowered to enter into contracts, or procurement, on behalf of the Council, and any maximum limits on the values concerned.
- (b) Each Head of Department shall advise the Head of Resource Management, in writing, immediately of any changes to those officers so empowered, or their limits.
- (c) Only officers so empowered will be provided with a level of access to any computerised procurement system operated by, or on behalf of, the Council, that enables them to authorise official orders within the limits set.

1.6 Registers of Contracts and Contract Audit

- (a) The Head of Public Experience will maintain a register of all contracts exceeding £50,000 in value.
- (b) Where contracts exceeding £50,000 in value involve interim payment by certificate, retention etc the Head of Resource Management will arrange for a record of payments made on each contract to be maintained.
- (c) Where contracts exceed £50,000 in value, the relevant Head of Department will notify the Chief Financial Officer or officer to whom the Chief Financial Officer has delegated authority when a contract reaches final account stage. The Chief Financial Officer, or the delegated officer will then determine whether the contract is to be subject to final account audit. Final release of monies due by the Council will not take place until this process has been completed.

SECTION 2 – OFFICIAL ORDER RULES

2.0 General Requirements

- (a) The Head of Resource Management will determine the computer, and back up, system(s) to be used to produce the Council's approved standard official order forms.
- (b) The format of the Council's approved standard official order forms, and any standard terms and conditions to be applied to each order shall be determined by the Head of Resource Management. All order forms used shall bear the name and logo of Tendring District Council.

PROCUREMENT PROCEDURE RULES

- (c) All procurement of goods, works, or services shall be ordered using the Council's approved ordering computer system, unless otherwise specified in these Procurement Procedure Rules.
- (d) The Council's approved standard official order forms will be issued electronically, except where agreed by the Head of Resource Management, in order to meet e-procurement targets.
- (e) In the event of unavailability of the approved computer system, the approved back up system will be used for any periods as determined by the Head of Resource Management, where the failure to have an operational ordering system would have business continuity issues for the Council.

Any pre-printed stationery required for the approved back up system will be held as controlled stationery by the Head of Resource Management, who will make arrangements for issue, and withdrawal, of such stock to / from Departments when necessary.

- (f) All orders must: -
 - (i) clearly identify goods, works, or services to be procured, and all other detail as is mandatory on the Council's approved ordering computer system.
 - (ii) contain any other detail, terms and conditions that are applicable to that order. For the engagement of consultancy services or specialist professional advice this must include a condition relating to professional indemnity insurance.
 - (iii) Have a realistic estimated value determined and entered onto the approved ordering computer system.
- (g) All orders must be authorised by an officer duly authorised by the responsible Head of Department.
- (h) Verbal orders will only be made in special circumstances as agreed with the Head of Resource Management. Verbal orders:-
 - (i) can only be placed with contractors / suppliers already set up on the Council's approved ordering computer system.
 - (ii) must be verbally agreed with an officer duly authorised by the responsible Head of Department before being placed.
 - (iii) must be input to the Council's approved ordering computer system without delay and a confirmation order issued.
- (i) In the event of the need to issue a variation to an order, this will be by issue of a further order produced from the Council's approved ordering computer system. Each variation order must clearly identify the order number of the order to be varied.

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PROCUREMENT PROCEDURE RULES

2.1 Exemptions from Official Order Rules

A Head of Department shall be exempt from the need to raise an official order in the following circumstances: -

- (a) For cash purchases using the Council's Petty Cash system, where ordering using the approved computer system is considered not to be practical. A maximum limit of £50 is applicable to each procurement made using the Council's Petty Cash system.
- (b) For the periodic payment of rent and National Non Domestic Rates
- (c) For the periodic payment of former public utility supplies.
- (d) Where the nature of the goods, works or service requires an appropriate standard form of written contract.
- (e) For contract variations where a written contract requires a form of written contract variation, that is not in the format of the Council's standard official order.
- (f) For HRA assets where orders for goods, works or services are required to be raised through the Council's authorised Housing Management computer system.
- (g) Where the Chief Financial Officer has agreed the use of purchase cards.
- (h) Any other circumstances as agreed, in advance of the procurement, by the Head of Resource Management.
- (i) For the engagement of Counsel by the Legal Services Manager.

SECTION 3 – CENTRAL PURCHASING RULES**3.0 Central Purchasing**

- (a) The Council may decide to enter into an approved central contract for the supply of particular goods, works or services.
 - (i) Procurement Procedure Rules will be followed to select the supplier / contractor to be used for that central contract.
 - (ii) The Head of Resource Management will be responsible for notifying all Heads of Department of any central contracts the Council has entered into.
 - (iii) Heads of Department are required to use any such contracts for the procurement of the goods, works or service that that central contract covers.
 - (iv) If use of any such contract is not considered to be financially advantageous, the relevant Head of Department will consult the Head of Resource Management in order to agree any exemption from the use of any such contract.

PROCUREMENT PROCEDURE RULES

- (b) The Council may decide to enter into partnership agreements either directly with other public bodies, or as part of a consortium of public bodies, for the procurement of goods, works or services.
 - (i) This Council's Procurement Procedure Rules will be used if this Council is undertaking the tendering process to select the supplier / contractor.
 - (ii) The Head of Resource Management will be responsible for notifying all Heads of Department of any such partnership agreements the Council has entered into, the procurement covered by such agreements, the designated contractor, and any terms and conditions applicable.
 - (iii) Heads of Department are required to procure any goods, works or services within that partnership agreement from the designated supplier.
 - (iv) If use of any such partnership agreement is not considered to be financially advantageous, the relevant Head of Department will consult the Head of Resource Management in order to agree any exemption from the use of any such agreement.
- (c) The Council can take advantage of specialist call-off contracts that have been tendered / negotiated by other public bodies
 - (i) The Head of Resource Management will be responsible for identifying such specialist call-off contracts, and notifying all Heads of Department.
 - (ii) Heads of Department will procure using these specialist call-off contracts where such contracts offer advantageous terms for the Council.
 - (iii) If use of any specialist call-off contract is not considered to be financially advantageous, the relevant Head of Department will consult the Head of Resource Management in order to agree any exemption from the use of any such contract.
 - (iv) Where any such specialist call-off contract contains multiple suppliers, Heads of Department will seek advice from the Head of Resource Management as to the selection process.
- (d) In all cases the Council's approved ordering computer system will be used to order the goods, works or service required.

PROCUREMENT PROCEDURE RULES

SECTION 4 – QUOTATION RULES**4.0 General Requirements**

- (a) Quotation rules will apply to all procurement of goods, works or services not expected to exceed £50,000.
- (b) The total estimated cost (excluding VAT) of any procurement will be used to determine the section of these Quotation Rules that is applicable.
- (c) Where any procurement spans a number of periods, or years, the total estimated cost will be the cumulative total of all periods, or years covered.
- (d) If the total estimated cost exceeds £50,000 then Tender Rules must be applied.
- (e) Disaggregation of any procurement, in order to apply a lower quotation level to each of the parts is not permitted.

4.1 Central Purchasing

Central Purchasing arrangements are detailed in Section 3 of these rules. Where such arrangements are in place Heads of Department will order goods, works or services using those contracts, and will not be required to seek quotations.

4.2 Exemptions from Quotation Rules

Where no Central Purchasing arrangements are in place Heads of Department shall be exempt from the need to obtain competitive quotations where any of the following circumstances apply: -

- (a) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price.
- (b) The matter is one of urgency as determined by the appropriate Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.
- (c) The contractor or supplier is specified for works to this Council for which an external client is making payment.
- (d) Where the work is of a specialist nature and the Head of Department can demonstrate that it is not possible to obtain more than one quotation.
- (e) For the engagement of Counsel by the Legal Services Manager.
- (f) Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within the documented scope of that partnership arrangement. In such cases the Head of Department must be able to demonstrate that the proposed procurement through such

PROCUREMENT PROCEDURE RULES

a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply, or extension of existing arrangements). The documentation to be issued will take the form of a contract variation as determined in the partnership contract, unless the contract does not specify the documentation to be used in which case the documentation to be issued will be as required by Procurement Procedure Rules for the value of the procurement.

- (g) Where the items to be purchased are of a minor nature, a budget provision exists, and the total value does not exceed £2,500.

In all cases where an exemption is applied the Head of Department shall maintain a record to evidence this.

4.3 All Procurement Subject to Quotations

- (a) Supplier's catalogues, or advertisements in publications, can be used in lieu of a written quotation. In such cases evidence shall be retained to demonstrate the prices applicable at that time.
- (b) Quotations by e-mail or other electronic means will be considered an acceptable form of written quotation.
- (c) Where less than 3 competitive quotations are required the Head of Department is required to be satisfied that the quotes obtained are reasonable and that they provide the Council with good value for money.
- (d) If the value of the lowest quotation received exceeds the limit of the quotation category applied, then the Head of Department must obtain sufficient further quotations applicable to the level of the value of that lowest quotation.
- (e) The Head of Department is under no obligation to accept any of the quotations. However where the Head of Department is prepared to accept a quotation, the most financially advantageous quotation must be accepted unless otherwise agreed in consultation with the appropriate Portfolio Holder.

4.4 Procurement over £2,500, but not expected to exceed £5,000.

- (a) A minimum of one quotation in writing shall be obtained by the Head of Department, and retained.

4.5 Procurement over £5,000, but not expected to exceed £10,000

- (a) A minimum of two quotations in writing shall be obtained by the Head of Department and retained.

4.6 Procurement over £10,000, but not expected to exceed £50,000

- (a) A documented specification will be produced, and . This will: -
- (i) Identify the procurement of goods, works or services required.

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PROCUREMENT PROCEDURE RULES

- (ii) Identify any periods over which the goods, works, or services are to be provided. In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
 - (iii) In appropriate cases provide for the retention of stated sums / percentages and the retention period to be applied.
 - (iv) In appropriate cases make provision for the contractor to provide a performance bond, or parent company guarantee.
 - (v) Identify any other terms and conditions the relevant Head of Department considers necessary.
- (b) A minimum of three quotations in writing shall be obtained by the Head of Department and retained.
- (c) All quotations shall be sought either in writing, or electronically, but not both.
- (i) Where quotations are sought electronically the responsible Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of quotation opening. Access to the secure e-mail address shall be controlled by a senior member of staff not involved with the procurement or tender process.
- All contractors or suppliers asked to provide a quotation must be advised in writing, or by e-mail, that the quotations must be sent to the specified e-mail address, and that quotations e-mailed to any other Council e-mail address will be disqualified.
- (ii) The Head of Department will determine an opening date for all quotations received.
 - (iii) Quotations will be held securely and unopened until the opening date.
 - (iv) Arrangements will be made by the Head of Department for all quotations, whether sought in writing or electronically, to be opened at the same time, in the presence of a witness. The details of quotations opened will be recorded in a register maintained for that purpose by the Head of Department.
 - (v) A record shall be retained of all quotations received.
- (d) Where the lowest quotation received exceeds £50,000, Tender Rules shall be followed from that stage as if tenders had been sought.

4.7 Procurement expected to exceed £50,000

Tender Rules must be followed.

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PROCUREMENT PROCEDURE RULES

SECTION 5 – TENDER RULES**5.0 General Requirements**

- (a) Every contract which exceeds £50,000 in value shall: -
- (i) Be in writing.
 - (ii) Specify the goods, works or services to be supplied, the price to be paid, any discounts or other deductions that may apply, the period(s) during which the contract is to be performed and any other relevant terms and conditions that the responsible Head of Department considers necessary.
 - (iii) In appropriate cases, provide for the retention of stated sums / percentages and the retention period to be applied.
 - (iv) In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
 - (v) In appropriate cases, and at the discretion of the responsible Head of Department, make provision requiring the contractor to provide a performance bond and / or a parent company guarantee.
- (b) Where the value of the proposed contract exceeds £50,000, the Legal Services Manager in consultation with the responsible Head of Department shall determine whether or not it is in the Council's best interest to make the contract under Seal.
- (c) Where the Council contracts with a third party (who is not an officer of the Council) to supervise the tendering process for a contract on its behalf, the third party will be required to comply with these Tender Rules.

5.1 Central Purchasing

Central Purchasing arrangements are detailed in Section 3 of these rules. Where such arrangements are in place Heads of Department will order goods, works or services using those contracts, and will not be required to seek tenders.

5.2 Exemptions from Tender Rules

Where no Central Purchasing arrangements are in place Heads of Department, following consultation with the Head of Resource Management, shall be exempt from the need to obtain competitive tenders where any of the following circumstances apply: -

- (a) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price.
- (b) The matter is one of urgency as determined by the appropriate Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.

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PROCUREMENT PROCEDURE RULES

- (c) The contractor or supplier is specified for works to this Council for which the client is making payment.
- (d) Where the work is of a specialist nature and the Head of Department can demonstrate that it is not possible to obtain more than one tender.
- (e) For the engagement of Counsel by the Legal Services Manager.
- (f) Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within the documented scope of that partnership arrangement. In such cases the Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply, or extension of existing arrangements). The documentation to be issued will take the form of a contract variation as determined in the partnership contract, unless the contract does not specify the documentation to be used in which case the documentation to be issued will be as required by Procurement Procedure Rules for the value of the procurement.

In all cases where an exemption is applied, the Head of Department shall maintain a record to evidence this.

5.3 Tender Evaluation Panel

- (a) The Council shall use an Officer Tender Evaluation Panel to review the tendering process, at various stages, in the letting of a major contract.
- (b) Heads of Department are required to notify the chairman of the Tender Evaluation Panel of all tenders, estimated at over £50,000, being sought. The chairman of the Tender Evaluation Panel will determine which tenders will be reviewed by the panel and at what stages.
- (c) The Tender Evaluation Panel will produce written reports on all tender processes, at relevant stages in any procurement, for Management Team.
- (d) The Tender Evaluation Panel will be chaired by the Head of Resource Management. The panel comprises officers determined by the Head of Resources Management along with a senior officer from the department letting the contract.
- (e) The Chairman of the Tender Evaluation Panel shall also have the right to call on technical assistance / expertise from other departments as he considers necessary.

5.4 Specialist Lists of Contractors

- (a) The Council will use specialist lists of contractors for selective tendering purposes.

PROCUREMENT PROCEDURE RULES

- (b) The Council will use the DTI's Constructionline, subsequent Government Sponsored variants thereof, or any other Government sponsored lists, where they contain contractors appropriate to the contract being let.
- (c) The Customer and Central Services Portfolio Holder, on the recommendation of the Head of Resource Management may approve additional lists of contractors approved by other public bodies for use by this Council for selective tendering purposes. These may be used to supplement, or in lieu of, Constructionline, or any other Government sponsored lists.

5.5 Tender Procedure Selection

- (a) Where the total estimated value of a proposed contract over its term is expected to exceed the appropriate current European Procurement regulation level tenders must be sought in accordance with Contract Procedure Rule 5.6 Selective Tendering.
- (b) Where the estimated value of a contract exceeds £50,000, but is less than the appropriate current European Procurement regulation level the appropriate Head of Department will determine which form of tendering within Contract Procedure Rules will be used.

5.6 Selective Tendering

- (a) Where the proposed contract is subject to European Procurement regulations, such regulations will take precedence over these procedures where appropriate.
- (b) The approved specialist list(s) of contractors (Contract Procedure Rule 5.4) will be used where appropriate to the nature of the goods, works or service to be tendered.
- (c) Where there is no approved specialist list for the goods, works, or service to be tendered, then: -
 - (i) Before any notice is placed seeking prospective contractors for the supply of goods or services, the matter should be referred to the Tender Evaluation Panel for determination as to whether the matter is appropriate for review by the Tender Evaluation Panel. That referral should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors
 - (ii) A public notice shall be placed in at least one newspaper or journal circulating among suppliers / contractors who undertake such contracts. The notice shall: -
 - 1 Specify details of the goods, works or services to be tendered.
 - 2 Invite interested contractors to apply for permission to tender.
 - 3 Specify a time limit of not less than 28 days during which applications shall be submitted to the Council

PROCUREMENT PROCEDURE RULES

- (iii) After expiry of the period specified in the public notice, the responsible Head of Department will undertake an evaluation of the suppliers / contractors. This evaluation may be subject to Tender Evaluation Panel review.
 - (iv) The responsible Head of Department, and where appropriate the Tender Evaluation Panel, will in consultation with the appropriate Portfolio Holder or Chairman of the relevant Committee select those contractors suitable and capable to tender for the proposed contract.
- (d) Invitations to tender for the contract shall ensure fair competition and shall be sent to: -
- (i) Not less than 4 and not more than 8 contractors
 - (ii) Where less than 4 suitable contractors have been identified then all shall be invited to tender

5.7 Open Competitive Tenders

- (a) Before any notice is placed seeking prospective contractors for the supply of goods or services, the matter should be referred to the Tender Evaluation Panel for determination as to whether the matter is appropriate for review by the Tender Evaluation Panel. That referral should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors
- (b) A minimum of 28 days public notice of the proposed contract shall be given in at least one newspaper or journal circulating among suppliers / contractors who undertake such contracts.
- (c) The notice inviting tenders shall contain: -
 - (i) The nature and purpose of the contract
 - (ii) Details of where further information / tender documents can be obtained
 - (iii) The arrangements for the submission of tenders, including closing date and time

5.8 Submission of Tenders

- (a) All tenders shall be required to be submitted on a form of tender prepared by, or agreed by, the Council which shall include a statement that the Council will not be bound to consider or accept any tender.
- (b) The form of tender must identify the basis on which the submitted tenders will be evaluated. Where the evaluation is other than a straightforward financial evaluation based upon lowest submitted price, the proposed evaluation process must be submitted to the Tender Evaluation Panel for agreement before tenders are sought.
- (c) Where a Head of Department considers that the Council may benefit from the use of post tender negotiation, that Head of Department shall: -

PROCUREMENT PROCEDURE RULES

- (i) Ensure that such intention is included in the documentation submitted to tenderers.
- (ii) Before seeking tenders agree a suitable procedure with the Tender Evaluation Panel.
- (d) Prior to the issue of tenders, the responsible Head of Department will determine whether tenders are required in writing, or electronically by e-mail. All tenders for a contract must be submitted in the same manner.
- (e) Written tenders shall : -
 - (i) be submitted in a plain sealed envelope endorsed "Tender", the name of the contract to which it relates and the closing date and time by which tenders must be received. No name or other mark shall be applied which might identify the sender. Tenders that do not comply shall be rejected.
 - (ii) All tenders shall be submitted to the Executive Corporate Support Manager. The Executive Corporate Support Manager shall arrange for all tenders to be held securely and unopened.
- (f) Where electronic tendering is used: -
 - (i) The responsible Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process.
 - (ii) The form of tender issued must specify that tenders must only be sent to the specified e-mail address, and that tenders e-mailed to any other Council e-mail address will be disqualified.

5.9 Opening of Tenders

- (a) All tenders shall be opened at the same time in the presence of: -
 - (i) One of the Chairman or Vice-Chairman of the Council, the Leader, (or failing him the Deputy Leader) the relevant Portfolio Holder or Committee Chairman or Vice-Chairman or other Member(s) of the Council who shall have been authorised by the Council for the purpose
 - (ii) The Executive Corporate Support Manager or other officer to whom he has delegated responsibility
 - (iii) The responsible Head of Department or other officer to whom that Head of Department has delegated responsibility

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PROCUREMENT PROCEDURE RULES

- (iv) The Chief Financial Officer, or other officer to whom he has delegated responsibility. In this respect the Finance and Procurement Manager should be advised of ALL tender openings so he can determine whether internal audit should be represented at the opening
- (b) The Executive Corporate Support Manager, or other officer to whom he has delegated responsibility, shall prepare and maintain a register of tenders received and shall record in that register the following particulars: -
 - (i) The closing date and time for receipt of tenders
 - (ii) The date upon which the tender was received
 - (iii) Where a tender is received after the closing time on the closing date and is considered or accepted, the reason(s) why it was considered or accepted
 - (iv) The name of the tenderer and the amount of the tender
 - (v) The date upon which the tenders received were opened
 - (vi) The Member opening the tenders shall immediately sign against the relevant particulars in the register as evidence of having opened the tenders
 - (vii) All officers responsible for the opening of tenders shall immediately sign against the relevant particulars in the register as evidence of such tenders having been opened in their presence
 - (viii) The signature of the officer to whom the tenders were handed after opening
- (c) Any tender received after the closing time and date shall, unless Procurement Procedure Rule 5.9 (b) (iii) applies thereto, be returned by the Executive Corporate Support Manager promptly to the tenderer. The tender may be opened to ascertain the name and address of the tenderer, but no details of the tender shall be disclosed.

5.10 Acceptance of Tenders

- (a) Unless the requirements of Procurement Procedure Rule 5.8 (b) have been applied, the most financially advantageous tender to the Council shall be accepted by the Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (b) Where Procurement Procedure Rule 5.8 (b) applies, the tenders must be evaluated in accordance with the agreed evaluation process / criteria, and evidence retained to demonstrate this. The tender identified as most advantageous to the Council shall be accepted by the Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).

SECTION 6 – OTHER CONTRACT RULES

6.0 Nominated Sub-Contractors and Suppliers

- (a) Competitive quotations / tenders shall be sought for the execution of works or for the supply of goods or materials by a nominated subcontractor in accordance with these Contract Procedure Rules, unless it is considered impractical to do so
 - (i) Where the estimated value of the subcontract does not exceed £50,000 the responsible Head of Department shall determine whether it is practical to obtain quotations.
 - (ii) Where the estimated value of the subcontract exceeds £50,000 and the responsible Head of Department considers the obtaining of tenders to be impractical the approval of the Leader of the Council, relevant Portfolio Holder or Committee Chairman for the proposed course of action shall be sought.
- (b) The invitation to a subcontractor to quote / tender shall include an undertaking that, if selected, the subcontractor will enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in respect of goods, works or services included in the subcontract.

OFFICER EMPLOYMENT PROCEDURE RULES

OFFICER EMPLOYMENT PROCEDURE RULES

1 RECRUITMENT AND APPOINTMENT

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons (or if they are related in any other way to such persons).
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him.
- (iii) A candidate who fails to disclose a relationship as set out in (i) above shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.

(b) Seeking support for appointment.

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.