
ACCESS TO INFORMATION PROCEDURE RULES

The Council considers that Local Government derives an important part of its authority and influence from the trust and confidence of the individuals and communities it serves. Access to Information in respect of decision making is a necessary prerequisite for generating that trust and confidence. Informed members of the local community are better able to contribute to, and take part in, the work of Local Authorities. Access to information is central to this process and requires Local Authorities to establish the appropriate balance between:

- making information readily and openly available to the public; and
- ensuring that certain areas of personal/public life remain the legitimate object of confidentiality.

1. SCOPE

Rules 1 to 11 outline the rights of members of the public and apply to all meetings of the Council, the Overview and Scrutiny Committees, Cabinet, Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee (and its sub-committees), Planning Policy & Local Plan Committee, Planning Committee, Standards Committee and the Town and Parish Council Standards Sub-Committee, collectively called meetings.

Rule 12 relates to recording of Decisions by Officers.

Rule 13 deals specifically with Cabinet's schedule of key decisions by which future major decisions of the Council are publicised.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any, more specific, rights to information contained elsewhere in this Constitution or the law for example the Data Protection Act 1998 and the Freedom of Information Act 2000.

3. RIGHTS TO ATTEND MEETINGS

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

Any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, save where the public have been excluded for consideration of exempt or confidential business. The rules, as prescribed by legislation, will allow for the reporting of meetings via social media of any kind. The Council will provide reasonable facilities to facilitate reporting.

Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to, moving outside the area designated for the public, making excessive noise, intrusive lighting/flash or asking a Councillor to repeat a

statement. In addition, members of the public or the public gallery should not be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained. Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman and may be asked to leave the meeting.

4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting, except where an urgent meeting is convened, by making the agenda and reports publicly available at the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE (the "designated office") and on the Council's website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda, accompanying reports and background papers that are open to the public available for inspection at the designated office and on the website at least five clear working days before the meeting. If an item is added to the agenda after publication the revised agenda will be open to inspection from the time the item was added to the agenda.

Copies of the agenda and accompanying reports will be sent to the Councillors who serve on the decision-making body in question.

6. SUPPLY OF COPIES

Agendas, reports and background papers listed within Cabinet reports are available to view on the Council's website. The Council will on request, and for such reasonable charge as is from time to time agreed, supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any background papers listed within the reports; and
- (c) copies of any other documents supplied to Councillors in connection with an item to any person, on payment of a charge for postage and other costs, if the Proper Officer (Monitoring Officer) thinks fit.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

In addition to publishing information on the Council's website, the Council will make available, upon request copies of the following for six years after a meeting:

- (a) the minutes of the meeting which will include a record of decisions taken, together with reasons. However where the meetings discussed exempt or confidential information the minutes open to the public will only include a record of the proceedings and the decision. The Council aims to publish minutes of meetings within 5 working days following the meeting;

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- (b) records of executive decisions taken by individual Cabinet Members or Officers, including the reasons for the decision and any alternative options considered and rejected. They will be published and made available as soon as reasonably practicable after they have been taken;
 - (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

In every report a list will be included of those documents (called background papers) relating to the subject matter of the report which in the report author's 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.

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.

Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection. Arrangements for inspection should be made through the Council's Committee Services at the Town Hall and on the Council's website.

In the case of reports to Cabinet, the background papers will be published on the Council's website, subject to Rule 10 below.

The Council may now charge "a reasonable fee" for access to background papers to be inspected at the Council's offices.

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 the Town Hall, Station Road, Clacton-on-Sea.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – Requirement to Exclude Public

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

10.2 Meaning of Confidential Information

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

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 which falls into one of the seven definitions of information that is exempt from disclosure to the public and press.

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 seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):

| 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:- (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; |

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| <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p> <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6. Information which reveals that the authority proposes:-</p> <p>(a) To give under any enactment or notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) To make an order or direction under any enactment.</p> <p>7. Information relating to any action or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.</p> | <p>(e) The Building Societies Act 1986; or</p> <p>(f) The Charities Act 1993.</p> <p>“Financial and business affairs” includes contemplated, as well as past or current activities.</p> <p>Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1)(a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</p> |
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Notes:

- (a) 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.
- (b) 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 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.
 - (c) Where the meeting will determine any person's civil rights or obligations, 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 that Article.

10.5 Hearings under Regulations made pursuant to the Licensing Act 2003

Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 presumes that hearings shall take place in public. However, the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For that purpose, a party and any person assisting or representing a party may be treated as a member of the public.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer (Monitoring Officer) thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with category of information likely to be concerned. The report will also include a Review Date at which time the contents of the report will be re-assessed in order to determine whether the report can now be placed into the public domain.

12. RECORDING OF DECISIONS BY OFFICERS

12.1 Written Record

A written record must be produced, as soon as reasonably practicable, after a decision has been made, which was delegated to an Officer by Council, a Committee or Sub-Committee either:

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- (a) under an express authorisation; or
 - (b) a general authority to take decisions which grant a permission or licence, affect an individual's rights or award a contract or incur expenditure, which in either case, materially affects the Council's finances.

12.2 Prescribed Format

The written record must be in the prescribed format approved by the Monitoring Officer and Committee Services Manager and contain the following information:

- (a) the date the decision was made;
- (b) a record of the decision taken along with the reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where relevant, any conflicts of interest declared.

12.3 Public Inspection of Decision and Background Papers

The Officer making the decision must ensure that the written record and background papers are made available for inspection by the public and published on the Council's website.

APPLICATION OF RULES TO THE CABINET

Rules 13 to 21 apply to the Cabinet, any decisions taken by the Leader, Cabinet Members or Officers under the Scheme of Delegation. If any of these decision makers intend to take a key decision then it must also comply with Rule 13 unless Rule 15 (general exception) or Rule 16 (special urgency) applies. A "key decision" is defined in Article 13.03 of this Constitution.

13. PROCEDURE BEFORE TAKING KEY DECISIONS OR DECISIONS THAT WOULD INVOLVE THE DISCLOSURE OF CONFIDENTIAL OR EXEMPT INFORMATION

13.1 Subject to Rules 14 and 15 below, a key decision or a decision that would involve the disclosure or likely disclosure of confidential information must not be made until a notice has been published on the Council's website (under Forthcoming Decisions) for at least 28 clear days, containing the following details:

- (a) that a key decision is to be made, and details of the matter excluding (if applicable) any details that would reveal confidential or exempt information; or
- (b) that a decision that would involve the disclosure or likely disclosure of confidential information is to be made and details of the matter excluding any details that would reveal such confidential or exempt information;

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- (c) the decision-maker's name and title, if an individual, or if it is a body, its name and full membership;
 - (d) the date on which, or period during which, the decision is to be made;
 - (e) a list of the documents already submitted to the decision-maker for consideration in relation to the matter and details of how to obtain copies; and
 - (f) a statement that documents relevant to the decision may be submitted to the decision-maker and details of how to receive copies.

13.2 DEFINITIONS

A "Key Decision" is an executive decision that meets the description of a Key Decision set out in Article 13.03 of the Constitution.

"Confidential" and "Exempt" information are defined in, respectively, Access to Information Procedure Rules 10.2 and 10.4.

14. GENERAL EXCEPTION

Subject to Rule 15, if publication under Rule 13 above is impracticable, a key decision may only be made:

- (a) where the Proper Officer has informed the Chairman of the relevant Overview and Scrutiny Committee in writing of the matter about which the decision is to be made;
- (b) notice is given and published on the Council's website of the details of the decision to be made and the reasons why it is impracticable to give 28 clear days' notice; and
- (c) at least five clear working days have elapsed between notice being given and the decision being taken.

Decisions taken under the General Exception procedure are still subject to call in unless an exemption has been granted or an exception applies under the provisions set out in Overview and Scrutiny Procedure Rule 18.

15. SPECIAL URGENCY

If the general exception rule is impracticable, due to the date by which a key decision must be made, the key decision can only be taken if the decision-maker has received the agreement of the Chairman of the relevant overview and scrutiny committee, or if they are unable to act, the Chairman or Vice-Chairman of the Council and has published a notice on the Council's website, stating that the making of the decision is urgent and the reasons why it cannot reasonably be deferred.

Decisions taken under the Special Urgency procedure are automatically exempted from call-in.

16. REPORTS TO COUNCIL

16.1 When an Overview and Scrutiny Committee can require a Report

If the relevant overview and scrutiny committee thinks that a key decision has been made and was not:

- (a) published in accordance with Rule 13.1; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement under Rule 15;

the Committee, by resolution at one of its meetings, may require the Cabinet to submit a report to full Council, within such reasonable time as the Committee specifies. The report to Council must include details of the decision, the decision maker and reasons why the Cabinet are of the opinion that the decision was not a key decision. The power to require a report rests with the Committee but may also be exercised by the Proper Officer on receipt of a written request, providing valid reasons to do so, from five members of the Committee.

16.2 Reports on Special Urgency Decisions

The Leader will submit a report to the next practicable ordinary meeting of the Council on Cabinet decisions or executive decisions taken by individual Portfolio Holders or Officers where the making of the decision was agreed as urgent in accordance with Rule 15 since the last such report. The report will include the number of decisions made, the particulars of each decision made and a summary of the matters in respect of which those decisions were made.

17. RECORD OF DECISIONS

A written record must be produced, as soon as reasonably practicable, after a Cabinet (executive) decision has been made, including where Cabinet Members have made individual decisions and Officer's decisions have been made exercising executive functions in accordance with the Responsibility of Functions – Delegated Powers contained within Part 3 of this Constitution.

Each record must be in the prescribed format approved by the Monitoring Officer and Committee Services Manager and contain the following information:

- (a) the decision and the date it was made;
- (b) the reasons for the decision;
- (c) details of any alternative options considered and rejected; and
- (d) declarations of interest and details of any dispensations granted in respect of those interests.

The Record of the Executive Decision will be published on the Council's website together with any report considered at the meeting or by the individual Portfolio Holder or Officer and must be available for inspection, as soon as reasonably practicable. Any background paper must also be listed and one of each of the documents available for public inspection and published on the Council's website.

18. PROCEDURES PRIOR TO A PRIVATE MEETING

18.1 At least 28 days before a private meeting of the Cabinet:-

- (a) notice of intention to hold the meeting must be made available at the Council's offices; and include a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received about why the meeting should be held in public and a statement of its response to any such representations;
- (c) that Notice must list any decision that would involve the disclosure or likely disclosure of confidential information that is due to be made at that meeting together with details of the matter excluding any details that would reveal such confidential or exempt information; and
- (d) that Notice must be published on the Council's website.

18.2 The Notice under 18.1 must include a statement of the reasons for the meeting being held in private.

18.3 At least five clear days before a private meeting, a further notice of the intention to hold a meeting must be available and published on the Council's website. This will form the Cabinet agenda for the meeting.

19. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET

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

The Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and the Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend.

20. RIGHTS OF OVERVIEW AND SCRUTINY MEMBERS

20.1 Upon request from a member of an overview and scrutiny committee, the Cabinet **must** make available any document which contains material relating to any business transacted at a public or private meeting of the Cabinet and any decisions made (whether by individual Cabinet Members or Officers).

20.2 This request must be complied with and the documentation provided as soon as reasonably practicable, but no later than 10 clear days after the request is made.

20.3 If the Cabinet determines that material will not be provided, it must provide the member of the overview and scrutiny committee with a written statement, setting out its reasons for that decision.

Limits on Rights

The member of an overview and scrutiny committee will not be entitled to:

- (a) any document in draft form; or
- (b) any part of a document which contains exempt or confidential information unless it relates to an action or decision that is being scrutinised or to any review in a relevant overview and scrutiny committee's work programme; or
- (c) any exempt material which contains advice provided by a political adviser or assistant.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.1 Material Relating to Previous Business

All Members will be entitled to inspect any document that is in the possession of, or under the control of, the Cabinet 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 or assistant.

21.2 Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet, which relates to any key decision unless paragraph 21.1 above applies.

21.3 Nature of Rights

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

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Cabinet Decisions

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

2. Process for Developing the Policy Framework

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

- (a) The Cabinet will publicise on the Council's website 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 Cabinet'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 Cabinet 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 Cabinet in that consultation process then it may do so. The Cabinet 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 Cabinet's response.

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

- (c) Once the Cabinet has approved firm proposals, the appropriate Corporate Director will report them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet'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 Cabinet for further consideration.
 - (i) If the Council decides not to adopt the Cabinet'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 Cabinet 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 Cabinet within which the Leader may:

- (1) Submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Committee Services Manager for consideration; or
 - (2) Inform the Committee Services Manager of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
- (e) If it accepts the recommendation of the Cabinet 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 Committee Services Manager a revision of the plan or strategy or informed them in writing of any disagreement that the Cabinet 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 Cabinet disagreeing with the Council’s objections to the draft plan or strategy). The Council may:-
- (i) approve the Cabinet’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 Cabinet by a simple majority; or
 - (iii) approve the Cabinet’s proposed plan or strategy (whether in the form of a draft of 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 Cabinet 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 Cabinet, in accordance with paragraph 7 of these Rules. Any other changes to the Policy Framework are reserved to the Council.

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 Cabinet will publicise on the Council's website a timetable for making proposals to the Council for the adoption of the budget and the Cabinet'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 Cabinet will draw up a draft Financial Strategy/Forecast setting out the basis on which the budget proposals are intended to be formulated. The Cabinet shall consult the relevant Overview and Scrutiny Committee on the draft Financial Strategy/Forecast. The consultation period in this instance shall be not less than 3 weeks. At the end of that period the Cabinet shall agree the Financial Strategy/Forecast having regard to the response from that Overview and Scrutiny Committee.
- (c) The Cabinet shall draw up and consult on proposals for the budget having regard to the draft or agreed Financial Strategy/Forecast. If the relevant Overview and Scrutiny Committee wishes to respond to the Cabinet 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 Cabinet will then draw up firm proposals having regard to the responses for that consultation. The Cabinet 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 Cabinet's response.
- (e) Once the Cabinet has approved the firm proposals, the Chief Financial Officer will report them at the earliest opportunity to the Council for decision.
- (f) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, or substitute its own proposals in their place.
- (g) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision, unless the Leader of the Council having consulted the Chief

Financial Officer indicates at the meeting Cabinet's acceptance of the amended budget. The Chairman of the Council will adjourn the meeting to allow the relevant consultation to take place. 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, the Committee Services Manager shall immediately inform the Leader of any objections which it has to the Cabinet's proposals and shall give him instructions requiring the Cabinet, 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:
 - (a) submits to the Committee Services Manager in writing a revision of the proposals as amended by the Cabinet ("the revised proposals") together with the Cabinet's reasons for any amendments made to the proposals; or
 - (b) informs the Committee Services Manager in writing of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet'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 Cabinet's disagreement. The Council will be required to re-consider its decision and to take into account the revised proposals, the Cabinet's reasons for any amendments made to the proposals, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet'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 revised 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 Cabinet. Any other changes to the budget are reserved to the Council.

4. Submission of Budget Proposals before 8th February

In the event of the Cabinet submitting their firm proposals for the budget to Council before 8 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 Cabinet, individual members of the Cabinet and any officers discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 6.
- (b) If the Cabinet, individual members of the Cabinet and any officers discharging Cabinet 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 Cabinet, an individual member of the Cabinet or Officers discharging Cabinet functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) If it is not practical to convene a quorate meeting of the full Council; and
- (ii) If the 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 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 the 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 of 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.

8. In-Year Changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, an individual member of the Cabinet or Officers discharging Cabinet 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 a service to meet a budgetary constraint; or
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (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; or
- (d) relating to aspects of any plan or strategy where full Council has delegated to the Cabinet 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 either a proposed decision or a decision which has been called-in under the Overview and Scrutiny Procedure Rules is or would be, contrary to the Council's Budget and 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) The call-in procedures set out in Rules 13 and 17 of the Overview and Scrutiny Procedure Rules must be adhered to.
- (c) If, having had regard to the advice of the Monitoring Officer and/or Chief Financial Officer, which will be summarised within the Report, the Overview and Scrutiny Committee considers 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 the Council Procedure Rules.
- (d) Council 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 decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; 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 Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Chief Financial Officer.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. OVERVIEW AND SCRUTINY COMMITTEES

The Council will have two 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 nine members, who will be appointed by the full Council (normally) at its annual meeting. Their terms of reference and functions will be as set out in Part 2, Article 6 of the Constitution.

2. MEMBERSHIP

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees. However, no Member may be involved in scrutinising a decision in which they have been directly involved in making.

3. CO-OPTED MEMBERS (WITHOUT VOTING RIGHTS)

Each Overview and Scrutiny Committee shall be entitled to appoint people as Co-opted Members (without voting rights) as considered appropriate to enable them to perform their overview and scrutiny functions. The duration of the appointment will be determined by the Committee. In addition, the Council may determine which groups or bodies should be represented on a particular Committee by Co-opted Members (without voting rights).

4. MEETINGS OF THE COMMITTEE

Meetings of the Overview and Scrutiny Committees will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate.

Programmed meetings may also be cancelled, following consultation with the Committee's Chairman, where the business to be transacted would not warrant the holding of the meeting as originally envisaged.

5. QUORUM

The quorum for the Committee shall be as set out in Part 4 (Council Procedure Rules).

6. CHAIRMEN

The Chairmen of the Committees shall be appointed as set out in Part 4 (Council Procedure Rules).

The Chairmen of the Overview and Scrutiny Committees will meet with the Head of Democratic Services & Elections and relevant officers to co-ordinate the business of the relevant Committees and determine which Committee will assume responsibility for any particular issue. In consultation with the Chairman of the two Committees, it may be proposed that a joint Panel or Group to be established by the Committees.

7. WORK PROGRAMME

Each Overview and Scrutiny Committee will submit a work programme for the year ahead and a review of the previous year's activities to the 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 Overview and Scrutiny Committee will take into account:-

- The General Role and Principles of undertaking its functions, as set out in Part 2 Article 6
- the planned work on the preparation of elements of the Budget and Policy Framework;
- provision for budget scrutiny and scrutiny of the Treasury Management Strategy, as appropriate;
- the need for statutory timetables to be met;
- the expressed wishes of the members of the committee;
- requests from the Cabinet to carry out reviews and/or suggestions from the liaison meetings held under the Cabinet Overview & Scrutiny Protocol; and
- requests from Members and/or Group Leaders in accordance with Rule 8.

8. AGENDA ITEMS

Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Head of Democratic Services & Elections that they wish an item relevant to the terms of reference and the functions of the Committee (but with the exception of matters relating to crime and disorder) 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 Head of Democratic Services & Elections no later than midday seven working days before the day of the meeting. On receipt of such a notice the Head of Democratic Services & Elections will ensure that the item is included on the agenda.

Any such request by Members will be considered at the next available meeting where the Committee will decide if the item should form part of the work programme.

The Leader of any political group may request that an item be included on the Overview and Scrutiny work programme. The relevant Overview and Scrutiny Committee will consider the request on the agenda and determine at its meeting, whether the item is appropriate for inclusion on the work programme.

The relevant Overview and Scrutiny Committee will respond, as soon as their work programme permits, to requests from the Council and if it considers appropriate, the Cabinet to review particular areas of Council activity. Such referrals will be accompanied by Council/Cabinet's view on the matter under consideration to assist the relevant Overview and Scrutiny Committee in effective investigation of the matter. Where they do so, the relevant Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or Cabinet shall consider the report at its following meeting.

In addition to the above any member of the Authority who is not a member of the Council's designated crime and disorder committee (i.e. the Community Leadership Overview & Scrutiny Committee) can refer any local crime and disorder matter to that committee for its consideration in accordance with the legislative requirements. Such a reference must be given by delivering it, in writing (or by personal e-mail) to the Head of Democratic Services & Elections no later than midday seven working days before the day of the meeting. On receipt of such a notice the Head of Democratic Services & Elections will ensure that the item is included on the agenda. Any such reference by a Member will be considered at the meeting concerned where the Committee will decide how to proceed with the reference (within the legislative requirements).

9. COUNCILLORS CALL FOR ACTION

The Councillors Call for Action is an additional means for Councillors to raise issues of local community concern, for consideration by the Council's overview and scrutiny function, on behalf of residents. A Councillors Call for Action should only be raised where other means of resolving the matter have been exhausted.

- (a) Any Member of the Council may raise a Councillors Call for Action, which should be sent to the Council's Head of Democratic Services & Elections.
- (b) Once the Councillors Call for Action is received, the matter must be considered by the relevant Overview and Scrutiny Committee, whose terms of reference the matter falls within and they must endeavour to consider the matter within a reasonable timescale. Where the matter falls within the terms of reference of more than one Committee, the Chairmen of the Committees will determine the most appropriate Committee to deal with the matter, except where the matter relates to a crime and disorder issue where all

such matters must be considered by the Overview and Scrutiny Committee responsible for crime and disorder matters.

- (c) If a Councillors Call for Action is deemed not to be valid, a letter will be sent to the Member concerned informing them of the reasons for this. Where the issue has been deemed not to be valid because other methods of resolution have not been exhausted, the Call for Action may be re-submitted, if necessary, once the Councillor concerned has pursued the matter further.

10. PROCEDURE AT COMMITTEE MEETINGS

- (a) The Committees shall consider the following business:
 - (i) Minutes of the last meeting;
 - (ii) Declarations of Interest;
 - (iii) Consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;
 - (iv) Any Councillors Call for Action raised in accordance with Overview and Scrutiny Rule 9;
 - (v) Questions submitted pursuant to Council Procedure Rule 38;
 - (vi) Work Programming Issues (having due regard to the General Role and Principles as set out in Article 6 of the Constitution) which shall include:
 - (1) Matters raised by a Member/Group Leader under Overview and Scrutiny Rule 8;
 - (2) Questions raised on forthcoming executive decisions in accordance with Overview and Scrutiny Procedure Rule 13;
 - (3) Responses of Council/Cabinet/Partners to reports and/or recommendations of the Overview and Scrutiny Committee;
 - (4) Responses of the Cabinet to called-in decisions referred to reconsideration; and
 - (5) Summary of forthcoming (and completed) enquiries as directed by Council or otherwise approved by the Committee for that year.
 - (vii) Interim and/or Finalised Reports from Task and Finish Groups on enquiries undertaken by those Groups; and

- (viii) The business otherwise set out on the agenda for the meeting.
- (b) Where an Overview and Scrutiny Committee undertakes researched and evidence reviews on a specific topic, on a task and finish basis (e.g. with a view to policy development), the relevant Committee may also ask people to attend to give evidence at the Task and Finish Group meetings that are to be conducted in accordance with the following principles:
- (i) that the terms and reference of any Task and Finish Group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement;
 - (ii) consideration being given to the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny;
 - (iii) that the reviews be conducted fairly and all members of the Task and Finish Group be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (iv) that those assisting the Task and Finish Group by giving evidence be treated with respect and courtesy; and
 - (v) that the review by the Task and Finish Group be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any Task and Finish review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

11. POLICY REVIEW AND DEVELOPMENT

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules within this Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, each Overview and Scrutiny Committee may make proposals or act as consultee for the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Each Overview and Scrutiny Committee where relevant to their terms of reference, may undertake enquiries into the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. Enquiries may involve Councillors going on site visits, conducting public surveys, holding public meetings, commissioning research and doing 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 (subject to the appropriate budget being available).

- (d) To assist Members of the Overview and Scrutiny Committees to develop appropriate approaches to individual enquiries (and support officers in their role for individual enquiries), the Head of Democratic Services & Elections may (from time to time) issue practice guides on such approaches.
- (e) Where resources permit, each Overview and Scrutiny Committee may establish, task and finish groups to undertake the matters in (c) above and to gather the evidence in the ways set out. Likewise, enquiries may also be conducted through informal meetings of the Members of the Committee, scrutiny days and off agenda briefings. Joint task and finish groups (which may be styled panels) may be formed, where necessary, by two Overview and Scrutiny Committees in agreement to examine subjects that are, in part, in both of the terms of reference for those Committees.

Membership of task and finish groups will not be limited to members of the relevant Overview and Scrutiny Committee(s). While they are not subject to the political balance rules that apply to formal Committees/Sub-Committees of the Council, from among the nominees for a particular task and finish group regard will be given to the broad overall political balance of the Council when determining the membership of the group.

- (f) All enquiries undertaken away from a formal meeting of the relevant Overview and Scrutiny Committee will conclude with a final report to that Overview and Scrutiny Committee. It will be for that Committee to determine the finalised report and recommendations arising from the enquiry. An enquiry can identify the need for an interim report, ahead of the final report, and this too will be subject to consideration by the relevant Overview and Scrutiny Committee.

If Full Council has directly requested a report on that matter then the final report will be submitted to Full Council for its determination.

12. REPORTS FROM AN OVERVIEW AND SCRUTINY COMMITTEE

- (a) Specific evidence based reports from an Overview and Scrutiny Committee that contain recommendations on proposals for development, will be submitted formally for consideration by Cabinet (or to Full Council directly (if appropriate) from the “crime and disorder committee” or otherwise if Full Council has directly requested a report on that matter). If the proposals would involve a change to the existing Budget and/or Policy Framework, the Cabinet will consider the matter and make a recommendation to Full Council. The report will be drafted by Officers and agreed by the relevant Chairman in respect of the proposals from the relevant Overview and Scrutiny Committee.

- (b) The Cabinet shall consider the report from the relevant Overview and Scrutiny Committee at the next meeting of the Cabinet for which the agenda has not yet been published.
- (c) In addition to making recommendations on specific proposals for development, the Overview and Scrutiny Committees may make more general comments/suggestions regarding matters they have considered, which they would like the relevant Cabinet Member to consider and take appropriate action. In such instances, a copy of the relevant minute will be sent to the Cabinet Member.
- (d) Where specific evidence-based recommendations on proposals for development from the Overview and Scrutiny Committees relate to matters that are the responsibility of Partner Authorities and organisations, notice in writing by way of a formal report will be provided to the relevant Partner Authority or organisation requiring them to have regard to the recommendations. The Partner or organisation will be requested to respond to the relevant Committee within two calendar months setting out action, if any, that is to be taken in response to the recommendations.

13. SCRUTINY OF PROPOSED AND RECENT DECISIONS

The Overview and Scrutiny Committees will, at their ordinary meetings, review the new and/or amended forthcoming decisions relevant to their terms of reference. If they wish to enquire into any forthcoming decisions, such an enquiry might consist of questioning members of the Cabinet and Officers, and seeking the views of local stakeholders and/or other interested parties. The Cabinet will take into account any recommendations expressed by the relevant Overview and Scrutiny Committees when determining the final decision and record their response within any report and/or decision.

Matters may only be raised on the forthcoming decisions at Committee meetings where the Member has notified the Head of Democratic Services & Elections in writing (or by personal email) of the question they wish to ask, no later than Midday, two working days before the day of the meeting.

The Overview and Scrutiny Committee shall also be provided with a list of decisions by Cabinet/an individual Portfolio Holder taken since the Committee's last ordinary meeting and which that previous meeting had not itself had notice of in the record of forthcoming decisions. As such, if after preparation of the agenda for an ordinary meeting of an Overview and Scrutiny Committee notice of a proposed decision is given and the decision then is taken prior to the following ordinary meeting of the Committee, that second meeting of the Committee will be advised of the decision. This list is for the purposes of completeness and to inform the work programme discussion of the Committee. Other than informing this process the Committee may only note the list.

14. RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, members of the Overview and Scrutiny Committees in fulfilling their functions have the right to documents, and as provided for in Access to Information Procedure 20 (Rights of Overview and Scrutiny Members).
- (b) This would not prevent more detailed liaison between the Cabinet and any Overview and Scrutiny Committee as appropriate.

15. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) It shall be for the relevant Management Team member to determine which Officers attend to provide advice to Overview and Scrutiny Committees, subject to each Committee being able to supplement this as thought necessary through (b), (c) and (d) below: However, the Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the Overview and Scrutiny Committee will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.
- (b) Any Overview and Scrutiny Committee may scrutinise and review decisions made or action taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Overview and Scrutiny role, it may require any Cabinet Member, 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 (excluding decisions made as a consequence of a hearing/decision on an application by the Planning, Licensing and Registration, Audit, Human Resources and Council Tax or Standards Committees or Sub-Committees/Panels of those Committees); and/or
 - (ii) the extent to which the actions taken implement Council policy.
- (c) Where any Cabinet Member or Senior Officer is required to attend a meeting of the relevant Overview and Scrutiny Committee, at least seven working days' notice of the meeting at which they are required to attend shall be given. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the relevant Committee. Where the account to be given to the Committee will require production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that document.
- (d) Where, in exceptional circumstances, the Cabinet Member or Senior Officer is unable to attend on the required date, the Chairman of the relevant Committee, shall, in

consultation with the Member or Officer, arrange a substitute or an alternative date for attendance.

- (e) Participation by any Cabinet Member(s) in the general debate of the Overview and Scrutiny Committees will be at the discretion of the relevant Chairman (this rule does not apply when the Committee is considering a call-in).
- (f) In this paragraph, reference to an Overview and Scrutiny Committee includes enquiries undertaken through informal meeting of the Members of the Committee, task and finish groups, scrutiny days and off agenda briefings etc.

16. ATTENDANCE BY OTHERS

Each Overview and Scrutiny Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 15 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. Attendance by those invited is entirely optional but encouraged in the spirit of partnership working and community engagement.

All such invitations will be made through the Head of Democratic Services & Elections, in his capacity as the Council's designated Scrutiny Officer (Article 12 of the Constitution), so that a consistent and co-ordinated approach to invitations can be maintained. All such requests from individual Members shall be referenced to the Head of Democratic Services & Elections. This approach shall be followed in respect of less formal overview and scrutiny enquiries (such as through task and finish groups).

17. CALL-IN

When a decision is made by the Cabinet, or an individual member of the Cabinet, the decision is published, normally within five 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.

That notice will include 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 five working days after the publication of the decision, unless the decision is called-in.

- (a) The rules applying to call-in are:
- (i) All executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), may be called-in, subject to the exceptions outlined in Procedure Rule 18;
 - (ii) Prior to holding a call-in, the callers-in are expected to attempt to resolve the matter through informal mediation, together with the relevant Cabinet Member and/or the Leader of the Council, if appropriate to do so;
 - (iii) The Committee Services Manager, will process call-in notices received from:
 - a. The Chairman of the relevant Overview and Scrutiny Committee; or
 - b. Three Non-Cabinet Members of the Council.

All valid call-in notices will be referred to the relevant Overview and Scrutiny Committee for determination and the decision-maker will be notified of the call-in.
 - (iv) A notice of call-in must be made on the appropriate prescribed form or email (so long as the email addresses the relevant information required) and must be received within five working days of the date of publication of the decision. Use of the prescribed form is encouraged, and should be completed in full, with reference to the criteria for submitting call-in requests and stating the reasons why the issue needs to be scrutinised.
 - (v) Individual decisions taken by Non-Executive Committees (Planning, Licensing, Standards and Audit Committees) cannot be the subject of call-in; and
 - (vi) Any decision can only be called-in once.
- (b) Those seeking to call-in a decision shall be required to state their reasons, in accordance with the criteria set, in the call-in notice form based on one or more of the following seven assessment criteria. These seven criteria are as follows:
- (i) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures.
 - (ii) The decision is contrary to the Council's Budget or Policy Framework.
 - (iii) The decision is not consistent with Council policy.
 - (iv) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable.

- (v) The decision is contrary to a previously agreed decision made in Full Council, which has not been superseded by a subsequent decision.
- (vi) The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision.
- (vii) The decision was not taken in accordance with the principles set out in Article 13 (Decision-Making) of the Constitution.

(c) **Mediation Process**

- (i) Those seeking to call-in a decision shall state, when providing their reasons in the call-in notice, whether they wish to enter into mediation with the relevant Cabinet Member(s) and if so, what element of the decision and/or further information would they wish to discuss as part of the mediation.
- (ii) Once those seeking the call-in have provided this information, the relevant Cabinet Member(s) must respond and confirm whether they wish to engage with the mediation process.
- (iii) Upon confirmation that the parties wish to mediate, Committee Services will set up a mediation, at which Officer(s) with knowledge of the background to the decision can attend to assist with providing or clarifying any information.
- (iv) The mediation meeting must be held no later than three working days before the date of any meeting arranged to allow consideration of the call-in by the relevant Overview and Scrutiny Committee.
- (v) The Council's Monitoring Officer and/or Section 151 Officer (or their appointed deputies) may attend the mediation meeting at their individual discretion.
- (vi) The Officer from Committee Services attending the mediation, will within 24 hours, produce a note for circulation to all parties to the meeting for approval. That note must include any and all assurances given by, or agreements reached with the Cabinet Member(s).
- (vii) Once those assurances or agreements are subsequently confirmed as being acceptable by all parties in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

The Mediation Process does not preclude the relevant Cabinet Member(s), upon being made aware of the call-in and the reasons for it, making an immediate, unilateral undertaking to amend or rescind their decision or undertake any other appropriate action. Committee Services will inform the callers-in of such unilateral undertaking and ask if they are satisfied by that undertaking. If the callers-in confirm the undertaking as being acceptable to them in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

- (d) The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the relevant Overview and Scrutiny Committee, who must meet to consider the matter within 15 working days from the date following receipt of the call-in notice.

If the relevant Committee does not meet within this period, the decision shall take effect on the expiry of the 15 working day period. The Chairman of the relevant Overview and Scrutiny Committee is under an obligation to ensure that the meeting is held within 15 days.

If the relevant Overview and Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made then it will be deemed to be pre-determined on the matter and the call-in will be considered by another Overview and Scrutiny Committee.

- (e) At the meeting to consider the call-in notice, the Overview and Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.
- (i) The layout of the meeting will provide separate tables for both the callers-in and the relevant Cabinet Member to sit at for the item of the call-in.
- (ii) Stage One of the meeting – the Councillor(s) requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
- (iii) Stage Two – the decision-maker (relevant Cabinet Member and relevant officer) shall establish the reasons behind the decision and can determine whether it should be referred back to the Cabinet Member for consideration.
- (iv) Stage Three – Questions can be asked by:
- a. The callers-in;
 - b. The relevant Cabinet Member or relevant Officer; and
 - c. The Committee.

All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter.

- (f) It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before determining what action should be taken.
- (h) Participation in the general debate will not be permitted but the callers-in and relevant Cabinet Member may answer questions or points of clarification arising through the debate, at the discretion of the relevant Chairman.
- (i) On considering the matter, the Committee will decide whether or not to ask the decision-maker to reconsider its decision.
- (j) If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Committee considers the executive 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.
- (k) If the relevant Overview and Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 15 working days following the meeting of the relevant Overview and Scrutiny Committee, unless the decision maker was an Officer in which case it will be referred back to the Leader of the Council or relevant Portfolio Holder for consideration. In that circumstance the Leader of the Council or relevant Portfolio Holder shall be required to reconsider the decision within 15 working days.
- (l) If the Overview and Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and take effect immediately following the meeting of the Committee.
- (m) If the matter is referred to Council, who do not object to the decision, the subject of call-in, no further action is necessary and the decision will be effective on the date of the Council meeting. If Council does object, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision. The decision-maker shall, within a further 15 working days, choose whether to amend the decision or not before reaching a final decision and implementing it.
- (n) **Decisions referred back to the Decision Maker**
- The comments and views provided by Council or the relevant 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 reconsidered, and that report should include the reason why the decision-maker has either reconfirmed the original decision or why the decision has changed.

(o) **Withdrawal of a Call-in**

A request to call-in a decision may be withdrawn in writing (or by personal email) at any time by one of the Members making the request.

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

(i) Urgent Decisions

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 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 why, and therefore not subject to call-in.

The Chairman of the relevant Overview and Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

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

(ii) Other Exceptions

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.
- (b) Decisions taken under the "Special Urgency" procedure as provided for in Access to Information Procedure Rule 15.
- (c) Recommendations from Cabinet to Council.
- (d) 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.
- (e) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny

Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.

- (f) Where Full Council has delegated to the Cabinet 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 18(i) above. In such circumstances the Chairman of the relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.
- (iii) 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.

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 Procurement 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 Procurement 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 Procurement Procedure Rules and ensure that they are appropriate to the running of the Council. Any proposed changes must be recommended to 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) |
| 18. | State Aid |

2. DEFINITIONS

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

| TERM | DEFINITION |
|--|--|
| Head of Department | The term of 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 or where subsequent amendments have been approved. |
| 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 or where subsequent approval has been given. |
| 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 or where subsequent approval has been given. |
| Income | All direct income as detailed in the Council's published budget book or where subsequent approval has been given. |
| 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 Cabinet and Management Team for the financial administration of the Council's activities.
- 3.3 The Chief Financial Officer is responsible for ensuring that the Corporate Finance & Governance 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 Corporate Finance & Governance 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.
- 3.8 The Chief Financial Officer, their Deputy or the Chief Executive is authorised to deal with any General Fund Revenue or HRA virement on exceptional grounds of urgency, such as civil emergencies. If this exemption is relied upon, the relevant Officer must provide a report to the responsible decision maker as soon as practicably possible.

4. FINANCIAL PLANNING AND BUDGET APPROVAL

- 4.1 In accordance with the timetable and format determined by the Chief Financial Officer, 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 Chief Financial Officer.
- 4.3** Each financial year, and in accordance with the agreed Financial Strategy/Forecast 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(s) together with known and anticipated funding streams. All such schemes 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/Forecast 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 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 (a) 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.

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) below 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 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 Chief Financial Officer must agree the expenditure, and the financing.
- (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 Chief Financial Officer 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) **Corporate Finance and Governance 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 Corporate Finance & Governance Portfolio Holder and Cabinet to exceed £1,000,000 for General Fund Services (capital or revenue) or £1,000,000 in respect of the Housing Revenue Account (capital or revenue) for the financial year concerned.

- (b) **Cabinet** may approve a supplementary estimate of any single item (revenue or capital) up to £1,000,000 subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and the Corporate Finance & Governance Portfolio Holder to exceed £1,500,000 for General Fund Services (capital or revenue) or £1,500,000 in respect of Housing Revenue Account (capital or revenue) for the financial year concerned.
- (c) **Council** may approve a supplementary estimate up to any amount for General Fund or Housing Revenue Account. 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 Corporate Finance & Governance Portfolio Holder or Cabinet. Cabinet must recommend to Council any request for supplementary estimates that requires the approval of Council.

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 based on the same limits set out in 6.1.5 above.

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 Chief Financial Officer 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 Chief Financial Officer must agree the expenditure and the financing.

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

- (c) Subject to agreement of the Chief Financial Officer:
 - (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 need to be amended in order to comply with required accounting standards or to properly reflect the costs of an activity or function.
 - (iii) If not subject to any separate delegation, where a budget has been established via an earlier decision or Cabinet/Full Council, any subsequent itemised expenditure from that budget (rather than a transfer between budget headings which would require a virement), in such circumstances, an Officer decision will be required following consultation with the relevant Portfolio Holder.

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 below.
- (c) 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.
- (d) 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/Forecast), such expenditure if in excess of £15,000 shall be referred to Cabinet for approval. This excludes savings from minor restructuring. In respect of savings against Financial Strategy/Forecast Growth Items, the limit will apply to the aggregated value of all requested virements from such budgets.
- (e) Cabinet must approve all virements, which are likely to result in a further and/or additional burden on future years' Council Tax and revenues.

- (f) 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 Virement Limits and Approvals

(a) 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. |

(b) General Fund Revenue and HRA

| 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, together 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 Corporate Finance & Governance 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 |

(c) **General Fund Capital Schemes**

| 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 Corporate Finance & Governance 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) **Housing Revenue Account Capital Schemes**

| Virement Value | Approval Required |
|------------------------|---|
| Not more than £100,000 | Corporate Director (Operations & Delivery), provided that the total Capital Scheme allocation as approved is not exceeded and provided the Chief Financial Officer advises that no increase to Housing Revenue Account costs results. |
| Over £100,000 | Housing Portfolio Holder provided the total HIP allocation as approved is not exceeded and provided the Assistant Director (Finance & IT) advises that no increase to Housing Revenue Account and General Fund revenue costs results. |

(e) **Between Capital and Revenue**

| Virement Value | Approval Required |
|---|---|
| (i) Increase in an approved Capital budget. | <p>a) When 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) When 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 Assistant Director (Finance & IT) must agree the expenditure and the financing.</p> |
| (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 Assistant Director (Finance & IT) 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 an 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 Chief Financial Officer 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 Chief Financial Officer 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 Corporate Finance & Governance 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) Procurement Procedure Rules have been complied with
- 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 Chief Financial Officer 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 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 Chief Financial Officer 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 Chief Financial Officer 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 the approval of the Corporate Finance & Governance Portfolio Holder 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 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 in respect of any overspent monies in one year to a later year or to be financed from reserves.
- 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 Corporate Finance & Governance Portfolio Holder in 8.1 above. Any further decisions that may be required following the outturn process, such as allocating money brought forward from the prior year will be made by Cabinet at a subsequent meeting.
- 8.3 All Heads of Department shall supply the Chief Financial Officer 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 Chief Financial Officer.

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 along with any other relevant regulations or standards.

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 **must** 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.

- 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 who 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 Works, 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 Procurement Procedure Rules.

9.5 Certificate 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 relevant 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 confirms 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 ordering 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.
- 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 Chief Financial Officer shall examine, so far as he/she considers necessary, invoices passed for payment and shall make all such enquiries and receive 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 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 in as instructed by the Chief Financial Officer or 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 and meets all the legal obligations especially those required to enforce non-payment if such circumstances arise.
- 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, agreement 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 Chief Financial Officer 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.
- 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 Assistant Director (Governance) 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 Chief Financial Officer 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 Assistant Director (Partnerships) must notify the Chief Financial Officer 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 Chief Financial Officer 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 Chief Financial Officer 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.

9.7.2 The Chief Financial Officer 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 Chief Financial Officer 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 Chief Financial Officer 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 the recovery of the debt. In these cases the debt needs to be written off and the following conditions, delegations, and limits apply. The Head of Department must be reasonably satisfied that recovery action/options have been “exhausted” before proceeding to seek a write off of any debt.
- 10.2** Where a debt has been raised in error or is incorrectly calculated then the debt should either be 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 Chief Financial Officer 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 Chief Financial Officer 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 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 |
|---|--|
| Debt due to the Council where the amount owing is a Council Tax, NNDR or Housing Benefit and Rents debt which is either:- 1. A ceased account and the debt is equal to the amount charged as summons costs making the debt uneconomical to collect, or | |

| | |
|---|--|
| <p>2. Not a ceased amount but the amount owed is less than the cost of second class postage</p> <p>3. The debt due to the Council is less than £10</p> <p><i>In respect of 1. and 3. above, there should be no other "live" Council Tax or NNDR account in the name of the specific debtor.</i></p> | <p>The relevant Corporate Director</p> |
|---|--|

| Item for Potential Write-off | Authority to Write-off Delegated To |
|---|---|
| <p>Specific debtors where:-</p> <p>(a) There is a personal bankruptcy, company insolvency, Individual/Company Voluntary Arrangement or a Debt Relief Order.</p> <p>(b) The Recovery Enforcement Agents has been unable to obtain payment and has returned the debt as "nulla bona" and insufficient assets to satisfy the debt.</p> <p>(c) The company has been struck off by Companies House.</p> <p>(d) The death of a debtor who dies insolvent and the claim against the estate has been made.</p> <p>(e) Death of a debtor who has died with no executor with whom to register a claim.</p> <p>(f) Council Tax Debts – Removal outside the jurisdiction of the Magistrates Courts of the debtor.</p> <p>(g) All other debts – Removal outside the UK of the debtor.</p> <p>(h) The remission of debts by the Magistrates or other court.</p> | <p>The Chief Financial Officer on receipt of a written report from the appropriate Head(s) of Department.</p> <p>Where joint/several liability applies to any of the criteria listed, the criteria applied must be applicable to all parties.</p> |

| | |
|---|--|
| <p>(i) The committal to prison of the debtor in respect of the non-payment of the debt or associated debt.</p> <p>(j) The abscondment of a debtor where a tracing or other appropriate agency has failed to make a trace.</p> | |
|---|--|

| ANY OTHER DEBTS | |
|---|--|
| Individual debts not exceeding £5,000 | The Chief Financial Officer on receipt of a written report from the appropriate Head(s) of Department which should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council. |
| Individual debts exceeding £5,000 but below £25,000 | The Finance and Corporate Resources Portfolio Holder on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Assistant Director (Governance) which should include a recommendation as to how the write-off will be financed and where reasonably practicable identify if the specific debtor is still receiving goods or services from the Council. |
| 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 Assistant Director (Governance) should also include a recommendation as to how the write-off will be financed and should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council. |

11. INSURANCE

- 11.1 The Chief Financial Officer 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 Chief Financial Officer with all necessary information to do this in the most effective manner.

- 11.2** Each Head of Department shall give prompt notification to the Chief Financial Officer 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 Chief Financial Officer of any other risk which in their opinion should be included within the Council's insurance cover arrangements.
- 11.4** Heads of Department shall, as soon as they become aware of such circumstances, notify the Chief Financial Officer 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 Assistant Director (Governance) 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 Chief Financial Officer on 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 Chief Financial Officer 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 the Assistant Director (Building & Public Realm) for Land and Buildings and the Assistant Director (Finance & IT) for 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 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).
- 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 Chief Financial Officer 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 stock are checked at least once in every financial year.
- 12.3.5** Each Head of Department shall furnish the Chief Financial Officer with a certificate showing the value of stocks 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.

12.3.6 The Corporate Directors or Assistant Directors (where relevant) are authorised to approve the write-off of an inventory item and adjusting stocks and stores accounts up to £250 in respect of any one item or £1,250 per annum in consultation with the Chief Financial Officer.

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 and they are satisfied that the items/stores are of no use to other Heads of Department then they shall arrange for disposal which can include being offered for sale to staff/Council Members where the sale is based on the highest price offered.

Only then:

If the total estimated value of the items is in excess of £1,000 then disposal shall be by means of a public auction or open tender

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 Chief Financial Officer

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 Chief Financial Officer.

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 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 Property Service.

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, including also non-treasury investments.
- (b) 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 the Code and Guidance from central Government, 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 the Resources and Services Overview and Scrutiny Committee, approve an Annual Treasury Strategy for the forthcoming year. The Annual Treasury Strategy will include an investment strategy, a capital 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. The Capital Strategy will include a projection of external debt and use of internal borrowing to support capital expenditure, provision for the repayment of debt over the life of the debt, the authorised limit and operational boundary for the following year and the approach to treasury management, including due processes, due diligence and defining the Council's risk appetite.

- 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 Resources and Services Overview and Scrutiny Committee.
- 14.3** The Council's 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
 - (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 TMPs. The Corporate Finance & Governance 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 Procedure**.
- 15.2** Any amendments to the **Property Dealing Procedure** will be made by Full Council as constitutional amendments.

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 Management Team following consultation with the Chief Financial Officer to ensure the external funding being sought is in accordance with the Council's priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.
- 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 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 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 identify 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);
- (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 Innovation and Skills).
- 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 regulations 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 Chief Financial Officer and financial records must separately identify any aid given.

PROPERTY DEALING PROCEDURE

1. NEGOTIATION OF PROPERTY DEALS

- 1.1** Property Deal 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** Members must not engage in negotiations of any kind relating to any Property Deal or proposed Property Deal.
- 1.3** Every request to the Council from any party for a deal within this procedure shall be referred to the Assistant Director (Building & Public Realm), or, by the Chief Executive, to a Corporate Director.
- 1.4** Every Property Deal shall be conducted in accordance with the Property Dealing Procedure, excluding the sale of dwellings under right-to-buy legislation, the sale and purchase of Shared Equity and DIYSO properties, and arrangements for utilities to be provided on Council owned land.
- 1.5** Any Property Deal will be dealt with by appropriate officers in accordance with the Property Office Procedures to be agreed from time to time by the Assistant Director (Building & Public Realm) with the Council's Section 151 and Monitoring Officers. The Property Office Procedures set out the practice to be followed by any Officer acting under delegated powers.

2. PROPERTY OFFICE PROCEDURE

- 2.1** "Property Office Procedure" means all applicable steps of the Property Office Procedure at the time being.
- 2.2** The Assistant Director (Building & Public Realm) will ensure that adequate office procedures are agreed with the Section 151 and Monitoring Officers and maintained. The Property Office Procedures must include appropriate controls on the conduct of Property Deals. The Property Office Procedure should contain other procedures and guidance on the management of property by other parts of the Council.
- 2.3** In relation to those instances where a Portfolio Holder is the decision maker, the Assistant Director (Building & Public Realm), in consultation with the Monitoring Officer, the Section 151 Officer and the Head of Internal Audit, will ensure that there is an adequate set of formal principles for decision making in place and maintained. This set of principles should be set out in:-

the Property Strategy; or

the Housing Strategy; or

the Housing Acquisitions Policy; or

the Commercial Investment Property Policy.

It should also enable the Portfolio Holder to demonstrate that they have assessed the deal against the principles. Where the deal is not in accord with the Property Strategy or the Housing Strategy or the Housing Acquisitions Strategy or the Commercial Investment Property Policy, as appropriate, it will be referred to the Cabinet for determination.

3. VALUATIONS

- 3.1 In relation to Property Deals and to any appropriation of land the Assistant Director (Building & Public Realm) will carry out or obtain appropriate valuations proportionate to the open market value or rental:

| <u>Type of Deal</u> | <u>Valuation(s) Required</u> |
|---|--|
| Licences and Tenancies at Will | Officer valuation to be prepared and retained |
| Leases, interests and freeholds up to £300,000 | One full external professional valuation to be obtained |
| Leases, interests and freeholds at £300,000 or over | A full external professional valuation to be obtained, plus a further valuation at the Property & Project Manager's discretion, if deemed necessary in their professional opinion. |
| As above but in any ransom or other circumstances where the seeking of two valuations would be impractical in the opinion of the Assistant Director (Building & Public Realm) | One full external professional valuation to be obtained. Assistant Director (Building & Public Realm) to include reasoning in the report for decision. |

- 3.2 The decision to initiate the Property Dealing Procedure will be taken by the Corporate Director (Operations and Delivery). In those circumstances where the decision involves a Freehold Acquisition or Disposal that decision to initiate the Property Dealing Procedure will be taken by the Corporate Director in consultation with the relevant Portfolio Holder.

APPENDIX A
Levels of Decision Making

| Right or interest to be granted/acquired | Officer who is Head of Department or Corporate Director | Officer who is Corporate Director (Operations & Delivery) | Relevant Portfolio Holder (See Note below) | Cabinet |
|--|---|--|--|----------------|
| Reporting | Formal Record of Officer Decision to be completed and published* | | Formal Report and Record of Decision required to be completed and published | |
| 1. A licence or access agreement for 12 months or less | | | | |
| 2. a licence or access agreement for more than 12 months or any tenancy at will | | | | |
| 3. Tenancies for less than seven years excluding security of tenure | | | | |
| 4. Renewal, assignment or surrender of tenancies as 3 above | | | | |
| 5. Tenancies for seven years or more or tenancies not excluding security of tenure | | | | |
| 6. Renewal, assignment or surrender of tenancies as 5 above | | | | |
| 7. Grant, acquisition or release of Rights of Way, Easements or other permanent rights | | | | |
| 8. Freehold property interest less than £100,000 | | | | |
| 9. Freehold property interest is £100,000 or over but less than £300,000 | | | | |
| 10. Freehold property interest is £300,000 or over | | | | |
| 11. Decision whether to continue to pursue a transaction as an appropriate course of | | | | |

Part 5 – RULES OF PROCEDURE

PROPERTY DEALING PROCEDURE

| | | | | |
|--|--|--|--|--|
| action, including under the General Disposal Consent Order, and in situations where the agreed price differs substantially from the valuation advice received | | | | |
| 12. Any disposal of open space where objections have been received | | | | |
| 13. New Lease to residential tenant under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 (commonly referred to as a lease extension) | | | | |
| 14. Extensions to Shared Equity Leases (Leasehold Reform Act 1967 – Deed of Variation to alter rent to a modern rent with no premium paid) | | | | |

*Subject to access to information rules.

Note: The relevant Portfolio Holder will be determined by whether the property sites, or will sit, within the General Fund or the Housing Revenue Account.

Greyed box indicates level of decision making.

SECTION 1 – SECTION SUMMARY

1.0 Procurement rules are set out across the following sections:

- SECTION 1 - General Requirements
- SECTION 2 – Exemptions from Procedure Rules
- SECTION 3 – The Procurement Framework and Central Purchasing
- SECTION 4 – Quotation and Tenders
 - 4.1 General Requirements
 - 4.2 Quotations (*Procurement up to £50,000*)
 - 4.3 Tenders (*Procurement over £50,000*)
 - 4.3.1 Selecting Suppliers
 - 4.3.2 Open Competitive Tenders
 - 4.3.3 Selective Tenders
 - 4.3.4 The number of suppliers invited to tender
 - 4.3.5 Going out to Tender
 - 4.3.6 Receipt of Tenders
 - 4.3.7 Opening of Tenders
 - 4.3.8 Acceptance of Tenders
 - 4.3.9 Tender Evaluation Panel
- SECTION 5 – Other Procurement Rules
- SECTION 6 – Official Order Rules

SECTION 1 – GENERAL REQUIREMENTS

1.1 Before undertaking any procurement, Departments should satisfy themselves that:

- The works, goods or services are required and a need can be demonstrated
- There are no reasonable alternatives e.g. sharing or utilising spare capacity/inventories elsewhere within the Council
- They are aware of the current statutory contract value thresholds in accordance with the Public Contract Regulations 2015 (as amended) as shown on the Council's Intranet.
- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded/evidenced the outcomes against the associated requirements:-
 - ❖ *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*
 - ❖ *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

Procurement Procedure Rules apply to the procurement of ALL goods, works or services. The Council's approved computerised ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

Procurement can only take place where budgetary provision is available to fund the goods, works or services required (see Financial Procedure Rules).

Where the Council contracts with a third party (who is not an officer of this Council) to supervise a contract on its behalf, the Corporate Director/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.

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.

These Procurement Procedure Rules will not apply where statute or subordinate legislation prescribes otherwise.

Delegation relating to the engagement of consultancy services is set out separately within the "Common to all Portfolio Holders" section of the Constitution. However, for completeness, the Corporate Directors/Heads of Department only have delegated authority for the engagement of consultancy services or specialist professional advice up to the value of £15,000 and procurement rules must be followed. For schemes where fees are expected to exceed £15,000 consultation with the Portfolio Holder or Committee Chairman is required.

Procurement within the Council is co-ordinated by Governance Services and in all cases where catalogues or other pre-negotiated approaches are not used, then consultation with Governance Services should be undertaken to identify potential alternative options or additional procurement opportunities.

Where building works form part of the procurement, then it is expected that Departments will discuss their requirements with the internal surveyor as appropriate.

1.2 Use of Local Suppliers

All Procurement should be in line with the Council's Procurement Strategy which includes the recognition of the use of local suppliers and providing a fair basis for them to compete for the provision of goods, works and services required by the Council.

SECTION 2 – EXEMPTION FROM PROCUREMENT RULES

2.1 The Corporate Directors/Heads of Department shall be exempt from the need to obtain competitive quotations/prices where any of the following circumstances apply:-

- (a) The goods or services are procured from an in-house service
- (b) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price
- (c) The matter is one of urgency as determined by the appropriate Corporate Director/Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.
- (d) The contractor or supplier is specified for works to this Council for which an external client is making payment.
- (e) Where the work is of a specialist nature and the Corporate Director/Head of Department can demonstrate that it is not possible to obtain more than one quotation or tender.
- (f) For the engagement of Counsel by the Assistant Director (Governance).
- (g) 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 or related to the documented scope of that partnership arrangement. In such cases the Corporate Director/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 and/or via the Official Ordering rules or if appropriate the documentation to be issued will be as required by the Procurement Procedure Rules for the value of the procurement. *(EU limits must be observed to ensure no thresholds are exceeded)*.
- (h) For purchases from petty cash.

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

2.2 Further exemption from Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances.

- (a) Where no specific exemption is provided above:
 - 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

Corporate Finance & Governance Portfolio Holder. The procuring service must publish an Officer Decision to record this.

- Where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Corporate Finance & Governance 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 the total 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.

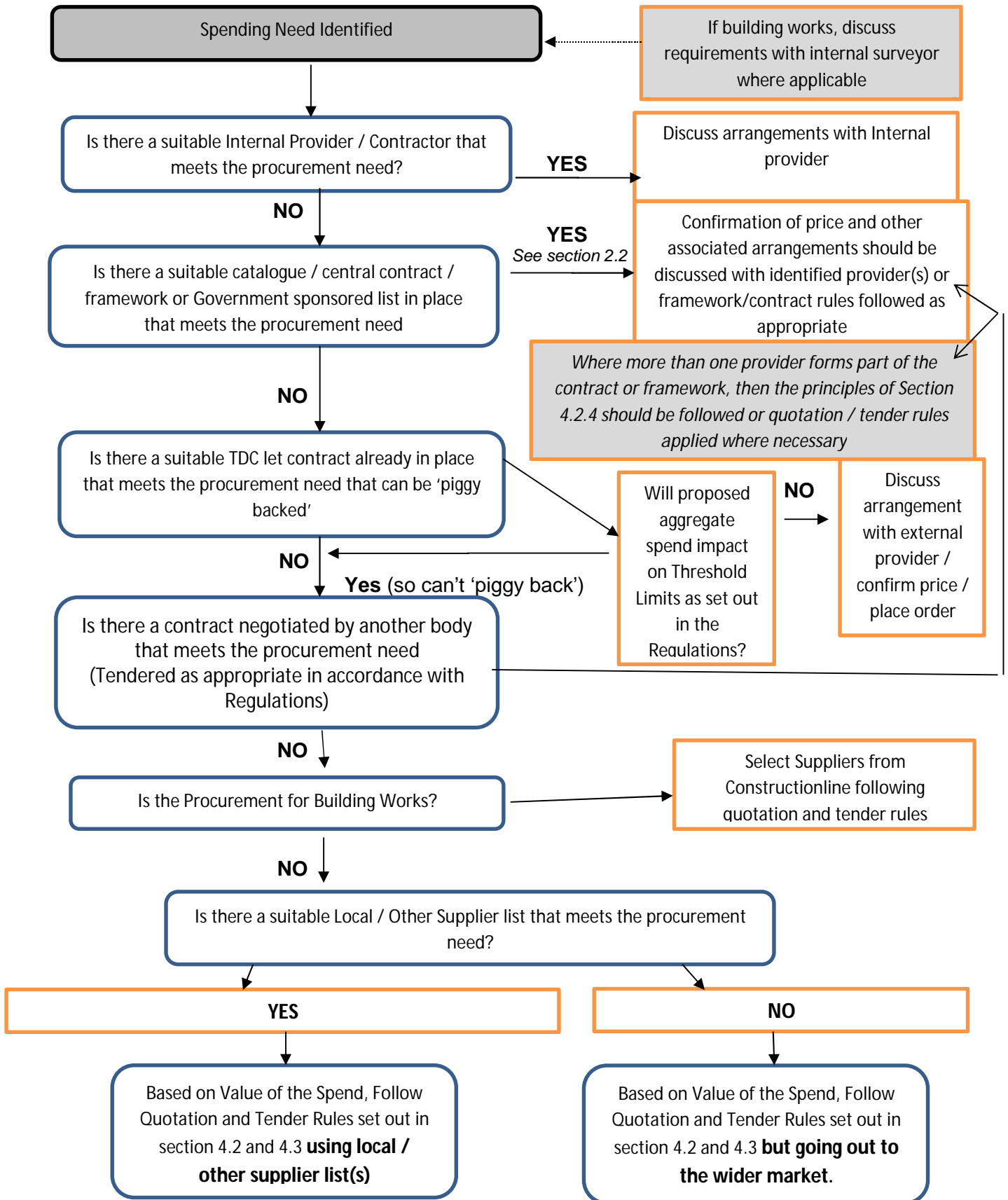
2.3 Alternative/Indirect Service Delivery

Where the Council seeks to implement alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements may not necessarily be able to be undertaken within 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 Corporate Director/Head of Department, the Chief Financial Officer and the Assistant Director (Governance), 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 Assistant Director (Governance).

SECTION 3 – THE PROCUREMENT FRAMEWORK

- 3.1** All procurement is expected to following the following process/framework taking each step in sequence noting that the overall value of procurement is not the initial consideration. Governance Services should be consulted at the relevant stage of the process as necessary.



3.2 Central Purchasing

This includes:

- Central Contracts – Where the Council has taken advantage of negotiating with an external provider for the supply of goods, works or services.
- Partnership Agreements – Where the Council has decided 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.

Procurement Procedure Rules will be followed to select the supplier/contractor to be used for central contracts or if this Council is undertaking the tendering process to select the supplier/contractor under a partnership approach.

- Specialist call-off contracts - Where contracts have been tendered/negotiated by other public bodies and include the option for other Public Bodies to participate.

If the use of any such contract is not considered to offer Value for Money, then the relevant Corporate Director/Head of Department should consult with the Chief Financial Officer and the Assistant Director (Governance) in order to identify the most appropriate/advantageous procurement route.

SECTION 4 – QUOTATIONS AND TENDERS

4.1 General Requirements

- (a) Disaggregation of any procurement, in order to apply a lower level to each of the parts is not permitted.
- (b) 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.
- (c) The use of electronic “portals” or other electronic means must be used to widely advertise goods, works or services required by the Council where appropriate, to ensure equal opportunity between local and non-local suppliers.
- (d) Procurement **up to £50,000** (excluding VAT) – **Quotation Rules Apply (Section 4.2).**
- (e) Procurement **over £50,000** (excluding VAT) – **Tender Rules Apply (Section 4.3).**

4.2 **QUOTATIONS** (Procurement up to £50,000 excluding VAT)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.2.1 Procurement up to £10,000 (excluding VAT)

Where procurement is less than £2,500 then value for money should be demonstrated by obtaining two prices where possible.

Where procurement is in excess of £2,500, the seeking of two prices would be expected, with evidence retained by the department.

4.2.2 Procurement over £10,000, but not expected to exceed £50,000 (excluding VAT)

A minimum of three quotations should be sought by the department in addition to the production of a documented specification to include:

- (i) Identification of the procurement of goods, works or services required.
- (ii) Identification of 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) Provision for the retention of stated sums/percentages and the retention period to be applied where appropriate.
- (iv) Provision for the contractor to provide a performance bond, or parent company guarantee where appropriate.
- (v) Unless an exemption is obtained from the Assistant Director (Governance), the Council Standard Contract for Services must be used when seeking quotations for £25,000 and above. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought.
- (vi) All contractors or suppliers asked to provide a quotation must be advised that the quotation must be sent to a specified e-mail address, and that quotations e-mailed to any other Council e-mail address will be disqualified.

4.2.3 All quotations shall be sought electronically:

The responsible Corporate Director/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 an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Where the lowest quotation received exceeds £50,000 (excluding VAT), Tender Rules shall be followed from that stage as if tenders had been sought.

If the value of the lowest quotation received exceeds the limit of the quotation category applied, then the Corporate Director/Head of Department must seek sufficient further quotations applicable to the level of the value of that lowest quotation.

4.2.4 The Corporate Director/Head of Department is under no obligation to accept any of the quotations. However where they are prepared to accept a quotation, the most financially advantageous quotation should be accepted unless other factors such as quality, local supply, performance and deliverability are also considered as part of the selection process. In accordance with the Council’s overall requirements to demonstrate Value for Money. Evidence is expected to be retained and recorded in an Officer Decision to support such decisions where procurement exceeds £10,000.

4.3 **TENDERS** (*Procurement greater than £50,000 excluding VAT*)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.3.1 **Selection of Suppliers**

Tenders Over Statutory Thresholds

- (a) Where the total estimated value of a proposed contract over its term is expected to exceed the appropriate current Public Contract Regulations 2015 (as amended) thresholds, such regulations will take precedence over these tender procedures.

Tenders Under Statutory Thresholds

The appropriate Corporate Director/Head of Department will determine whether to use **Open Competitive Tendering** or **Selective Tendering** as set out separately below.

4.3.2 **Open Competitive Tenders**

A notice inviting tenders shall be prepared which should:-

- (i) Set out the nature and purpose of the contract and specify that expressions of interest are sought and set out details of where further information/tender documents can be obtained.
- (ii) Be advertised via the Council’s electronic “portal” that is open to all potential suppliers or alternatively in at least one newspaper or journal circulating among suppliers/contractors who undertake such contracts. The notice period to be allowed for potential suppliers to request additional tender documentation should be determined by the Corporate Director/Head of Department.

Following the expiry of the notice period, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5**.

4.3.3 **Selective Tendering**

Where the Council can access a central/framework arrangement, government sponsored list or a contract negotiated by another public body as set out in **SECTION 3.2** above, more than one supplier may be eligible under such arrangements. If this is the case, tender documentation

should be sent to the relevant parties in accordance with **SECTION 4.3.5**. In all other cases the following process should be undertaken:

A public notice shall:-

1. Specify details of the goods, works or services to be tendered.
2. Specify a time limit determined by the Corporate Director/Head of Department during which time potential suppliers can request that they be considered for inclusion in the associated tender process.
3. After expiry of the period specified in the public notice, the responsible Corporate Director/Head of Department will undertake an evaluation of the suppliers. This evaluation may be subject to Tender Evaluation Panel review.
4. The responsible Corporate Director/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.

Following the conclusion of the evaluation process, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5** below:

4.3.4 The Number of Suppliers Invited to Tender

Invitations to tender shall ensure fair competition and where possible include a mix of local and non-local suppliers and shall be sent to:-

Not less than 4 contractors, with the maximum number as determined by the relevant Corporate Director/Head of Department. (Where less than 4 suitable contractors have been identified from the selection process, then all shall be invited to tender).

4.3.5 Going out to Tender

General Rules

Tenders must:

- (i) Specify the goods, works or services to be supplied, contract value, 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 Corporate Director/Head of Department considers necessary.
- (ii) In appropriate cases, provide for the retention of stated sums/percentages and the retention period to be applied.
- (iii) In appropriate cases, provided for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.

- (iv) In appropriate cases, and at the discretion of the responsible Corporate Director/Head of Department, make provision requiring the contractor to provide a performance bond and/or a parent company guarantee.
- (v) 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).
- (vi) Tenders are 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.
- (vii) Specify the closing date and time by which tenders must be received.
- (viii) Where the Corporate Director/Head of Department considers that the Council may benefit from the use of post tender negotiation, that officer shall ensure that such intention is included in the documentation submitted to tenderers and before seeking tenders agree a suitable procedure with the Tender Evaluation Panel.
- (ix) Specify social value considerations as appropriate.
- (x) Unless an exemption is obtained from the Assistant Director (Governance), the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought.

4.3.6 Receipt of Tenders

Unless determined otherwise by the responsible Corporate Director/Head of Department in consultation with Governance Services, all tenders should be requested to be returned electronically by e-mail. However, whatever form of tender response is implemented, all tenders must be submitted in the same manner.

The responsible Corporate Director/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 system 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 or a member of the Procurement Service.

Tender documentation sent to potential providers must state that tenders must only be sent to the specified e-mail address and that tenders e-mailed to any other Council e-mail address or after the closing date and time will be disqualified.

As soon as practical after the closing date and time, a designated Governance Services Officer will arrange for the formal recording of the tenders submitted.

In exceptional circumstances where hard copy tenders are requested, then the email requirement above is replaced by the tender returns being addressed to the Head of Democratic Services & Elections or their designated Officer. Prospective tenderers must be instructed to clearly mark envelopes with the fact that it is a tender submission and that it is not to be opened until after the relevant closing date and time.

4.3.7 Opening of Tenders

(a)(1) Electronic Submission of Tenders

Having obtained the necessary password from IT Services, the Head of Democratic Services & Elections (or other officer to whom they have delegated the responsibility) will access the appropriate electronic tenderbox and open, in turn, the Form of Tender document from the Tenderers contained therein. That Officer will also check the “Spam” email box to ensure that no Tendered documents have been misidentified.

That Officer will check that the Tenderer’s email was received before the deadline for receipt of tenders and will record the name of the Tenderer and the amount of the tender. The Officer will then forward, by email, the Tenderer’s email to the relevant Officer who is overseeing the tender process. The Officer will then repeat the process for all of the Tenderers. The Officer will then close down the electronic tenderbox and will then email the password to the relevant officer who is overseeing the tender process so that they can conduct their own checks et cetera.

The Officer will also complete the Record of Tenders Received (containing the information set out in (b) below) and they will also email that document to the relevant Officer who is overseeing the tender process for their records et cetera.

(a)(2) Hard Copy Submission of Tenders

As soon as possible after the relevant closing date and time the hard copy tenders received will be opened in the presence of:-

- (i) The Head of Democratic Services & Elections or his nominated representative;
- (ii) The responsible Corporate Director/Head of Department or their nominated representative; and
- (iii) At their sole discretion as to the necessity of their attendance, the Council’s Head of Internal Audit, or their nominated representative.

The officer referred to in (i) above will open the tender envelope, locate the form of Tender, record the name of the tenderer and the amount of the tender and initial against the amount on the Form of Tender. The Officer referred to in (ii) above will also similarly append their initials. That process will then be repeated for all of the Tender Envelopes.

The Officer referred to in (i) above will also complete the Record of Tenders Received (containing the information set out in (b) below) and they will produce two copies. One will be kept by that Officer and the second will be handed to the Officer referred to in (ii) above for the records et cetera.

- (b) The Head of Democratic Services & Elections, or other officer to whom they have delegated that responsibility, shall prepare and maintain a register of tenders received and shall record in that register the following particulars:-
- (i) The title and closing date and time for receipt of tenders
 - (ii) The date upon which the tender was received (if it was a hard copy tender)
 - (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) All officers present at the opening of hard copy tenders shall immediately sign against the relevant Record of Tenders Received document as evidence of such tenders having been opened in their presence.
 - (vii) 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 4.3.7 (b)(iii) applies thereto, be returned by the Head of Democratic Services & Elections, or their delegated Officer promptly to the tenderer. The tender may be opened to ascertain the name and postal or email address of the tenderer, but no details of the tender shall be disclosed to any other party whether internal or external.

4.3.8 Acceptance of Tenders

- (a) Unless the requirements of Procurement Procedure Rules 4.3.5 (v) have been applied, the most financially advantageous tender to the Council shall be accepted by the Corporate Director/Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (b) Where Procurement Procedure Rule 4.3.5 (v) 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 Corporate Director/Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (c) In those instances when only one Tender has been submitted but it is deemed advantageous to the Council following the evaluation process, that tender shall be accepted by the Corporate Director/Head of Department, in consultation with the Corporate Finance & Governance Portfolio Holder and the relevant Portfolio Holder or Committee Chairman.

The Corporate Director/Head of Department will produce a detailed report explaining why this course of action has been pursued and the said report will be circulated, alongside the Officer decision, to all members of the Council.

4.3.9 Tender Evaluation Consultation

The Council will undertake a Tender Evaluation Consultation of all tenders, estimated at over £50,000 (excluding VAT) being sought. This should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors. The Consultation will be led by the relevant Corporate Director or their designated officer and will include officers determined by them along with a senior officer from the department letting the contract.

The Tender Evaluation Consultation shall also have the right to include technical assistance/expertise from other departments as considered necessary.

Officer decisions recording the award of contract should include reference to the views/comments identified by the consultees.

An external representation can be accepted into any Tender Evaluation Consultation. In all cases where an external representative is included, they must be asked to declare any potential interests.

SECTION 5 – OTHER PROCUREMENT RULES

5.1 Contract Clauses

Unless an exemption is obtained from the Assistant Director (Governance), the Council's Standard Contract for Services must be used. The draft Contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. In all cases, contracts must follow any guidance issued by the Monitoring Officer in this regard.

5.2 Authorised Officers

- (a) Each Corporate Director/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 Corporate Director/Head of Department shall advise the Chief Financial Officer 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.

5.3 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 Procurement Procedure Rules, unless it is considered impractical to do so.

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- (b) Where the estimated value of the subcontract does not exceed £50,000 the responsible Corporate Director/Head of Department shall determine whether it is practical to obtain quotations.
 - (c) Where the estimated value of the subcontract exceeds £50,000 and the responsible Corporate Director/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.
 - (d) 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 their subcontract.

SECTION 6 – OFFICIAL ORDER RULES

6.1 General Requirements

ALL goods, works or services must be subject to an official order unless an exemption is provided in Section 6.2 below.

- (a) All orders shall be placed using the Council's approved ordering system, unless exempted elsewhere in these Procurement Procedure Rules.
- (b) The format of the Council's approved standard official purchase orders (either hard copy or electronic) and any standard terms and conditions to be applied to each order shall be determined by the Assistant Director (Finance & IT) and the Assistant Director (Governance).
- (c) In the event of the need to issue a variation to an order, this will be by issue of a further order and must clearly identify the order number of the order to be varied.
- (d) All orders must:-

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| (i) | Bear the name and logo of Tendring District Council |
| (ii) | Clearly identify goods, works, or services to be procured, and all other detail as is mandatory on the Council's approved ordering computer system. |
| (iii) | 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. |
| (iv) | Have a value or an accurate estimate of the value of the goods, works, or services entered into on the Council's electronic ordering system. |
| (v) | Must be authorised by an officer duly authorised by the responsible Corporate Director/Head of Department. |

6.2 Exemptions from Official Order Rules

Verbal orders, orders that are not accompanied by an official order or not exempt as set out below should only be made in special/exceptional circumstances and only after consultation with the Assistant Director (Finance & IT) or their designated officer. In the case of emergencies where an officer needs to take appropriate action to protect the Council's position or its assets then a verbal order can be made but the Assistant Director (Finance & IT) must be informed as soon as practical thereafter.

Where verbal orders are made they should be followed up by entering the necessary details on the Council's ordering system in accordance with 6.1 above as soon as possible.

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

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|-----|---|
| (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 (excluding VAT) 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) | For the engagement of Counsel by the Assistant Director (Governance). |
| (h) | Where the Chief Financial Officer has agreed the use of purchase cards or where one of the Council's credit cards is used. However, whenever possible, an Official Order should be raised as soon as possible for audit and recording purposes after the transaction has been made using a corporate credit card. |
| (i) | Any other circumstances as agreed, in advance of the procurement, by the Assistant Director (Finance & IT). |
| (j) | Where goods or services are procured in-house. |

OFFICER EMPLOYMENT PROCEDURE RULES

Introduction

In accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) (“the Regulations”) and subject to the Procedure Rules set out below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the Local Government and Housing Act 1989 (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him. Should any conflict arise between these officer Employment Procedure Rules and the relevant legislation, the latter will prevail.

Nothing shall prevent a person from serving as a member of a committee or sub-committee established by the Council to consider an appeal by –

- (a) another person against any decision relating to the appointment of that person as a member of staff of the Council, or
- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against that member of staff.

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 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 Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

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- (ii) Subject to paragraph (iii), no Councillors will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Chief Officer (* as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups) and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

1. (a) Draw up a statement specifying:
 - (i) the duties of the Officer concerned
 - (ii) Any qualifications or qualities to be sought in the person to be appointed
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
- (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to the person on request.
2. Where a post has been advertised as provided in 2.1 above, the Council shall –
 - (a) Interview all qualified applicants for the post, or
 - (b) select a shortlist of such qualified applicants and interview those included on the shortlist
3. Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 1. above.

3. APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

- (a) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the authority's paid service, Full Council must approve that appointment before an offer of appointment is made to that person.
- (b) Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of the Human Resources Sub-Committee of the Council. That Sub-Committee must include at least one member of the Cabinet.
- (c) Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any member of the Cabinet.

4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- (a) The Human Resources Sub-Committee of the Council will appoint the Chief Officers (*). That Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of appointment to the post of a Chief Officer (*) shall be made only where no valid well-founded objection from any member of the Cabinet has been received.
- (c) A central record of Chief Officer posts covered by Paragraph 3 of Part II of Schedule 2 of the Local Authorities (Standing Orders) Regulations 2001 (as amended) will be produced by the Head of Paid Service and Monitoring Officer and held in Human Resources.

5. NOTIFICATION OF APPOINTMENTS

- (a) An offer of appointment can only be made to an individual by the correct 'appointer', being the Council or a committee, sub-committee or authorised nominated officer of the Council discharging the function of appointment on behalf of the Council as determined by the Regulations and these Procedure Rules.
- (b) No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:
 - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the person to whom the post is to be offered and any other matter relevant to the appointment which the Sub-Committee has notified to the Assistant Director (Partnerships).
 - (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name and of the person to whom the post is to be offered any other particulars relevant to the appointment and the period for objection.
- (c) The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in (a) above.
- (d) An offer of appointment may then only be made if:
 - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment.

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- (ii) The Assistant Director (Partnerships) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (b) above.
 - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

6. OTHER APPOINTMENTS

The appointment of Officers below the Deputy Chief Officer is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

7. DISCIPLINARY ACTION IN CONNECTION WITH CHIEF OFFICERS

- (a) The Human Resources Sub-Committee shall deal with disciplinary action (has the same meaning as defined in the Local Authorities (Standing Orders) (England) Regulations 2001 in connection with the Council's Chief Officers (*) as defined in this Constitution, and any assistant to political groups and resolve any action which it considers appropriate.
- (b) With regards to disciplinary issues in connection with the Council's statutory officers, the Committee can only resolve action short of dismissal. In instances where its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules and the full Human Resources and Council Tax Committee together with the Independent Persons must refer its recommendation to Full Council.
- (c) The Council's statutory officers are those defined as Head of the Council's Paid Service, Chief Financial Officer and Monitoring Officer.

8. DISCIPLINARY ACTION IN CONNECTION WITH OFFICERS BELOW DEPUTY CHIEF OFFICER

Members will not be involved in the disciplinary action or dismissal against any officer below a Deputy Chief Officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply, and may allow a right of appeal to members in respect of disciplinary action.

9. DISCIPLINARY & DISMISSAL CASES INVOLVING THE COUNCIL'S STATUTORY OFFICERS: HEAD OF PAID SERVICE, THE CHIEF FINANCIAL OFFICER AND THE MONITORING OFFICER:

9.1 *In the following paragraphs-*

- (a) *"the 2011 Act" means the Localism Act 2011;*

OFFICER EMPLOYMENT PROCEDURE RULES

(b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

(c) “independent person” means a person appointed under section 28(7) of the 2011 Act;

(d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

(e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

(f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

(g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

9.2 A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.

9.3 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

9.4 In paragraph 2.3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

9.5 Subject to paragraph 2.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2.3 in accordance with the following priority order-

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

9.6 The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 2.5 but may do so.

9.7 *The authority must appoint any Panel at least 20 working days before the relevant meeting.*

9.8 *Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-*

- (a) *any advice, views or recommendations of the Panel;*
- (b) *the conclusions of any investigation into the proposed dismissal; and*
- (c) *any representations from the relevant officer.*

2.9 *Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.*

10. DISMISSAL

- (a) Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissals.
- (b) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer or Monitoring Officer, Full Council must approve that dismissal before notice is given to that person (the statutory procedure set out in 9 above must be followed prior to such dismissal)
- (c) Where a committee or sub-committee is discharging, on behalf of the Council, the function of the dismissal of a Chief Officer, at least one member of the executive must be a member of that committee or sub-committee.
- (d) Notices of dismissal can only be made to an officer by the correct 'dismissor', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of dismissal on behalf of the Council as determined by the Regulations and these Procedure Rules.
- (e) Notice of dismissal must not be given to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:
 - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the

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person the Sub-Committee wishes to dismiss and any other particulars relevant to the dismissal which the Sub-Committee has notified to the Assistant Director (Partnerships).

- (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name of the person who the dismissor wishes to dismiss, any other particulars relevant to the dismissal and the period for objection.
- (f) The Leader of the Council may object, on behalf of the Cabinet, to the dismissal within 3 working days of the issue of the notice in (b) above.
- (g) Notice of dismissal may then only be made if:
 - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the dismissal; or
 - (ii) The Assistant Director (Partnerships) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (f) above.
 - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

SCHEME FOR DEALING WITH PETITIONS

Tendring District Council recognises the importance of petitions as a means of engaging with local communities, enabling the public to air concerns, and as a mechanism for generating service improvements. These pages set out what a petition is, how the public can submit a petition, how it will be dealt with and what the Council can do to respond to the issues raised.

What Constitutes a Petition

Any communication which is signed by, or sent to the Council by **30 or more** people who live, work or study within Tendring shall be treated as a petition provided that such communication has a clear message or instruction upon which it would wish the Council to act.

Any communication which is signed by, or sent to the Council by **less** than 30 of the people who live, work or study within Tendring shall not be treated as a petition but, where it relates to a matter for which the Council has responsibility for, it shall be forwarded to the appropriate officer of the Council to acknowledge and advise what action, if any, will be taken.

Signatory Eligibility

The Council is keen to receive feedback from all residents, visitors and from people working or studying in the Tendring area, through various communication channels. However, only those people who are either (a) permanent residents of Tendring or (b) non-residents who can be clearly identified as either working or studying in Tendring can trigger a formal petition response.

There is no legislation supporting the minimum age requirement for a person to initiate or support a petition. Accordingly, children and young people have the ability to submit a petition as it is deemed they have the same rights and opportunity for their voices to be heard as well as adults. However, it is recognised that in practice, a teacher or parent would oversee the submission of a petition from school children where such children are under 16 years of age.

Whilst the Council welcomes petitions as a means of highlighting concerns within a local area, the lead petitioner has a responsibility to ensure that any petition submitted is done so under the principle of good faith and be decent, honest and respectful.

Information to be included

Any petition submitted must contain the following:

- A clear and concise statement covering the subject of the petition, the area to which the petition relates and what action the petitioners want the Council to take;

- The contact details for the petition organiser (lead petitioner) so the Council knows who to contact (where the lead petitioner is not identified, the Council shall correspond with the person named first on the petition);
- The name, full address, postcode and signature of any person supporting a traditional paper petition (address details will be checked). Such a petition must be accompanied by a dated covering letter that identifies the key information outlined in this procedure about the purpose of the petition, what action is called for and contact details for the lead petitioner;
- The name, postcode and email address for those persons who sign up to an electronic petition or e-petition; and
- The date the petition was submitted.

Any petition that does not comply with the above requirements will be deemed invalid.

1. How to Submit a Petition to the Council

Petitions can be submitted to the Council in the following ways:

- E-petition – The petition must be submitted via the Petitions function on the Council's website (www.tendringdc.gov.uk). Where no end date to an e-petition is specified, the Council shall set this at 93 days from the date of receipt of the petition.
- Paper petitions must be sent to The Committee Services Manager, Tendring District Council, Democratic Services & Elections, Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE.

2. What happens when a Petition is submitted?

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt. In relation to an E-petition the lead petitioner will be informed that the Council will deem the petition to be held 'in abeyance' until such time as the end date has passed. At which time the Council will count up and, if necessary, verify the signatures etc. The Council will then action the petition in accordance with the provisions of this Scheme.
- The Council will accept any petition on face value but reserves the right to verify the signatures or investigate further, if deemed necessary. The petition must not be vexatious or frivolous or defamatory or offensive. It must not be substantially the same as a Petition previously received and dealt with by the Council within the past 12 months.

- It must also relate to a matter for which the Council has responsibility for, subject to the exceptions detailed below:

Petitions Received in respect of Planning Applications, the Local Plan making process and other Regulatory Matters (such as licensing applications submitted under the Licensing Act 2003 and the Gambling Act 2005)

Petitions received in respect of planning or licensing applications shall not be treated as petitions for the purposes of this scheme but will be sent to the appropriate department and will be considered as representations received in relation to that particular application or planning matter.

Petitions received in respect of the Local Plan making process will be referred to the Planning Policy & Local Plan Committee.

Community Governance Petitions

Community Governance petitions will be considered initially against the relevant provisions of the Local Government and Public Involvement in Health Act 2007. Those petitions that do not meet the criteria under that Act to trigger a Community Governance Review will then be considered against the criteria contained within this Scheme.

Petitions for a Referendum for an Elected Mayor and Cabinet or a Committee System of Local Government

Petitions for a referendum for an Elected Mayor and Cabinet or a return to a Committee System of Local Government will be considered initially against the relevant provisions of the Local Government Act 2000 and related legislation such as the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2011 (as amended). Those petitions that do not meet the criteria under that Act and supporting legislation to trigger a Referendum will then be considered against the criteria contained within this Scheme.

The Head of Democratic Services & Elections (or, in their absence or other unavailability, the Committee Services Manager) will decide whether a petition is valid and/or acceptable. In making their decision those Officers will consult, if necessary, the Monitoring Officer. If the decision made is to reject the petition as being invalid and/or unacceptable the Head of Democratic Services and Elections (or Committee Services Manager) will inform the Lead Petitioner accordingly, explaining the reasons why the petition cannot be accepted under this scheme and, if appropriate, informing the petitioner that the petition will be forwarded to the relevant department together with a request that they respond directly to the petitioner on the matters raised.

- If the issue contained within the petition is not something which the Council would ordinarily consider in public as it would require the disclosure of confidential or exempt information (as defined in local government law), the lead petitioner will be informed accordingly, explaining the reasons why the petition cannot be accepted under this scheme and where appropriate, referring the petitioner to the relevant department and advising them as to how their views can be expressed via alternative means.
- If the issue contained within the petition does not relate to any functions or responsibilities of the District Council, but does relate to a matter for which Essex County Council or other body or partner is responsible, the petition will be forwarded to that organisation and the lead petitioner advised accordingly.
- Each petition received shall be based on a tiered system whereby:
 - (a) A valid petition containing 30 to 500 signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council for information. It will then be presented to the first practicable meeting of the Cabinet (if it relates to a matter that is an Executive function under the law) or the appropriate committee and then, if so requested, the matter will be investigated and a report will be brought back to the Cabinet/Committee for consideration;
 - (b) A valid petition containing 501, or more signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council to advise that the petition has been received. Once it has been investigated, a report will be prepared and presented with the petition at the next meeting of the Council for consideration. If it relates to a matter that is an Executive function under the law the petition will also be presented to the first practicable meeting of the Cabinet and any views, comments or recommendations made by Cabinet will be incorporated into the aforementioned report to Council.
 - (c) The appropriate Ward Member(s) will be informed of receipt of a petition and any action to be taken.

Note: Where the subject of a petition requires urgent action (i.e. it cannot wait until the following meeting of the Council) it is proposed that the petition be investigated and a report be presented to the first available meeting of the appropriate committee or Cabinet (if it relates to a matter that is an Executive function under the law).

In the period immediately before an election or referendum the Council may need to deal with petitions differently. If this is the case, the Head of Democratic Services & Elections,

having consulted the Monitoring Officer, will explain, in writing, the reasons to the Lead Petitioner and inform them of the revised timescale that will apply.

- When a petition is being initially considered by a committee or the Cabinet (or Council, following investigation and a report being brought back), the lead petitioner will be invited to address the committee, Cabinet or Council as the case may be, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to the committee, Cabinet or Council, as the case may be, on their behalf and will have a time limit of three minutes for their speech.
- Where the lead petitioner requests a representative or a Ward Councillor to speak on their behalf, the lead petitioner must inform the Head of Democratic Services & Elections (or the Committee Services Manager) in writing or by email in advance of the relevant meeting of the name of that representative/Ward Councillor.
- Should two petitions be received on the same issue (including if one is in support and one opposing a course of action) then both lead petitioners will be invited to address Cabinet or Council at the same time.
- The relevant Ward Member(s), Cabinet Member(s) and officers will be informed when a valid petition covering their Wards and/or areas of responsibility is received and when and how the petition will be considered.
- The lead petitioner will be informed, in writing, of the committee's Cabinet's or Council's decision as the case may be and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and, if so requested by the chairman, address that meeting and/or answer any questions posed at the meeting.
- Relevant Officers will be required to attend any meeting to assist in the scrutiny and investigation of issues raised in the petition. As a general principle, the relevant Officers should be at a Head of Service level or above.
- Where possible, the consideration of a petition will be held in public but, in exceptional circumstances, it may be necessary for an issue to be considered as a "exempt" item under the Local Government Act 1972, the Access to Information Act 1985 and other relevant legislation. In such circumstances, the lead petitioner, public and press will be excluded from the meeting (or part of it) but the reasons for their exclusion will be clearly communicated to them and will also be included in the Minutes of that meeting.

3. What happens after a Petition has been considered?

There are several courses of action available to the committee, Cabinet or the Council (as appropriate) once a petition has been considered, including:

- No action (with reasons as to why no action is proposed)
- Taking the action requested in the petition
- Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)
- Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.
- Referring the petition to a Committee or Cabinet or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament
- Holding a public meeting
- Holding an inquiry
- Providing a written response to the lead petitioner setting out the Council's views on the request in the petition
- Deferring consideration of the petition to a future committee, Cabinet or Council meeting
- Calling for a referendum (if permitted under the legislation and subject to costs)