

## **PART 4 COUNCIL PROCEDURE RULES**

### **PROCEDURE RULES FOR PROCEEDINGS AND BUSINESS OF THE COUNCIL**

**PART 4 A**

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## **PART 4 A**

### **COUNCIL PROCEDURE RULES**

#### **1. COUNCIL MEETINGS**

##### **1.1 Annual Meeting of Council**

##### **1.1.2 Timing and business**

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

The annual meeting will:

- (a) elect a person to preside if the Chair and Vice-Chair of Council is not present;
- (b) elect the Chair of Council;
- (c) Appoint the Vice-Chair of Council;
- (d) approve the Minutes of the last meeting;
- (e) receive any declarations of interest from Members;
- (f) receive any announcements from the Chair and/or the Chief Executive;
- (g) elect the Leader and receive notification of appointments by the Leader of the Cabinet;
- (h) appoint the membership and Chairs and Vice-Chairs of the Overview and Scrutiny Committees, the Development Control, the Audit Committee and Licensing and Regulation Committees and such other Committees as the Council considers appropriate;
- (i) appoint the Standards Committee;
- (j) agree the Scheme of Delegation;
- (k) appoint Councillors to serve on each Committee and outside body reserved to the Council;
- (l) consider any business set out in the notice convening the meeting.

## **1.2 ORDINARY MEETINGS**

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

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) approve the Minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chair, Leader, Cabinet Members or the Chief Executive;
- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair at the meeting are relevant to the business of the Council;
- (f) deal with any business from the last Council meeting;
- (g) as far as is necessary elect the Leader and receive notification of appointments by the Leader of the Cabinet;
- (h) as far as is necessary appoint the membership and Chairs and Vice Chairs of the Overview and Scrutiny Committees, the Development Control Committee, the Audit Committee and the Licensing and Regulation Committee and such other Committees as the Council considers appropriate;
- (i) receive recommendations from the Cabinet and consider questions and answers in relation thereto;
- (j) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (k) approve the programme of meetings of the Council;
- (l) answer Members' questions asked under rule 7.2 below;
- (m) consider motions; and
- (n) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.

## **1.3 BUDGET MEETINGS**

A Budget Meeting of the Council will take place in accordance with a programme decided at the Council's Annual General Meeting. Budget Meetings will:

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) receive any declarations of interest from Members;

- (c) set the Budget Parameters;
- (d) receive recommendations from the Cabinet in relation to budgetary items and to consider questions and answers in relation thereto;
- (e) consider any other urgent business set out in the notice convening the meeting.

#### **1.4 EXTRAORDINARY MEETINGS**

##### **1.4.1 Calling extraordinary meetings.**

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

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) the Head of Paid Service, Monitoring Officer or Chief Financial Officer; or
- (d) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

##### **1.4.2 Extraordinary Meetings will:**

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) receive any declarations of interest from Members;
- (c) receive a report the subject of the extraordinary meeting.

## 1.5 STATE OF THE DISTRICT DEBATE

### 1.5.1 Calling of debate

The Leader will call a State of the District Debate annually on a date to be agreed with the Chair.

### 1.5.2 Form of debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity.

### 1.5.3 Chairing of debate

The debate will be chaired by the Chair of Council.

### 1.5.4 Results of debate

The results of the debate will be:

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

## 2. APPLICATION OF PROCEDURE RULES TO COUNCIL, CABINET OR COMMITTEES

<b>Meetings</b>	<b>Procedure Rules Which Apply</b>
Council	All
Cabinet	Rules 3; 6-7; 9; 11-13 (not 12.1); 15; 19; 24
Development Control Committee	Rules 3-13 (but not rules 6-7, 8.1-8.4, 12.1); 15; 19; 24 – <i>no restriction on length of meeting, no questions or motions, no requirement to stand to address the meeting</i>
Overview and Scrutiny Committees	Rules 3-13 (but not rules 8.1-8.4, 12.1); 15; 19; 24 – <i>no motions, no requirement to stand to address the meeting</i>
Licensing and Regulation Committee	Rules 3-13 (but not rules 7, 8.1-8.4, 12.1); 15; 19; 24 – <i>no questions or motions, no requirement to stand to address the meeting</i>
Standards Committee	Rules 3-13 (but not rules 7, 8.1-8.4, 12.1); 15; 19; 24 – <i>no motions, no requirement to stand to address the meeting</i>
All other Committees	Rules 3-13 (but not rules 8.1-8.4, 12.1); 15; 19; 24 – <i>no motions, no requirement to stand to address the meeting</i>

### 3. QUORUM

Meetings	Quorum (percentage)	Quorum (numbers, rounded up)
Council	50 per cent	26
Cabinet	50 per cent	3
Overview and Scrutiny Committees	33.3 per cent/1/3	4
Development Control Committee	33.3 per cent/1/3	4
Audit Committee	60 per cent	3
Licensing & Regulation Committee		
(i) When sitting to determine Licensing Act 2003 and Gambling Act 2005 matters*	50 per cent/1/2*	6*
(ii) When sitting as a 3 Member Licensing Panel	100 per cent	3
(iii) For all other matters	33.3 per cent/1/3	4
<i>*Unless legislation or regulations dictate otherwise</i>		
Standards Committee	33.3 per cent/1/3	3
All other Committees	33.3 per cent/1/3	

During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

### 4. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post or by electronic means to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, together with the accompanying reports.

A brief plain English summary of each Council and Committee agenda will be circulated as widely as possible by electronic means.

### 5. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chair.

### 6. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for 4 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **7. QUESTIONS**

### **7.1 QUESTIONS FROM THE PUBLIC**

#### **7.1.1 General**

Members of the public and organisations may ask questions of Cabinet Members at ordinary meetings of the Council.

#### **7.1.2 Order of questions**

Questions will be asked in the order in which notice of them was received, except that the Chair may group together similar questions.

#### **7.1.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to Democratic Services no later than noon, 2 clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Cabinet Member of the Council to whom it is to be put.

#### **7.1.4 Number of questions**

At any one meeting no person or organisation may submit more than 3 questions and no more than 3 such questions may be asked on behalf of one organisation.

#### **7.1.5 Scope of questions**

The Chief Executive may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information;
- is related to confidential staffing matters.

#### **7.1.6 Record of questions**

The Chief Executive will enter each question in a book open to public inspection and will send a copy of the question to the Member to whom it is to be put within 24 hours of its receipt. Rejected questions will include reasons for rejection.

Copies of all questions and answers will be circulated to all Members and will be made available to the public attending the meeting, and recorded in the Minutes.

### **7.1.7 Asking the question at the meeting**

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

### **7.1.8 Supplementary question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 7.1.5 above.

### **7.1.9 Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer within a reasonable timescale.

### **7.1.10 Reference of question to Cabinet or a Committee**

Unless the Chair decides otherwise, no discussion will take place on any question. A Member may move that a matter raised by a question be referred to Cabinet or the appropriate Committee. Once seconded, such a motion will be voted on without discussion.

## **7.2. QUESTIONS BY MEMBERS**

### **7.2.1 Questions without Notice**

A Member of the Council may ask the Leader, Cabinet Member or the Chair of a Committee any question without notice upon an item of the report of the Cabinet or a Committee, when that item is being received or under consideration by the full Council, but questions shall be limited to 3.

### **7.2.2 Notice of questions**

A Member may only ask a question if they have given written notice of it to the Chief Executive by noon at least 2 clear working days before the meeting or the question relates to urgent matters and they have the consent of the Chair of Council, the Leader, Cabinet Member or Chair of the standing Committee to whom the question is to be put. The content of the question should be given to the Chief Executive by noon on the day of the meeting.

Copies of all questions and answers will be circulated to all Members and will be made available to the public attending the meeting, and recorded in the Minutes.

### 7.2.3 Scope of questions

The Chief Executive may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- is contrary to the Constitution.

### 7.2.4 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner within a reasonable time;

and will be recorded in the Minutes.

### 7.2.5 Supplementary question

A Member asking a question under Rule 7.2 may ask one supplementary question, without notice, of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## 8. MOTIONS

### 8.1 MOTIONS ON NOTICE

#### 8.1.1 Notice

Except for motions which can be moved without notice, written notice of every motion, signed by at least 2 Members, must be delivered to Chief Executive not later than noon, 12 clear working days before the date of the meeting. Where a motion is submitted by email an indication of support signed by another Member must also be received – this may also be by email. These will be entered in a book open to public inspection. No Member may propose or second more than 3 motions.

#### 8.1.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda, with the names of the proposer and seconder, in the order in which they were received, unless the Member giving notice states, in writing, that they propose to move it to a later

meeting or withdraw it, or, unless the motions relate to a matter already on the agenda, when they will appear alongside that matter.

### **8.1.3 Scope of Motions**

- (i) Motions must be about matters which are related to the responsibilities of the Council or which directly affect the Council or the District or be about an area where the Cabinet has power.
- (ii) Motions must not relate to the personal affairs or conduct of individual Members, except in the case of any matter sufficiently serious to make it the legitimate concern of the Council under paragraph(i) of Procedure Rule 8.1.3.
- (iii) Motions should avoid inappropriate or inflammatory language.

### **8.1.4 Motions not moved**

If a motion, notice of which is specified in the summons, is not moved by the Member who has given it, or, in their absence by some other Member on their behalf, then, unless postponed by consent of the Council, it will be treated as abandoned, and a fresh notice will have to be submitted.

### **8.1.5 Where Notice of Motion shall ordinarily be directed**

Notices of motions addressed to Council, but which relate to matters dealt with or considered by Cabinet or Overview and Scrutiny Committees, will not be included in the Council agenda, but shall be placed by the Chief Executive on the next agenda of the appropriate meeting. If the Member giving such a notice requests that it is dealt with at full Council as a matter of urgency or because it is otherwise in the interests of the Council, then the Chief Executive shall consult the Chair of the Council whose decision thereon shall be conclusive. If a written request, signed by five Members is submitted, requesting that the notice of motion goes direct to full Council, then the notice of motion will be directed to full Council.

### **8.1.6 Alteration of Motion**

A Member may, with the consent of the Council, alter a motion that s/he has proposed or of which notice has been given if the alteration is one which could have been moved as an amendment thereto.

### **8.1.7 Proposer of Motion may attend**

A Member who has proposed a motion and which has been referred to the Cabinet or Overview and Scrutiny Committee of which s/he is not a Member, shall be given notice of the meeting at which it is proposed to consider the motion, and shall be entitled to attend and be allowed to speak at the invitation of the Cabinet or the Committee

## **8.2 MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting if the Chair and Vice-Chair are not present at the meeting;

- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Executive, Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 4 hours in duration;
- (n) to suspend a particular Council procedure rule;
- (o) to exclude the public and media in accordance with the Access to Information Rules;
- (p) to not hear further a Member named under Rule 12.3 or to exclude them from the meeting under Rule 12.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

### 8.3 MOTIONS OF NO CONFIDENCE

The following procedure shall apply at a meeting of full Council, if a motion of no confidence is proposed in the Leader of the Council, or a Cabinet Member or the whole Cabinet:

- (i) A written motion proposing 'no confidence' shall be delivered in person to the Chair of Council (or in his/her absence the Chief Executive) at least 12 clear days before the meeting of the Council at which it is proposed to be debated.
- (ii) No such motion shall be inserted in the summons for a meeting of the Council unless it is signed by at least 20 Members of the Council, sets out in full whom the motion is in respect of and gives details of the reason(s) why the motion is to be proposed.

- (iii) If moved and seconded at Council, the motion shall be properly debated and a simple majority of the whole Council shall suffice to carry the motion.
- (iv) If the motion is carried the person or persons against whom it is directed shall resign their position forthwith.
- (v) Following a resignation, the meeting of the Council shall be adjourned for such period of time as the Chair of Council shall determine in order to allow the nomination of a replacement person or persons to fill the vacated post(s).

## **8.4 MOTIONS AND PREVIOUS DECISIONS**

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

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

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved, unless the notice is signed by at least five Members. If such a motion or amendment is considered then no-one can propose a similar motion or amendment for a further six months.

## **8.5 RULES OF DEBATE**

### **8.5.1 No speeches until motion seconded**

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

### **8.5.2 Right to require motion in writing**

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

### **8.5.3 Seconder's speech**

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

### **8.5.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 3 minutes without the consent of the Chair or 5 minutes for a proposer.

### **8.5.5 When a Member may speak again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;

- (b) to move a further amendment if the motion has been amended since s/he last spoke;
- (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

#### **8.5.6 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and seconded and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.
 as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments. If there are none and no further debate, the Chair will put it to the vote.

#### **8.5.7 Alteration of motion**

- (a) A Member may alter a motion of which s/he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which s/he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 8.5.8 **Withdrawal of motion**

A Member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 8.5.9 **Right of reply**

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

#### 8.5.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 4 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 12.3 or to exclude them from the meeting under Rule 12.4

#### 8.5.11 **Closure motions**

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

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

#### **8.5.12 Point of order**

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

#### **8.5.13 Personal explanation**

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

#### **8.5.14 Debates affecting Persons employed by the Council**

If any matter arises at a meeting of the Council, the Cabinet or of a Committee concerning the conduct of any person employed by the Council, such a matter shall not be the subject of discussion until the Council, the Cabinet or Committee, as the case may be, has decided whether or not the power of exclusion of the public and press under Section 100(A)(4) of the Local Government Act 1972, shall be exercised.

### **9. VOTING**

#### **9.1 Majority**

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

#### **9.2 Chair's casting vote**

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

### **9.3 Show of hands**

Unless a recorded vote is demanded under Rules 9.4 and 9.5, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **9.4 Recorded vote**

If at least 10% of Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

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

## **10. MINUTES**

### **10.1 Signing the Minutes**

The Chair will sign the Minutes of the proceedings at the next suitable meeting. The Chair will move that the Minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy. The Minutes will include the names of the proposer and seconder of any motion or amendment and the name of the person calling for a recorded vote.

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

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

### **10.3 Form of Minutes**

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

## **11. EXCLUSION OF PUBLIC AND MEDIA**

Members of the public and media may only be excluded either in accordance with Access to Information Rules or Rule 13 (Disturbance by Public).

## **12. MEMBERS' CONDUCT**

### **12.1 Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak

and the others must sit. Other Members must remain seated whilst a Member is speaking, unless they wish to make a point of order or a point of personal explanation.

#### **12.2 Chair Standing**

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

#### **12.3 Member not to be heard further**

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

#### **12.4 Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### **12.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as s/he thinks necessary.

### **13. DISTURBANCE BY PUBLIC**

#### **13.1 Removal of member of the public**

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

#### **13.2 Clearance of part of the meeting room**

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

### **14. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

#### **14.1 Suspension**

All of these Council Procedure Rules except Rules 9.5 (right of individual Member to have their vote recorded) and 10.1 (requirement to sign the Minutes at the next suitable meeting) may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

#### **14.2 Amendment**

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

## **15. MECHANICAL APPARATUS AT MEETINGS**

The Council has agreed to webcasting of meetings and the following provisions do not apply to webcasting arrangements. The following provisions shall have effect at any meeting of the Council, the Cabinet, a Committee or other formally constituted meeting:-

- (a) With the exception of Members, who may use laptops in silent mode, no person shall bring into the Council Chamber or room in which the meeting is being held, or have in their possession or under their control therein:-
  - (i) any camera or other apparatus capable of making a photographic or other pictorial record for subsequent use;
  - (ii) any radio transmitting apparatus, recording machine or other apparatus capable of recording speech for subsequent use;
  - (iii) any typewriter, computer or other such mechanical apparatus;
  - (iv) all portable telephones and pagers are to be switched off or put into silent mode of operation;

unless prior permission of the Chair or other person presiding at the meeting has been obtained. The permission given may be subject to conditions as to use or otherwise.

- (b) Any person who brings into or has under their control in the Council Chamber or other room in which such meeting is held any apparatus referred to in subparagraph (a) and does not comply with the requirements of that subparagraph shall be treated whether s/he is a Member of the Council or of the public (including the press), as having committed a breach of order under Procedure Rules 12 or 13.

## **16. PETITIONS**

Any petition received by a Member shall be submitted to the next meeting of the Council, and unless the petition relates to a matter coming before the Council at the same meeting, it will stand referred, without discussion, to the relevant Cabinet Member. If the petition relates to an item on the agenda of the Council meeting it will be considered at the same time as that matter.

## **17. QUESTIONS AS TO PROCEDURE OR PROPRIETY**

Except as in these Procedure Rules or by statute otherwise provided, all questions as to procedure or the propriety of any action or matter in Cabinet/Committee shall be determined by the Chair of the Cabinet/Committee, whose decision shall be conclusive.

## **18. MEETINGS OF CABINET/COMMITTEES**

- (a) Cabinet and Committees shall meet on such dates and at such times as are fixed by the Council. However, if there are special circumstances arising as a result of Council business, the Chair of Cabinet or a Committee may change

the date/time. As much notice as possible of any such alteration of dates shall be given to the Members of the Cabinet/Committee.

- (b) All the meetings of Cabinet/Committees shall be convened by the Chief Executive.

#### **19. ATTENDANCE OF OTHER MEMBERS AT MEETINGS OF CABINET AND COMMITTEES**

A Member of the Council may be present at any meeting of the Cabinet/Committee of which s/he is not a Member but, s/he shall not take any part whatever in the business of the Cabinet/Committee except by invitation of that body in which case s/he shall not vote, provided that a decision pursuant to Section 100(A)(4) of the Local Government Act 1972, to exclude the public and press, shall not apply to such Member.

A Member not being a Member of Cabinet/Committee may speak on agenda items relating to matters within their Ward. S/he may speak only once on any one issue and may not vote.

#### **20. CUSTODY OF SEAL**

The Common Seal of the Council shall be kept in some safe place in the custody of the Head of Legal Services.

#### **21. SEALING OF DOCUMENTS**

- (a) The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council, Cabinet or of a Committee or officer to which the Council has delegated its powers in such behalf; but a resolution or direction of the Council (or Cabinet or a Committee with appropriate powers) authorising the acceptance of any tender, the purchase, sale, letting or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate or contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary or appropriate to give effect to such resolution.

- (b) Unless the Council shall otherwise direct, the Seal shall be attested by one of the following officers:

Head of Legal Services;  
A Principal Solicitor.

#### **22. AUTHENTICATION OF DOCUMENTS**

Where any notice or other document will be a necessary step in legal proceedings on behalf of the Council, it shall, unless any enactment otherwise requires or authorises, or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Proper Officer of the Council.

#### **23. MATTERS OF URGENCY**

The Chief Executive or relevant Chief Officer, in consultation with the relevant Cabinet Member (or in their absence the Leader of Council) may make decisions and

authorise action on matters which are of a minor nature or are too urgent to await the next meeting of the Cabinet.

Consultation with the relevant Cabinet Member (or Leader of Council) will be in the form of a written report, incorporating the advice of the Chief Financial Officer and the Monitoring Officer.

If the Cabinet Member (or Leader of Council), so consulted, considers the matter to be of sufficient importance, a special meeting of the Cabinet shall be convened. If not, any action taken will be reported to the next meeting of the Cabinet.

Prior to any decision being taken, every reasonable effort will be made to consult the relevant ward Members. Ward Members, however, do not have the power to requisition a special meeting.

#### **24. INTEREST OF MEMBERS IN CONTRACTS AND OTHER MATTERS**

If any Member of the Council has any personal or prejudicial interest within the meaning of Section 51 of the Local Government Act 2000, s/he shall withdraw from the meeting while the matter is under consideration by the Council unless –

- (i) dispensation has been granted by the Standards Committee; or  
Members can apply to the Standards Committee for a dispensation if:-
  - over 50% of the authority or Committee Members would otherwise be prevented from taking part because of prejudicial interests; or
  - the political balance of the authority or Committee would be upset
- (ii) the contract, proposed contract, or other matter is under consideration by the Council as part of the report of Cabinet or of a Committee and is not itself the subject of debate.

#### **25. GIVING OF ORDERS AND INSPECTION OF LAND**

Unless specifically authorised to do so by the Council a Member of the Council shall not –

- (i) issue any order respecting any works, matters, activities or other thing being carried out by or on behalf of the Council,
- (ii) issue any order with regard to any matter under the jurisdiction of the Council or give instructions to any employee, agent or contractor of the Council,
- (iii) claim by virtue of his/her Membership of the Council any right to inspect or to enter upon any land or premises.

#### **26. VARIATION AND REVOCATION OF PROCEDURE RULES**

- (a) No Procedure Rule of the Council shall be varied or revoked except upon a motion made on notice, in accordance with Procedure Rule No.8.1 or on the recommendation of the Cabinet or a Committee, clearly specifying the object and referring to the order or part thereof to be varied or revoked.

- (b) A motion to vary or revoke Procedure Rules, upon being proposed and seconded, shall stand referred, without further discussion, to the next ordinary meeting of the Council.

## **27. INTERPRETATION OF PROCEDURE RULES**

- (a) The expression 'Chair' means, unless the context indicates otherwise, the Chair of the Council; but the person presiding at such meeting may exercise any power or duty assigned to a Chair in relation to the conduct of any meeting.
- (b) References to the 'Proper Officer' means the Officer of the Council designated as such and shall in appropriate cases and where the context and the circumstances reasonably admit, include his/her deputy.

## **28. CONSTRUCTION OR APPLICATION OF PROCEDURE RULES**

The ruling of the Chair as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall be conclusive and not open to challenge at any meeting of the Council.

## **29. SUPPLY OF PROCEDURE RULES TO MEMBERS**

A copy of these Procedure Rules and of such statutory provisions as regulate the proceedings and business of the Council shall be given to each Member of the Council by the Chief Executive upon delivery to him of the Member's Declaration of Acceptance of Office on the occasion of the first election of the Member to the Council.

## PART 4 B

### EXECUTIVE PROCEDURE RULES

#### 1 Executive Functions

Article 6 of the Constitution defines Executive functions.

At the annual meeting of the Council, or any other Council meeting, the Leader of Council will present a written record of delegations proposed by him/her for inclusion in the scheme of delegation under Part 3 of the Constitution. This will state:

- i) the names of the Members to be appointed by the Leader to the Cabinet;
- ii) the extent of any delegated authority to individual Cabinet Members;
- iii) the terms of reference and constitution of any executive Committee(s) and the names of the Members appointed;
- iv) the nature and extent of any executive delegation to officers, including the title of the officer and any limitations on the delegation.

The scheme of delegation will be subject to adoption by Council and may only be amended by Council. The Leader can decide how executive functions not included in the scheme of delegation are carried out.

#### 2 Conflicts of Interest

Where a potential conflict of interest arises in carrying out an executive function, this should be dealt with in accord with the Council's Code of Conduct as set out in Part 5 of the Constitution.

#### 3 Cabinet Agendas and Meeting Programme

The Cabinet will meet on at least four occasions during the civic year. The meeting programme will be submitted to a meeting of the Council. The Leader may call additional Cabinet meetings and the proper officer will make the necessary arrangements.

The Leader, as Chair of Cabinet, has responsibility for the agenda preparation of the Cabinet, in consultation with the Chief Executive. The Leader can put any executive matter on the agenda of the Cabinet. The Leader can include urgent item(s) at the meeting.

The Head of Paid Service, Monitoring Officer or Chief Financial Officer (as defined in Article 14 of the Constitution) can also require matters to be placed before the Cabinet. They can require the proper officer to call such a meeting in pursuance of their statutory duties.

Copies of the Cabinet agenda will be circulated by e-mail to all Members by the proper officer.

#### **4 Cabinet Meetings**

The Leader chairs Cabinet meetings. In the absence of the Leader, the Deputy Leader will Chair the meeting. If both are absent, a Cabinet Member shall be appointed at the meeting to the Chair.

The quorum for a Cabinet meeting is 3.

The Cabinet is expected to consider matters referred to it by the Council or a Overview and Scrutiny Committee at its next available meeting, consistent with the Policy and Budget Framework and Overview and Scrutiny Procedure Rules.

All Council Members can attend Cabinet meetings and, with the prior approval and discretion of the Leader, ask a question on a matter on the published agenda. Any Member wishing to ask a question must notify the Leader at least 48 hours before the start of the meeting.

#### **5 Reports to Cabinet**

All reports to Cabinet must set out details of the consultation carried out and its outcome.

#### **6 Appointments to Outside Bodies**

When an individual Cabinet Member makes an appointment to an outside body, a public record of this will be kept by the proper officer and circulated to all Members as soon as possible after the appointment has been made.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1 Work Programme**

The Chair shall have responsibility for the agenda preparation of their Overview and Scrutiny Committee.

Each Overview and Scrutiny Committee will publish an annual work programme.

The Chairs and Vice-Chairs of the Overview and Scrutiny Committees and the Chief Executive will meet as necessary to ensure the work of the Committees is co-ordinated and that there is no duplication or overlap.

### **2 Agenda Items**

Any member of an Overview and Scrutiny Committee shall be entitled to give notice in writing to the Chief Executive that the or she wishes an item relevant to the functions of the Committee to be included on the agenda at least 15 clear days before the meeting. Such notice shall be supported by appropriate background information including an explanation as to why the Member wishes the item to be considered. On receipt of such a request the Chief Executive will ensure that such item is included on the next agenda provided that he is satisfied that such matter comes within the purview of the relevant Overview and Scrutiny Committee.

### **3 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

When investigating options for future policy development, Overview and Scrutiny Committees must consult with appropriate forums.

- (c) Overview and Scrutiny Committees may hold inquiries into policy development and may appoint advisors to assist them in this process. They may ask witnesses to attend to address them on any matter under consideration. They may pay advisers and witnesses a reasonable fee and expenses.

### **4 Reports from Overview and Scrutiny Committee**

Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet, or the Council, as appropriate.

Cabinet and/or the Council will consider the report at the next available meeting.

## **5 Rights of Overview and Scrutiny Committee Members to Documents**

In addition to their rights as Councillors, Members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

## **6 Members and Officers giving account**

Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Executive function within their terms of reference. They can require the Leader or any other Member of the Cabinet, the Chief Executive, Strategic Directors or Heads of Service to attend their meetings to explain;

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy;
- iii) their performance.

Where a Member or officer is required to attend the Overview and Scrutiny Committee the Chair will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing, giving at least 10 working days notice of the meeting. The notice will state the nature of the item on which he is required to attend to give account and whether any papers or reports are required to be produced for the Committee.

Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance or arrange a substitute.

Where the Overview and Scrutiny Committee conducts investigations and asks people to attend to give evidence, the following principles will apply:

- i) the investigation is conducted fairly and all Members of the Committee are given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) those giving evidence be treated with respect and courtesy.

## **7 Call-in Procedure**

The Council expects that Call-in will only be used in exceptional circumstances. Call-ins will be dealt with by the relevant Overview and Scrutiny Committee.

- (a) When a decision is made by the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the Minutes shall be published, including where possible by electronic means. The Minutes will be available at the main offices of the Council normally within two working days of being made. Overview and Scrutiny Committee Chairs will be sent copies of the Minutes by the Chief Executive.

- (b) The Minutes will specify the date on which they are published and when the decision will come into force. On expiry of five working days after the publication of the Minutes, the decision may then be implemented, unless an Overview and Scrutiny Committee has called it in.
- (c) A request to call-in a decision can be made to the Chief Executive by the Chair, or Vice-Chair or five members of the relevant Overview and Scrutiny Committee, and must set out in writing the reasons why a call-in is required. Individual Members may approach the Chair to ask for a matter to be called-in. The Chief Executive will notify the decision-taker of the call-in and call a meeting of the Committee within 5 days of the decision to call-in.
- (d) If, having scrutinised the decision, an Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred back the decision maker shall then reconsider within a further fifteen working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, an Overview and Scrutiny Committee does not meet in the period set out above, or does meet, but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the relevant Overview and Scrutiny Committee meeting, or the expiry of that further five working day period, whichever is the earlier.
- (f) The decision of Council will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (g) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and minute by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Leader, or in his/her absence the Deputy Leader, and the Chair of the relevant Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances, and to it being treated as a matter of urgency. In the absence of both Chairs, the Vice-Chair's consent shall be required. In the absence of Chairs and Vice-Chairs, the Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be notified to all Members of the Overview and Scrutiny Committees and reported to the next available meeting of the Council, together with the reasons for urgency.
- (h) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## FINANCIAL REGULATIONS

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## **A. FINANCIAL MANAGEMENT**

### **A1 Financial Management Standards**

#### **Why is this important?**

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

- A1.1 The head of Finance has overall responsibility for ensuring the proper administration of the financial affairs of the Council, as required by Section 151 of the Local Government Act 1972, and by Section 114 of the Local Government Finance Act 1988.
- A1.2 The Head of Finance is responsible for maintaining a continuous review of Financial Regulations which shall provide for the supervision and control of finances, accounts, expenditure, income and assets.
- A1.3 Any changes to Financial Regulations will be subject to the approval of the full Council.
- A1.4 The Financial Regulations provide the framework for managing the Council's financial affairs. They apply to every elected member and all staff of the Council.
- A1.5 All elected members and staff have a general responsibility for taking reasonable action to provide for the security of assets under their control, and for ensuring that the use of assets and resources is legal, properly authorised, provides value for money and achieves best value.
- A1.6 Strategic Team Members, Heads of Service, and Managers are responsible for ensuring that all staff in their service areas are aware of the existence and content of Financial Regulations and other internal regulatory and procedure documents, and that they comply with them.

### **A2 Scheme of Virement**

#### **Why is this important?**

The scheme of virement is intended to enable the Cabinet, Strategic Team Members and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

- A2.1 A Strategic Team Member or Head of Service may exercise virement on budgets under their control for amounts up to £20,000 on any one budget head during the current financial year only, following agreement with the Head of Finance and in consultation with the appropriate Cabinet Member and subject to the conditions in paragraph A2.3 below.
- A2.2 Virement of amounts greater than £20,000 requires the approval of the Cabinet, following a joint report by the Head of Finance and the Strategic Team Member,

which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Amounts greater than £50,000 are a Key Decision and require inclusion in the Forward Plan.

A2.3 Virement that is likely to impact on the level of service activity of another Strategic Team Member or Head of Service should be implemented only after agreement with that officer.

A2.4 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- (i) the amount is used in accordance with the purposes for which it has been established
- (ii) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

A2.5 Budget adjustments within the Housing Repairs and Improvements Programme will be subject to separate arrangements in agreement with the Head of Finance.

### **A3 Treatment of Year-End Balances**

#### **Why is this important?**

The rules below cover arrangements for the transfer of resources between accounting years, ie a carry forward.

A3.1 Normally, only specifically designated accounting reserves and provisions may be carried forward from one accounting year to the next.

A3.2 The carry forward of resources relating to individual revenue or capital budget headings requires the specific approval of the Cabinet, and will normally only be permitted for individual amounts in excess of £10,000 where there is clear justification as to why the resources could not be utilised in the financial year for which they were originally allocated.

### **A4 Accounting Policies**

#### **Why is this important?**

The Head of Finance is responsible for the preparation of the Council's statement of accounts, in accordance with proper accounting practices as currently in force, for each financial year ending 31 March.

A4.1 The Head of Finance is responsible for selecting suitable accounting policies and for ensuring that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year. Such policies should comply with the proper accounting practices currently in force.

## **A5 Accounting Records and Returns**

### **Why is this important?**

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

- A5.1 The Head of Finance shall determine the accounting procedures and records of the Council.
- A5.2 The Head of Finance shall arrange for the proper administration of all accounts and accounting records.
- A5.3 Wherever possible, the following principles shall be complied with when allocating financial duties:
- (i) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
  - (ii) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- A5.4 The Head of Finance must be consulted on and approve any changes to accounting records and procedures.
- A5.5 All staff and members must maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.

## **A6 The Annual Statement of Accounts**

### **Why is this important?**

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

- A6.1 The Head of Finance shall sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March each year.
- A6.2 The Head of Finance shall draw up a timetable for final accounts preparation and advise staff and external auditors accordingly.
- A6.3 Staff and members shall comply with accounting guidance provided by the Head of Finance and supply the Head of Finance promptly with any information required for the preparation of the statement of accounts.

## **B. FINANCIAL PLANNING**

### **B1 Revenue Budget Preparation, Monitoring and Control**

#### **Why is this important?**

Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget. By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual budget limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.

- B1.1 The Head of Finance shall, in consultation with Strategic Team Members and Heads of Service, prepare and submit annually to the Cabinet budget estimates of income and expenditure.
- B1.2 The estimates presented to Cabinet shall be accompanied by a report from the Head of Finance drawing attention to any provision made for a new service or the material alteration or extension of an existing service.
- B1.3 After consideration by the Cabinet, the Budget shall be presented to full Council together with a report by the Head of Finance with a recommendation relating to the levying of a precept.
- B1.4 The full Council's approval of the Budget shall authorise the incurring of expenditure and the collection income within the approved budget estimates.
- B1.5 The Head of Finance shall establish and maintain an appropriate framework of budgetary management and control which ensures that :
- (i) budgets remain within the approved estimates unless the full Council agrees otherwise
  - (ii) each budget holder has available timely and accurate information on income and expenditure on each budget which is sufficiently detailed to enable them to fulfil their budgetary management responsibilities
  - (iii) expenditure is only committed against an approved budget head
  - (iv) all officers responsible for committing expenditure comply with relevant guidance and Financial Regulations
  - (v) budget responsibility is aligned as closely as possible to the decision making process that commits expenditure
  - (vi) significant variances from approved budget estimates are investigated promptly and explained by budget holders.
- B1.6 Strategic Team Members, Heads of Service and nominated budget holders are responsible for maintaining budgetary control within their service areas in adherence to the principles in B1.5, and for ensuring that all income and expenditure is properly recorded and accounted for.

- B1.7 Strategic Team Members, Heads of Service and nominated budget holders should ensure that spending remains within each of their service areas overall budget limits, and that individual budget heads are not overspent, by monitoring budgets and taking appropriate corrective action where significant variations from the approved budget estimates are forecast.
- B1.8 Strategic Team Members, Heads of Service and nominated budget holders should ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and that this is operating effectively.

## **B2 Budgets and Medium-Term Planning**

### **Why is this important?**

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. Medium-term planning (or a three to five year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

- B2.1 The Head of Finance shall arrange for the preparation of a Medium Term Financial Plan, covering a four year period, which shall be updated at least annually to reflect changes in anticipated budget outturns, levels of funding and expenditure, and other prudent financial projections.
- B2.2 Strategic Team Members, Heads of Service and Managers should inform the Head of Finance promptly of any known or anticipated service, legislative or other changes which may have significant financial impacts within the next four years.

## **B3 Resource Allocation**

### **Why is this important?**

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

- B3.1 The Head of Finance shall advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- B3.2 Strategic Team Members, Heads of Service and Managers shall work within budget limits and shall utilise resources in the most efficient, effective and economic way.
- B3.3 Strategic Team Members, Heads of Service and managers shall seek to identify opportunities for efficiency savings where it is possible to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **B4 Capital Programme**

### **Why is this important?**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. There are Government requirements on the financing capacity of the Council. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

- B4.1 The Head of Finance shall present an annual four year capital plan, together with details of the funding estimated to be available, to Cabinet. The Cabinet will make recommendations on the capital plan and on any associated financing requirements to the full Council.
- B4.2 The Head of Finance shall issue guidance concerning capital schemes and controls, for example, on project management techniques. The definition of 'capital' will be determined by the Treasurer, having regard to government regulations and accounting requirements.
- B4.3 The inclusion of any capital proposal in the programme does not commit the Council to such expenditure.
- B4.4 No action shall be taken to commit the Council to capital expenditure until the relevant Strategic Team Member has determined whether it is necessary to undertake a feasibility study.
- B4.5 For all schemes with an anticipated value in excess of £250,000, a project management team must be set up. The Head of Finance may nominate a member of staff from Financial Services who will give advice as needed to this team.

## **B5 Maintenance of Reserves**

### **Why is this important?**

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

- B5.1 The Head of Finance shall advise the Cabinet and/or the full Council on prudent levels of reserves for the Council, and shall take account of the advice of the external auditors in this matter.
- B5.2 Strategic Team Members, Heads of Service and nominated budget holders should ensure that reserves are used only for the purposes for which they were intended.

## **C. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **C1 Risk Management and Insurance**

#### **Why is this important?**

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the Council and to ensure its continued financial stability and good reputation. In essence it is, therefore, an integral part of good business practice.

- C1.1 The Head of Finance, in consultation with the other Strategic Team Members, shall prepare and promote the Council's risk management policy statement, and develop risk management controls.
- C1.2 The Head of Finance shall include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
- C1.3 The Head of Finance shall effect corporate insurance cover, through external insurance and internal funding, and negotiate all claims, in consultation with other officers where necessary.
- C1.4 Staff and elected members shall notify the Head of Finance immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Head of Finance or the Council's insurers.
- C1.5 Staff and elected members shall take responsibility for risk management where appropriate, having regard to advice from the head of Finance and other specialists (eg crime prevention, fire safety and prevention, and health and safety).
- C1.6 Heads of Service shall ensure that there are regular reviews of risk within their service areas.
- C1.7 The Head of Finance must be notified promptly of all new risks requiring insurance, new properties and vehicles, and of any alterations affecting existing insurances.
- C1.8 Staff and elected members should not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **C2 Internal Controls**

#### **Why is this important?**

The Council requires internal controls to manage and monitor progress towards its strategic objectives. The Council also has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations. Additionally, the Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

- C2.1 The Head of Finance shall advise on the establishment of an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- C2.2 Strategic Team Members and Heads of Service shall establish formal processes to check at least annually that established controls in their service areas are being adhered to and to evaluate their effectiveness, in order to be confident of the proper use of resources, achievement of objectives and management of risks.
- C2.3 Strategic Team Members and Heads of Service shall review existing controls in the light of changes affecting the Council and establish and implement new ones in line with guidance from the Head of Finance. They are also responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication. In such cases the Head of Finance should be consulted before removing any controls.
- C2.4 Strategic Team Members and Heads of Service shall ensure that staff have a clear understanding of the internal controls which they are required to operate and comply with, and appreciate the consequences of a lack of control.
- C2.5 Internal Audit shall be informed immediately if any officer or elected member believes that there has been or may be a breach of internal controls.

### **C3 Internal Audit**

#### **Why is this important?**

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”. Internal Audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

C3.1 Internal Audit shall have the authority to:

- (i) access all Council premises at reasonable times
- (ii) access all assets, records, documents, correspondence and control systems
- (iii) receive any information and explanation from any officer or elected member of the Council considered necessary concerning any matter under consideration
- (iv) require any employee or elected member of the Council to account for cash, stores or any other Council asset under his or her control
- (v) access records belonging to third parties, such as contractors, when required
- (vi) directly access the Chief Executive, the Cabinet and Scrutiny Committees.

C3.2 The Head of Finance, in consultation with Strategic Team Members and the Cabinet Member for Finance, shall approve the strategic and annual audit plans prepared by the Audit Manager, which shall take account of the characteristics and relative risks of the activities involved.

C3.3 The Audit Manager shall ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

C3.4 Strategic Team Members and Heads of Service shall :

- (i) consider and respond promptly to recommendations in Internal Audit reports
- (ii) ensure that any agreed actions arising from Internal Audit recommendations are carried out in a timely and efficient fashion
- (iii) notify Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources
- (iv) ensure that new systems for maintaining financial records or records of assets, or changes to such systems, are discussed with and agreed by the Audit Manager prior to implementation.

C3.5 Where any contract exceeds £150,000 in value, details of the proposed list of contractors to be invited to tender shall be provided to Financial Services for vetting of their financial status.

#### **C4 External Audit**

##### **Why is this important?**

The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

C4.1 External auditors shall be given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.

C4.2 Staff should ensure that all records and systems are up to date and available for inspection by external audit if required.

#### **C5 Preventing Fraud and Corruption**

##### **Why is it this important?**

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether internal or external. The Council's expectation of propriety and accountability is that elected members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. The Council also expects that individuals and organisations (eg. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

- C5.1 The Audit Manager shall maintain and keep up to date the Council's anti-fraud and corruption policy.
- C5.2 The Monitoring Officer shall maintain and keep up to date the Council's whistle-blowing policy.
- C5.3 Staff and elected members shall report any suspected irregularities immediately to Internal Audit.
- C5.4 Should any irregularity reported to Internal Audit be thought to warrant police involvement, the police shall be contacted by the Audit Manager after consulting with the Chief Executive and/or the Head of Finance.
- C5.5 Staff and elected members shall comply with the requirements of the relevant Codes of Conduct relating to making declarations of gifts and hospitality, and private interests.

## **C6 Security**

### **Why is this important?**

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

- C6.1 The Head of Finance shall ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £20,000. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- (i) safeguarded
  - (ii) used efficiently and effectively
  - (iii) adequately maintained.
- C6.2 Any use of Council property or equipment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- C6.3 Legal Services shall hold and provide for the safe custody of all deeds, leases and similar documents relating to the ownership of land and buildings.
- C6.4 Staff and elected members shall not use any Council asset or item of equipment for personal use without proper authority.
- C6.5 Staff and elected members shall ensure the safe custody of monies, vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- C6.6 Heads of Service shall ensure that their service areas maintain a register of moveable assets and equipment in accordance with arrangements defined by the Head of Finance.

- C6.7 Heads of Service shall ensure that assets and equipment are identified, their location recorded and that they are appropriately marked as Council property and insured.
- C6.8 The Head of Finance shall be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- C6.9 Cash holdings on premises shall be kept to a minimum.
- C6.10 Keys to safes and similar receptacles shall be carried on the person of those responsible at all times; loss of any such keys must be reported to the Head of Finance as soon as possible.
- C6.11 The disposal or part exchange of assets over £20,000 in value should normally be by competitive tender, public auction or open market sale, unless, following consultation with the Head of Finance, the Cabinet agrees otherwise.
- C6.12 Staff and elected members have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way, or may be in breach of Data Protection legislation.
- C6.13 Heads of Service and Managers shall ensure that stocks are maintained at reasonable levels, are adequately recorded and safe-guarded, and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- C6.14 Heads of Service shall arrange for independent stock takes at the 31<sup>st</sup> March each year, and shall provide a certified stock valuation certificate to the Head of Finance in accordance with the timetable specified for the production of the annual statement of accounts.
- C6.15 Heads of Service may authorise for write off or disposal redundant stocks and equipment up to a total value of £2,000 after consultation with Internal Audit. Where any items disposed of have a financial value, appropriate measures must be taken to achieve value for money. Where the value of items to be written off or disposed of exceeds £2,000, authorisation of the appropriate Strategic Team member must be obtained, and disposal should be by competitive quotations or auction, unless, following consultation with the Head of Finance, the relevant Strategic Team member decides otherwise in a particular case.

## **C7 Treasury Management**

### **Why is this important?**

Many millions of pounds pass through the Council's hands each year. Treasury Management procedures aim to provide assurance that the Council's money is properly managed in a way that balances risk with return, but with overriding consideration being given to security.

- C7.1 The Head of Finance shall arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the Council's treasury management policy statement and strategy.
- C7.2 The Head of Finance shall report twice yearly on treasury management activities to Cabinet.
- C7.3 The Head of Finance shall operate such bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Head of Finance. All bank accounts shall be in the name of the Council.
- C7.4 The Head of Finance shall be responsible for ordering all cheques and any other instruments of payment, and shall make adequate arrangements for their safe custody.
- C7.5 All investments of money shall be made in the name of the Council or in the name of nominees approved by the full Council.
- C7.6 The Head of Finance shall effect any borrowings that may be required, which shall be in the name of the Council.
- C7.7 No loans shall be made to third parties nor any interests acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the Head of Finance.
- C7.8 The Head of Finance shall arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Head of Finance, unless the deed provides otherwise.
- C7.9 Where an officer of the Council becomes responsible for the safe-keeping or administration of any monies, funds or valuables which are not the property of the Council, but which, save for their employment by the Council the officer would not otherwise have responsibility for, that officer must take all reasonable steps to ensure the monies, funds or valuables involved are properly safe-guarded and accounted for. The officer should inform their line manager of the circumstances relating to any such instances.

## **C8 Imprest Accounts (Petty Cash)**

- C8.1 The Head of Finance shall approve the provision of any petty cash imprest accounts to meet minor expenditure on behalf of the Council and shall prescribe rules for operating these accounts.
- C8.2 Officers operating a petty cash imprest account shall:
- (i) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
  - (ii) make adequate arrangements for the safe custody of the account
  - (iii) produce upon demand by the Head of Finance or Internal Audit cash and all vouchers to the total value of the imprest amount
  - (iv) record transactions promptly

- (v) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (vi) provide the Head of Finance with a certificate of the value of the account held at 31 March each year
- (vii) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (viii) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Head of Finance for the amount advanced to him or her.

## **D. SYSTEMS AND PROCEDURES**

### **D1 General**

#### **Why is this important?**

Service areas have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. They are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly. The Head of Finance has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

- D1.1 The Head of Finance shall make arrangements for the proper administration of the Council's financial affairs, including :
- (i) issuing advice, guidance and procedures for officers and others acting on the Council's behalf
  - (ii) determining the accounting systems, form of accounts and supporting financial records
  - (iii) establishing arrangements for audit of the Council's financial affairs
  - (iv) approving any new financial systems to be introduced
  - (v) approving any changes to be made to existing financial systems.
- D1.2 Strategic Team Members and Heads of Service shall establish appropriate controls to ensure that, where relevant:
- (i) all input is genuine, complete, accurate, timely and not previously processed
  - (ii) all processing is carried out in an accurate, complete and timely manner
  - (iii) output from systems is complete, accurate and timely.
- D1.3 Strategic Team Members and Heads of Service shall ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- D1.4 Strategic Team Members and Heads of Service shall ensure that systems are documented and staff trained in operations.

- D1.5 Strategic Team Members shall, subject to approval from the Head of Finance, establish a scheme of delegation identifying officers authorised to act upon their behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority, and shall supply lists of authorised officers, with specimen signatures and delegated limits, to the Head of Finance, together with any subsequent variations.
- D1.6 Information Services shall ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- D1.7 All staff shall comply with Data Protection, computer misuse and copyright legislation and, in particular, shall ensure that only software legally acquired and installed by the Council is used on its computers.

## **D2 Income**

### **Why is this important?**

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

- D2.1 The Head of Finance shall agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- D2.2 The Head of Finance shall order and supply all receipt forms, books or tickets and similar items and establish the arrangements for their control.
- D2.3 The Head of Finance shall approve all debts to be written off in consultation with the relevant Strategic Team Member or Head of Service, and shall keep a record of all sums written off and will adhere to the requirements of the Accounts and Audit Regulations currently in force. Details of any individual, irrecoverable sum in excess of £10,000 which is written off shall be reported to the Cabinet Member for Finance.
- D2.4 Strategic Team Members and Heads of Service shall establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- D2.5 Strategic Team members and Heads of Service must seek to recover Sundry Debt outstanding in accordance with Debt Recovery Policy as approved by the Head of Finance.
- D2.6 Strategic Team Members and Heads of Service shall establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- D2.7 Staff shall issue official receipts or to maintain other documentation as approved by the Head of Finance for all income collected.

- D2.8 At least two employees shall be present when post is opened, and money received by post shall be properly identified and recorded.
- D2.9 All income shall be paid fully and promptly into Cashiers or to the Council's designated security collection agency. Appropriate details should be recorded on paying-in slips to provide an audit trail.
- D2.10 Income collected shall be paid in intact, and shall not be used to cash personal cheques or make payments, except where specifically permitted by the Head of Finance.
- D2.11 Heads of Service shall supply the Head of Finance with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Head of Finance to record correctly the sums due to the Council and to ensure debtor accounts are sent out promptly. To do this, established performance management systems should be used to monitor recovery of income and flag up areas of concern to the Head of Finance. All staff have a responsibility to assist the Head of Finance in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.
- D2.12 A record shall be kept of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.
- D2.13 Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- D2.14 The Head of Finance shall be notified of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance and not later than 30 April.

### **D3 Ordering and Paying for Work, Goods and Services**

#### **Why is this important?**

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

- D3.1 Every officer and member of the Council has a responsibility to declare any links or personal interests that they may have with suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with the relevant Codes of Conduct.
- D3.2 Official orders must be in a form approved by the Head of Finance. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Head of Finance.

- D3.3 Each order must conform to the guidelines approved by the Council on central purchasing contracts and the standardisation of supplies and materials.
- D3.4 Apart from petty cash, Government Procurement Card, and payments made from cash advances, the normal method of payment shall be by cheque or BACS, drawn on the Council's bank account by the Head of Finance. The use of direct debit for any payment shall require the prior agreement of the Head of Finance.
- D3.5 The Head of Finance will give authorisation for an Officer to use a Government Procurement Card. When the card has been issued the Officer must follow the regulations set out in the Conditions of Use and procedures Manual.
- D3.6 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts or purchasing arrangements.
- D3.7 The authoriser of a purchase order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the Councils approach to procurement. Value for money should always be achieved.
- D3.8 The authoriser of a purchase order should comply with the Council's Green Procurement Toolkit that is current at the time of ordering.
- D3.9 Goods and services can be ordered using e-procurement methods as detailed in the Procedure Rules relating to Contracts.
- D3.10 The following competition requirements must be followed when purchasing goods or services on behalf of the Council :
- |                     |   |
|---------------------|---|
| Up to £10,000       | Officers must take all reasonable steps to ensure value for money is obtained by comparing prices from alternative suppliers, or obtaining quotations.  |
| £10,000 to £30,000  | Officers must take all reasonable steps to ensure value for money by obtaining at least 3 written quotations.   |
| £30,000 to £150,000 | At least 3 written competitive tenders must be sought, and wherever possible at least 3 obtained, which have been subject to the proper tendering procedures laid down by the Strategic Team Member concerned in agreement with the Head of Finance.                          |
| Over £150,000       | The tendering procedures laid down in Procedure Rules relating to contracts must be followed, as must EU Procurement requirements if the relevant thresholds are likely to be exceeded. Advice on these procedures can be obtained from Legal Services or Financial Services. |
- D3.11 Exceptions from the requirements of Financial Regulation D3.10 can be only be sought in accordance with Procedure Rules relating to contracts (sections C3, C4 and C5).

- D3.12 Goods and services shall be checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order.
- D3.13 Payment shall not be made unless a proper VAT invoice has been received, checked, coded and certified for payment, in accordance with the procedures specified by the Head of Finance. Invoices shall not be amended; if any invoice is found to be incorrect, a replacement shall be requested from the originator.
- D3.14 Payments shall not be made on photocopied or faxed invoices, statements or any documents other than the formal invoice. Where an original document cannot be supplied, due to it having been lost or not received, copies must be duly certified as such in accordance with the procedures specified by the Head of Finance.
- D3.15 The Head of Finance shall arrange for such checks and requests for explanation as are considered necessary before any payment is made. Payment may be withheld if the Head of Finance considers that to make such payment may be illegal or improper.
- D3.16 Staff and elected members shall where appropriate utilise any central purchasing contracts or arrangements established by the Council (eg. for stationery, mobile phones and the like).
- D3.17 The Head of Finance shall be notified of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance and, in any case, not later than 30 April.
- D3.18 With regard to contract management and monitoring, the following requirements must be complied with :
- (i) payment to contractors shall only be made on a certificate issued by the responsible officer in accordance with the contract, which shall show the estimated value of work to date, the balance remaining, and the percentage of retention money if any,
  - (ii) any variation to a contract shall be authorised by the supervising or responsible officer who shall, where possible notify the contractor in writing prior to the work being done. All verbal variations to a contract must be confirmed by a written variation order in accordance with the requirements of the contract,
  - (iii) any variation shall be reported to the Cabinet where a substantial change in the specification of any works or additional expenditure is involved which exceeds the original contract sum by 5% or by £10,000 (whichever is the greater),
  - (iv) Where the final value of a contract exceeds £100,000, Internal Audit shall be notified at practical completion stage, and they shall undertake such checks on the contract as they consider necessary before a final account is agreed with the contractor.
- D3.19 Nothing in these Financial Regulations shall prevent the Cabinet from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to Section 138 of the Local Government Act 1972 Emergency Regulations.

D3.20 When an event is deemed to be an emergency by the County Emergency Planning Team any one of the following officers shall be permitted to authorise expenditure up to £100,000:

- Chief Executive
- Strategic Directors
- Head of Finance

In the unlikely event that none of these are available, the most senior officer present is expected to authorise such expenditure as is necessary to quickly and effectively respond to the emergency. Appropriate records and audit trails must be kept, and all expenditure must be made through the Co-ordination Team.

#### **D4 Payments to Employees and Members**

##### **Why is this important?**

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

- D4.1 The Head of Finance shall arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to employees, in accordance with prescribed procedures, on the due date.
- D4.2 The Head of Finance shall make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- D4.3 Strategic Team Members and Heads of Service shall ensure that appointments are made in accordance with the regulations and policies of the Council and the approved staffing establishment, grades and scale of pay and that adequate budget provision is available.
- D4.4 The Head of Finance and Human Resources shall be notified immediately of all appointments, terminations (including proposed redundancies and early retirements), or variations which may affect the pay or pension of an employee or former employee, in the form required by the Head of Finance.
- D4.5 Officers authorising travel and subsistence claims and other allowances shall satisfy themselves that journeys were on Council business and expenses were properly and necessarily incurred, and that reimbursement is properly due from the Council, ensuring that cost-effective use of travel arrangements is achieved.
- D4.6 Officers authorising payments shall satisfy themselves that work claimed for has actually been undertaken and/or in the case of goods that they have actually been received.
- D4.7 The Head of Finance shall be notified of the details of any benefits in kind received by employees, to enable full and complete reporting in accordance with Inland Revenue requirements.

## D5 Taxation

### Why is this important?

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

- D5.1 The Head of Finance shall arrange for the correct completion and submission of all HM Revenue and Customs returns regarding PAYE.
- D5.2 The Head of Finance shall arrange for the completion an accurate monthly return of VAT inputs and outputs to HM Revenue and Customs.
- D5.3 The Head of Finance shall arrange for the submission of all required details to the HM Revenue and Customs regarding the construction industry tax deduction scheme.
- D5.4 Staff shall ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations, in accordance with guidance and instructions issued by the Head of Finance.
- D5.5 Staff shall ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

## D6 Partnerships

### Why is this important?

Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Council is continually working in partnership with others – public agencies, private companies, community groups and voluntary organisations, in order to mobilise investment, bid for funds, champion the needs of the area and harness the energies of local people and community organisations.

D6.1 The main reasons for entering into a partnership are:

- (i) the desire to find new ways to share risk
- (ii) the ability to access new resources
- (iii) to provide new more efficient ways of delivering services
- (iv) to forge new relationships.

D6.2 A partner is defined as either:

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

D6.3 Partners participate in projects by:

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

D6.4 Partners have common responsibilities:

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

D6.5 Where the Council's total financial commitment to any partnership project in terms of funding in cash or in kind is anticipated to exceed £100,000, the following requirements must be agreed with the Head of Finance:

- (i) a scheme appraisal for financial viability in both the current and future years
- (ii) risk appraisal and management
- (iii) resourcing, including taxation issues
- (iv) audit, accounting, security and control requirements
- (v) carry-forward arrangements.

D6.6 Partnership agreements and arrangements should not be entered into where they may impact adversely upon the services provided by the Council.

D6.7 Partnership agreements and arrangements shall be properly documented, in a format agreed by the Head of Finance and the Monitoring Officer.

D6.8 Where a partnership involves the procurement of goods or services, the requirements of the Council's Procedure Rules relating to contracts and Financial Regulations must be followed in the selection of partner organisations and the workings of partnerships when Stroud District Council is the lead authority on procurement. Where the normal tendering arrangements are not appropriate the Head of Finance shall agree a Service Level Agreement between the organisations involved.

D6.9 The tendering procedure rules relating to contracts shall not apply to a contract, with the agreement of the Head of Finance, where it is appropriate to invite tenders or quotations via the Gloucestershire Procurement Partnership, the Central Buying Consortium, the Office of Government Buying Solutions, or through any other consortia of local authorities of which Stroud District Council is a member. This is always provided that the procedures applied by such organisations or consortia are no less stringent than this Council's own Contract Rules.

D6.10 The Head of Finance shall be entitled to request sufficient information relating to any partnership agreement or arrangement to make entries in the Council's accounting records or any disclosure in the Council's statement of accounts which may be required.

## **D7 External Funding**

### **Why is this important?**

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the Home Office provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

D7.1 The Head of Finance shall be notified in advance of all funding to be received from external bodies and shall make arrangements for the proper receipt and recording of such funding in the Council's accounting records.

D7.2 Strategic Team Members and Heads of Service shall ensure that bids or applications for external funding are only made where they can be justified in terms of the Council's aims and objectives, and that suitable and sufficient resources can be allocated to comply with any funding, administration and accounting requirements without adversely impacting upon the Council's existing services.

## **PROCEDURE RULES RELATING TO CONTRACTS**

### **Compliance with Procedure Rules and European Union (EU) Directives**

- E1. Every contract let by the Council or an officer acting on its behalf shall comply with these Procedure Rules Relating to Contracts and with any relevant EU Directives currently in force in the United Kingdom.
- E2. Any third party who is required to supervise the letting of a contract on behalf of the Council shall comply with the requirements of these Procedure Rules.

### **Exceptions to Tender Procedures**

- E3. Subject to complying with requirements laid down within the appropriate EU Directives, the provisions of Procedure Rule C7 shall not apply if :
  - a. the goods or materials to be purchased are sold only at a fixed price;
  - b. only a single contractor can supply the goods or materials to be purchased or execute the works to be carried out;
  - c. the work to be executed or the goods or materials to be supplied is in the nature of an extension to or a variation of an existing contract;
  - d. the work to be executed or the goods or materials to be supplied are to be dealt with in a prescribed manner under agency arrangements entered into by the Council with another authority; or
  - e. for other reasons there would be no genuine competition.
- E4. For contracts over £30,000 but less than £150,000 exceptions under Procedure Rule C3 must be approved by the appropriate Strategic Team member. They may also approve other exceptions where they are satisfied that these are justified in special circumstances. All exceptions approved by Strategic Team members must be agreed with the Head of Finance, and a written record kept by the officer responsible for letting the contract.
- E5. For contracts of £150,000 and over exceptions as specified in Procedure Rule C3 or for any other reason may only be made with Cabinet approval.
- E6. No exceptions may be made to the requirements specified in Procedure Rule C22 relating to the submission of tenders

### **Invitation of Tenders**

- E7. Tenders shall be invited in accordance with either Procedure Rule C8, C12, C14 or C15, except where an exception has been approved in accordance with Procedure Rule C4 to C6 above.

## **Selective Tendering**

### **Ad Hoc List**

- E8. Subject to the tendering procedure requirements laid down within the appropriate EU Directives, this Procedure Rule shall apply where the Council has decided that invitations to tender for a contract are to be made to some or all suitable persons who are:
- a) on a government approved and vetted list;
  - b) on an official list of members of a trade or professional body, membership of which is an essential pre-requisite of the works, supplies or services, or
  - c) who have replied to a public notice.
- E9. a) For the purposes of Procedure Rule C8, public notice shall be given:
- (i) on the Council's website; and
  - (ii) where appropriate in at least one trade newspaper or professional journal circulating among such persons or bodies who undertake such contracts; and
  - (iii) where the estimated amount or value of the contract exceeds the stipulated thresholds within the appropriate EU Directives, in the Official Journal of the European Union and via the BIPS Solution, an online method of advertising.
- b) The public notice shall:
- (i) specify details of the contract into which the Council wishes to enter;
  - (ii) invite persons or bodies interested to apply for permission to tender; and
  - (iii) specify a time limit, being not less than 14 days (37 days if the EU rules apply), within which such applications are to be submitted to the Council.
- E10. Not less than 5 of the persons or bodies on the approved or official lists, or who applied for permission to tender shall be invited to tender, subject to them being considered suitable following technical and financial vetting where appropriate.
- E11. Where fewer than 5 persons or bodies are listed or have applied, invitations to tender for the contract shall be sent to all those persons or bodies, subject to them being considered suitable following technical and financial vetting where appropriate.

### **Standing List**

- E12. Subject to the tendering procedure requirements laid down within the appropriate EU Directives, this Procedure Rule shall apply where the Council has decided that invitations to tender for a contract are to be limited to those persons or bodies whose names shall be included in a list compiled and maintained for that purpose.

- E13. (a) For the purpose of Procedure Rule C12, the list shall:
- (i) contain the names of all persons or bodies who wish to be included and who are approved by the Cabinet after consideration of a report by the appropriate Strategic Team member following appropriate technical and financial vetting; and
  - (ii) indicate in respect of a person or body whose name is so included, the categories of contract and the values or amounts in respect of those categories for which approval has been given.
- b) At least 42 days before a list is first compiled, notices inviting applications for inclusion in it shall be published:
- i) on the Council's website; and
  - ii) in at least one trade newspaper or professional journal circulating among such persons or bodies as undertake such contracts.
- c) The lists shall be reviewed at regular intervals of not less than 1 year or more than 2 years. Such reviews shall include technical and financial vetting, and shall take into consideration any contracts completed for the Council since the date of admission to the list or the last review.
- d) invitations to tender for a contract shall be sent to:
- i) not less than 5 of those persons or bodies selected from among those approved for a contract of the relevant category and amount or value; or
  - ii) where fewer than 5 persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.
- e) where more than 5 persons or bodies are approved for a contract of the relevant category and amount or value, invitations to tender for contracts shall be subject to rotation wherever practicable to ensure all such persons or bodies are afforded the opportunity to tender over a period of time. The person or body who submitted the most economically advantageous tender in respect of the most recently awarded contract in the relevant category (subject to this person or body being considered suitable for the value of contract being let) shall always be invited to tender.
- f) where contractors who on three occasions within a two-year period either fail to return tenders, or who provide non-competitive tenders, they shall be removed from the standing list of contractors.
- g) companies suitable to provide financial ratings shall be nominated by the Treasurer. Service units may use either or any such companies rating at their discretion.
- h) financial limits obtained shall be applied so that the total value of works to properties being worked on at any one point of time under all contracts with the Council does not exceed the financial limit.

## Open Tendering

- E14. a) Subject to the tendering procedure requirements laid down within the appropriate EU Directives, this Procedure Rule shall apply where the Council has decided that tenders for a contract are to be obtained by open competition.
- b) At least 14 days (52 days where the EU directives apply) public notice shall be given on the Council's *website* and also, wherever appropriate in one or more trade newspapers or professional journals circulating among such persons or bodies as undertake such contracts. The notice shall state where further details of the contract may be obtained, invite tenders for its execution and state the last date and time by which tenders must be received.

## Competitive Negotiation

- E15. Subject to the tendering procedure requirements laid down within the appropriate EU Directives (which greatly restrict the use of this procedure where they apply), Procedure Rules C15 to C21 shall apply where the Council has decided that invitations to negotiate for a contract are to be made to all suitable persons or bodies, where:
- a) the nature of the works or services to be provided do not permit prior overall pricing; or
- b) where the nature of the works or services cannot be specified with sufficient precision to permit the award of the contract using a different route.
- E16. a) For the purpose of Procedure Rule C14, public notice shall be given:
- i) on the Council's website;
- ii) where appropriate, in at least one trade newspaper or *professional* journal circulating among such persons or bodies who undertake such contracts; and
- iii) where the estimated amount or value of the contract exceeds the stipulated threshold within the appropriate EU Directives, in the Official Journal of the European Union.
- b) The public notice shall:
- i) specify details of the contract into which the Council wishes to enter;
- ii) invite persons or bodies interested to apply for permission to negotiate; and
- iii) specify a time limit, being not less than 14 days (37 days where EU Directives apply), within which such applications are to be submitted to the Council.

- E17. Not less than three persons or bodies who applied for permission to negotiate shall be selected, subject to them being considered suitable following technical and financial vetting where appropriate.
- E18. A Statement of User Requirements shall be sent to all persons or bodies selected, along with a request to submit a brief proposal outlining their proposed solution(s). The brief proposal should be received before a specified deadline, which should be not less than 14 days after the Statement of User Requirements was sent out.
- E19. The brief proposals received shall be evaluated against the Statement of User Requirements and the persons or bodies selected shall be ranked in order of preference.
- E20. A detailed Statement of Works or Service Requirements shall be drawn up and issued to the most favoured persons or bodies, along with a draft contract.
- E21. The preferred persons or bodies shall be invited to submit full proposals within a maximum of 42 days of receiving the invitation. These proposals and the draft contract shall then form the basis of any final agreement. If agreement cannot be reached with the most favoured person or body, agreement should be pursued with the next favoured provider, and so on until agreement is reached.

### **Submission of Tenders**

- E22. a) Where an invitation to tender is made, each invitation shall state that no tender will be considered unless it is enclosed in a plain sealed envelope which bears no name or mark indicating the identity of the sender. For contracts over £30,000 and under £150,000 the envelopes should be clearly addressed to the appropriate designated officer within the relevant service area. For contracts of £150,000 and over the envelopes should be clearly addressed to Democratic Services. Envelopes shall bear the word '**Tender**' - in large emboldened lettering followed by the subject to which they relate.
- b) The invitation shall specify that, if a Courier firm is used to deliver the tender, any external cover must be addressed strictly in the manner described in a) above.
- c) Tenders for contracts of £150,000 and over shall be kept in the custody of Democratic Services until the time and date specified for their opening.
- d) The tenders for contracts in excess of £30,000 but below £150,000 shall be kept in the custody of the appropriate designated officer within the relevant service area until the time and date specified for their opening.
- e) No tender received after the time and date specified in the invitation shall be accepted or considered under any circumstances.

### **Opening and Acceptance of Tenders**

- E23. Tenders received shall be opened at one time and only in the presence of at least two persons.
- E24. All tenders for contracts of £150,000 and over which were received by the time and date specified shall be recorded in the Tenders Register maintained by Democratic

Services. All other tenders shall be recorded in a manner approved by the Head of Finance.

- E25. All tenders shall be evaluated in accordance with the evaluation criteria notified to tenderers in the invitation to tender. All contracts, except works contracts where lowest price was predetermined to be the appropriate criteria, shall be awarded on the basis of the offer which represents best value for money to the Council. The evaluation criteria shall be predetermined and listed for the invitation to tender document, in order of importance if applicable. The criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

### **Contracts Register**

- E26. A separate register of all contracts in excess of £150,000 in value placed by the Council shall be kept and maintained by Legal Services. This register shall specify for each contract the name of the contractor, the works to be executed or the goods to be supplied and the contract value. Pursuant to these Procedure Rules, all Strategic Team members shall report to Legal Services the making of any such contract providing such details as Legal Services may require.

### **Nominated Sub-contractors and Suppliers**

- E27. Where a sub-contractor or supplier is to be nominated to a main contractor, the procurement of the services of the sub-contractor or supplier shall be subject to Procedure Rule C7.

### **Errors or Discrepancies in Tenders**

- E28. Where examination of a tender reveals errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer shall be given details of such errors and discrepancies and afforded the opportunity of confirming or withdrawing his offer. This provision shall be stated on the form of invitation to tender. If the tenderer withdraws, the potential impact of the error or discrepancy shall be quantified, and an adjusted tender price calculated for the withdrawn tender. If the difference in price between the adjusted withdrawn tender and the next tender in competitive order exceeds the estimated value of the adjusted tender by more than 5% or £20,000 (whichever is the greater) then re-tendering shall take place. Otherwise, the next tender in competitive order shall be examined and dealt with in the same way. Any exception to this procedure may be authorised only by the Cabinet after consideration of a report by the Strategic Team member concerned.

### **Negotiated Reduction of Tenders**

- E29. Should the tender under consideration exceed the Council's budget, a price will be negotiated with the tenderer who has submitted the most economically advantageous submission on the basis of an amended design and/or specification. If these negotiations are not successful, negotiations shall proceed with the next preferred tenderer on the same lines. If these negotiations fail, new tenders shall be called for, using re-drafted documents that coincide with the amended design and/or specification.

## Contract Conditions

- E30. a) Every contract entered into by the Council with a value exceeding, or estimated to exceed £250, shall be in writing. Such contracts must be signed by an officer of the authority or, where the value of the contract exceeds, or is estimated to exceed, £100,000 shall be made under the Common Seal of the Council and duly attested.
- b) All contracts over the value of £30,000 shall specify the goods materials or services to be supplied and the work to be executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties; and
- c) In appropriate cases where a contract is £150,000 or over in amount or value provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified.
- d) The Council may also require a contractor to give sufficient security for the due performance of any contract.
- E31. Every contract shall require that all goods and materials used or supplied and all the workmanship shall be at least of the standard required by the appropriate British Standards Specification or Code of Practice, where an appropriate Specification or Code of Practice is current at the date of the tender.
- E32. Every contract shall require that all goods and materials used or supplied, and all the workmanship, shall comply with all appropriate EU Directives which may apply and which are currently in force within the United Kingdom at the date of the tender.
- E33. Every contract shall require that all goods and materials used or supplied, and all the workmanship, and the disposal of goods and materials at the “end-of-life” shall comply with the Council's Environmental Strategy and Green Procurement Toolkit which is current at the date of the tender.
- E34. There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any persons in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Provision of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.

### **In-House Bids**

- E35. When tendering for or entering into 'contracts' with the Council, any bid submitted by officers employed by the Council shall observe the procedures contained in these Procedure Rules. Any 'contract' so entered shall be made under the hand of the appropriate Strategic Team member.

### **Partnerships**

- E36. Where a partnership involves the procurement of goods or services, the requirements of the Council's Procedure Rules relating to Contracts and Financial Regulations must be followed when Stroud District Council is the lead authority on procurement.
- E37. Any exceptions to the specified requirements must be dealt with as prescribed in Procedure Rule C3 to C6 as appropriate according to the value of the contract concerned.
- E38. The tendering procedure rules relating to contracts shall not apply to a contract, with the agreement of the Head of Finance, where it is appropriate to invite tenders or quotations via the Gloucestershire Procurement Partnership, the Central Buying Consortium, the Office of Government Buying Solutions, or through any other consortia of local authorities of which Stroud District Council is a member. This is always provided that the procedures applied by such organisations or consortia are no less stringent than this Council's own Contract Rules.

## **ELECTRONIC PROCUREMENT (E-PROCUREMENT)**

eProcurement is the term used to describe the use of electronic methods in every stage of the purchasing process from identification of requirement through to payment, and potentially to contract management. Electronic enablement of the purchasing process can be more specifically identified as:

- eSourcing - for contractual processes. Tools include eTendering, eRFQs (Request for Quotations/evaluations) and eAuctions.
- eProcurement - for transactional processes. Tools include marketplaces using techniques such as eCatalogues and punch-out.
- ePayment - Tools include virtual or embedded GPC (Government Procurement Card), eInvoicing and self-billing.

The benefits of eProcurement include:

- Efficiency improvements (the way people work)
  - Improved commercial relationships with suppliers
  - Reduce costs for suppliers dealing with government
  - Opens up the government marketplace
  - Improve services' ability to manage their supply chain more efficiently
- 1.1 Subject to obtaining the approval by the Head of Finance and relevant Strategic Team member an Officer may decide to conduct any tendering exercise or a negotiated procedure or enter into any contract using electronic means, in which case the provisions of the Schedule below shall apply.
- 1.2 The authorised Officer may carry out an electronic auction where they are satisfied that it is in the interests of the Council to do so, (see OGC 'Decision Tool' <http://www.ogc.gov.uk/index.asp?docid=1001034&syncNav=1#7> and where they are satisfied that the electronic auction is in accordance with the EU Procurement Rules. (See [http://europa.eu.int/comm/internal\\_market/publicprocurement/legislation\\_en.htm](http://europa.eu.int/comm/internal_market/publicprocurement/legislation_en.htm))

### **E-Procurement Schedule**

#### **1. Introduction**

- 1.1 This Schedule shall apply to any tendering procedure or contract entered into using electronic means.
- 1.2 All provisions of the Procedures relating to Contract shall apply to contracts and tendering procedures covered by this Schedule except to the extent that they are inconsistent with the following provisions.

#### **2. Use of e-procurement**

- 2.1 Subject to para. 2.2 and approval by both the relevant Strategic Team Member and the Head of Finance an authorised Officer may conduct any tendering exercise or a negotiated procedure or enter into any contract using electronic means ("e-procurement").
- 2.2 An Authorised Officer may only use e-procurement where:

- i) the e-procurement is to take place using a system approved by the Council; and
- ii) to do so would not significantly restrict or distort competition.

### **3. Verification and Authentication**

- 3.1 Where an Authorised Officer decides to use e-procurement, they must consider whether it is appropriate to impose any specific requirements regarding verification and authentication of the tender submission and the signature of the person making that submission.
- 3.2 Any tender document issued using electronic means must state whether the Council has any specific requirements relating to authentication or verification of the tender submission or of the signature of the person making the submission.

### **4. Receipt and Custody**

- 4.1 No tender submitted using electronic means will be considered unless it is received in the format requested by the Council in the tender documents and at the electronic address specified by the Council and unless it is received prior to the deadline for the receipt of tenders, as stated in the tender documents.
- 4.2 The Head of Service shall ensure that each tender is kept unopened in a single secure electronic mailbox that cannot be opened before the deadline for the receipt of tenders unless the Request For Quote facility is being used for tender values below the existing Contract Rules thresholds.
- 4.3 The system used must not allow the identity of the contractor submitting the tender to be revealed prior to the tender being opened after the deadline for the receipt of tenders unless the Request For Quote facility is being used for tender below the existing Contract Rule thresholds.
- 4.4 The authorised Officer shall ensure that for each procurement project the system used shall keep and, if required, produce a record showing the time and date of receipt of all tenders received in respect of each e-procurement exercise.
- 4.5 This Contract Rule shall also apply to the receipt and custody of tenders for sub-contracts let using electronic means to be performed by nominated sub-contractors.
- 4.6 Late tenders or tenders received in the wrong format or not at the notified address will not be considered and they shall be returned to the tenderer with an explanation as to why that tender has not been considered.

### **5. Opening of Tenders**

- 5.1 All tenders for an e-procurement project shall be opened in accordance with the Procedure Rules relating to Contracts tender thresholds.
- 5.2 The Authorised Officer shall ensure that for each e-procurement project he shall keep and, if required, produce a record showing the particulars of each tender received and the date and time when those tenders were opened.
- 5.3 The Contract Rules relating to the opening and recording of tenders will also apply to electronic tenders.

## **6. Electronic Auctions & Reverse Auctions**

- 6.1 For the purpose of these Procedure Rules relating to Contracts, the expression 'electronic auctions' means:- A repetitive process involving an electronic device for the presentation of new prices, revised downwards, and/or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic and Buyer-specified evaluation methods.
- 6.2 The authorised Officer may authorise the carrying out of an electronic auction where satisfied that it is in the interests of the Council to do so and where they are satisfied that the electronic auction is in accordance with the EU Procurement Rules.
- 6.3 An electronic auction may only be carried out where the possibility of the use of an electronic auction has been stated in the tender documents issued to contractors.
- 6.4 For the avoidance of doubt, an electronic auction may be used where previous stages of a tendering procedure have not been undertaken using electronic means.
- 6.5 Before proceeding with an electronic auction, the authorised Officer shall make a full initial evaluation of the tenders in accordance with the award criteria set and with the weighting fixed for them. All tenderers who have submitted admissible tenders shall be invited simultaneously by electronic means to submit new prices and/or new values.
- 6.6 Throughout each phase of an electronic auction the authorised Officer shall instantaneously communicate to all tenderers involved at least sufficient information to enable them to ascertain their relative rankings at any moment. The Council may also, at any time, announce the number of participants in that electronic auction. In no case, however, may the Council disclose the identities of the tenderers during any phase of an electronic auction.
- 6.7 Prior to the commencement of any electronic auction, the Council shall inform all tenderers involved of the date and time fixed for the carrying out of the electronic auction and the proposed duration of the electronic auction together with any proposals for the extension of the duration of the electronic auction.
- 6.8 Any electronic auction will be subject to such additional procedural requirements as considered necessary.

## **STAFF EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

- (a) The Council require all applicants for jobs to state in writing whether they are related to an existing Councillor or officer of the Council; or to their partner.
- (b) The application form will specify such a relationship as being the spouse, parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (c) Any candidate related to a Councillor or an officer will only be interviewed after the Head of Paid Service or his/her nominee has given approval.
- (d) A Councillor may give his/her name as a referee on a candidate's application form and provide a written reference if the Council requests it.
- (e) Apart from paragraph (d) above, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council.
- (f) Apart from paragraph (d) above, no Councillor will seek support for any person for any appointment with the Council.
- (g) The declaration of relationships and prohibition of canvassing of support will be set out clearly in Council job application forms.

### **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint the Head of Paid Service or a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - i) the duties of the officer concerned; and
  - ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

### **3. Appointment of Head of Paid Service (Chief Executive)**

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a panel of the Council. The panel must include at least one Member of the Executive.

### **4. Appointment of chief officers**

A panel of the Council will appoint chief officers. The panel must include at least one Member of the Executive. The Chief Executive will Chair.

### **5. Other appointments**

Appointment of officers below chief officer is the responsibility of the Head of Paid Service or his/her nominee and may not be made by Councillors.

### **6. Disciplinary action**

All disciplinary actions will be carried out in accordance with the Council's disciplinary and related procedures. Councillors will not be involved in the

disciplinary action against any officer below chief officer except where there is a right of appeal to Members.

In the case of the Head of Paid Service, Monitoring Officer and Chief Financial Officer, they may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months. No other disciplinary action may be taken in respect of any of these officers, except in accordance with a recommendation in a report made by a designated independent person.

In the case of Chief Officers, they may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months. No other disciplinary action may be taken in respect of any of these officers, except in accordance with a recommendation in a report made by an independent person.

**7. Dismissal**

Councillors will not be involved in the dismissal of any officer below chief officer except where there is a right of appeal to Members.

**8. Chief Executive and Chief Officers' Terms and Conditions of Service Panel - Terms of Reference \***

The Council will appoint a Chief Executive and Chief Officers' Terms and Conditions of Service Panel with the responsibility for discharging the following functions:

- (a) To recommend to Council the appointment, dismissal or retirement of the Chief Executive (Head of Paid Service)
- (b) To vary the terms and conditions of employment of the Head of Paid Service
- (c) To appoint Chief Officers

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, Cabinet, Overview and Scrutiny Committees, regulatory Committees and the Standards Committee.

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

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

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

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

### **4. NOTICES OF MEETING**

The Council will give at least 5 clear days notice of any meeting by posting details of the meeting at the Council Offices, Ebley Mill, Westward Road, Stroud.

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

The Council will make copies of the agenda and reports open to the public available for inspection at its Offices at least 5 clear days before the meeting. If an item is added to the agenda later, the revised agenda and any report will be available for public inspection as soon as practicable.

All agendas, reports, decision notices and minutes will be made available on the Council's web site ([www.stroud.gov.uk](http://www.stroud.gov.uk)).

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

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda.

subject to reasonable charges for photocopying and postage.

### **7. ACCESS TO REPORTS AND MINUTES AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings excluding any part of the minutes of proceedings when the meeting was not open to the public or press or which disclose exempt or confidential information;
- (b) the agenda for the meeting; and
- (c) 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 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 does not include published works or those which disclose exempt or confidential information (as defined in Rule 10), and in respect of Cabinet reports, the advice of a political advisor.

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

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

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

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and made available to the public at the Council's Offices at Ebley Mill.

## 10. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### 10.1 **Confidential information – requirement to exclude public and press**

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

### 10.2 **Exempt information – discretion to exclude public and press**

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

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

### 10.3 **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.

### 10.4 **Meaning of exempt information**

Exempt information means information falling within the following 15 categories (subject to any condition):

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	1. Information is not exempt information unless it relates to any individual.
2. Information which is likely to reveal the identity of an individual.	2. Information is not exempt information unless it would 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).	3. Information is not exempt information unless it relates to the financial or business affairs of any person, including the body holding that information.

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

(b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

4. Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. "Labour relations matters" are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, ie matters which may be the subject of a trade dispute.

5. Information is not exempt information unless, in view of the Head of Legal Services, legal privilege could be maintained in legal proceedings

6. Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.

7. Information is not exempt information unless it relates to action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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

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

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

## **12 THE FORWARD PLAN AND KEY DECISIONS**

### **12.1 Period and contents of forward plan**

Forward Plans will be prepared by the Leader and published to cover a period of four months, beginning with the first day of any month. The forward plan will be to the format set out in the Local Authorities (Executive Arrangements)(Access to Information) (England) Amendment Regulations 2002 (SI2002 No.716) Each Forward Plan will include the Council's definition of a key decision.

### **12.2 General Exception**

Where the inclusion of a matter on the forward plan is impracticable and the matter would be a key decision, that decision shall only be made if;

(a) the Proper Officer has informed the Chair of the relevant Overview and Scrutiny Committee, or if there is no such person, each Member of that

Committee in writing, by notice, of the matter to which the decision is to be made;

- (b) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (c) at least 5 clear days have elapsed since the Proper Officer complied with (b).

### **12.3 Cases of Special Urgency**

Where the date by which a key decision must be made, makes compliance with 12.2 impracticable, the decision can only be made if the decision maker has obtained agreement from;

- (a) the Chair of the relevant Overview and Scrutiny Committee or
- (b) if there is no such person, or if the Overview and Scrutiny Chair is unable to act, the Chair of the Council or
- (c) in their absence, the Vice-Chair of the Council

The Leader will submit quarterly reports to the Council on such decisions taken in the preceding three months. The report will include a summary of the matters and details of the decisions taken.

### **12.4 Overview and Scrutiny Committee Requirements**

Where an executive decision has been made and

- (a) was not treated as being a key decision
- (b) the relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision

that Overview and Scrutiny Committee may require the executive responsible for the decision to submit a report to Council within such reasonable period as the Committee may specify. Such a report must include;

- i) the decision and the reasons for the decision
- ii) the decision making body or individual by whom the decision was made
- iii) if the executive are of the opinion that the decision was not a key decision, the reasons for that opinion

## **13 OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **13.1 Rights to copies**

The Overview and Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to

- (a) any business transacted at a meeting of the executive or
- (b) any decision taken by an individual executive Member

### **13.2 Limit on rights**

The Overview and Scrutiny Committees will not be entitled to:

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

#### **14 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

Members have rights of access to documents as set out in Part IV of the Local Authorities (Executive Arrangements)(Access to Information) (England) Amendment Regulations 2002 (SI2002 No.716)

Chief Officers and Heads of Service will keep local Members informed of significant or sensitive issues affecting their wards.

## **BUDGET AND POLICY FRAMEWORK**

### **1 The framework for Executive decisions**

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

### **2 Process for developing the Framework**

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

The Executive will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, by including the proposal in the Forward Plan and this will include details of the arrangements for consultation after publication of those initial proposals. The Chairs of Overview and Scrutiny Committees will also be notified. The consultation period shall, as regards the Budget and Policy Framework, be not less than 4 weeks.

At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committees to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.

Once the Executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.

In reaching a decision, the Council may adopt the Executive's proposals, amend them or substitute its own proposals in their place.

The decision of Council will have immediate effect. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

### **3 Decisions outside the Budget or Policy Framework**

Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Executive, and any officers or joint arrangements discharging Executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.

If the Executive or any officers, or by joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Chief Executive, the Monitoring Officer and/or the Treasurer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision,

unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the Budget and Policy Framework) shall apply.

#### **4 Urgent decisions outside the Budget or Policy Framework**

The Executive, officers, or by joint arrangements discharging Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chair of a 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 Chair of the relevant Overview and Scrutiny Committees consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of Overview and Scrutiny Committee their Vice-Chair will deputise or in the absence of all, then the consent of the Chair of Council, and in their absence the Vice-Chair of Council will be sufficient.

Following the decision, the decision taker must provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5 In-year changes to Budget and Policy Framework**

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

- (i) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (ii) necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (iii) 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.

#### **6 Call-in of decisions outside the Budget or Policy Framework**

Where an Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Chief Executive, Monitoring Officer and/or head of Finance.

In respect of functions which are the responsibility of the Executive, any report of the Chief Executive, the Monitoring Officer and/or Head of Finance shall be made to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Chief Executive, the Monitoring Officer or the Head of Finance conclude that the decision was a departure, and to the relevant Overview and Scrutiny Committee if the Chief

Executive, the Monitoring Officer or the Head of Finance conclude that the decision was not a departure.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Chief Executive, the Monitoring Officer and/or the Head of Finance is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the relevant Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Executive, the Monitoring Officer and/or the head of Finance. The Council may either:

- (i) endorse a decision or proposal of the Executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council will be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council will be minuted and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Chief Executive, the Monitoring Officer/or the Head of Finance.