

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

Constitution Working Group

The meeting will be held at **7.00 pm** on **26 March 2024** at the **Committee Room 2, Civic Offices, New Road, Grays, Essex, RM17 6SL**

Membership:

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

Agenda

Open to Public and Press

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Information for members of the public and councillors

Access to Information and Meetings

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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

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

Helpful Reminders for Members

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

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

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



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

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

Disclosable Pecuniary Interests shall include your interests or those of:

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

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

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

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

Pecuniary

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

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

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

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

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

Non-pecuniary

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



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

Our Vision and Priorities for Thurrock

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

1. **People** – a borough where people of all ages are proud to work and play, live and stay
 - High quality, consistent and accessible public services which are right first time
 - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
 - Communities are empowered to make choices and be safer and stronger together

2. **Place** – a heritage-rich borough which is ambitious for its future
 - Roads, houses and public spaces that connect people and places
 - Clean environments that everyone has reason to take pride in
 - Fewer public buildings with better services

3. **Prosperity** – a borough which enables everyone to achieve their aspirations
 - Attractive opportunities for businesses and investors to enhance the local economy
 - Vocational and academic education, skills and job opportunities for all
 - Commercial, entrepreneurial and connected public services

Chapter 0 – Intervention

Introduction

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

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

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

The role of Commissioners

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

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

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

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

The Commissioners are accountable to the Secretary of State, in that they have been nominated by them and can have their nomination withdrawn by them. The Commissioners will report to the Secretary

of State on the progress of the intervention on a six-monthly basis, or at such other times as the Secretary of State might agree with the Commissioners.

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

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

Managing Director Commissioner

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

Section 114 report

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

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

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

Permitted expenditure includes:

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

Measures in place following the section 114 report

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

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

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

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

Status of this Chapter 0

This Chapter 0 shall apply for the period during which powers are transferred to the Commissioners and/or the restrictions associated with the section 114 report remain in effect (as applicable). This Chapter 0 (or part thereof) may be disapplied by the Monitoring Officer when its provisions cease to apply. The Monitoring Officer may amend the provisions of this Chapter 0 as required, in consultation with the Chief Executive, the Chief Finance Officer and the Commissioners.

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

Conflict of provisions

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

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Chapter 6 – Scheme of Delegation

Part 1 – Functions which are Delegated to Officers

1. Introduction

- 1.1 This Scheme of Delegation sets out the powers that have been delegated to Officers by the Council and the Cabinet. It provides a framework, set by Members, for Officer decision-making.
- 1.2 Cabinet has delegated certain Executive Functions to Officers in order to facilitate the smooth running of the Council. This reflects Members' role as policy makers and Officers' role as implementers of policy decisions.
- 1.3 This Scheme of Delegation also sets out specific authorisations granted to Officers by statute. Where an Officer is exercising a power given to them under legislation, they will be acting as the "Proper Officer" in respect of that power. While these powers are not strictly "delegated" by Council, they are included in this Scheme of Delegation to provide clarity on Officer decision-making as a whole. Proper Officers are authorised under statute to make decisions within the scope of that authorisation without recourse to the Cabinet or the Leader.
- 1.4 While this Scheme of Delegation sets out how delegations have been made at a high level, the Officers to whom delegations are made in section 3.1 will, by necessity, involve other Officers in the decision-making process. Executive Directors will record these sub-delegations in a Directorate Scheme of Delegation for their Directorate. Further detail relating to Directorate Schemes of Delegation is set out in section 4.
- 1.5 This Scheme of Delegation will be kept under regular review to ensure that it provides an appropriate decision-making framework over time.
- 1.6 This Scheme of Delegation should be read in conjunction with the Finance Procedure Rules (Chapter 9, Part 3), the Contract Procedure Rules (Chapter 9, Part 2), the Council-owned Company provisions (Chapter 12, Part 3) and the Intervention provisions (Chapter 0).
- 1.7 For details of the role of the Commissioners, please see Chapter 0 of this Constitution. It should be noted that under the current arrangements with DLUHC, certain decisions (e.g., to undertake new borrowing) can only be made with the Commissioners' agreement.

2. Principles of delegation

- 2.1 This Scheme of Delegation has been approved by Full Council and the Leader. It sets out the authorisations that have been given to Officers to make decisions on behalf of the Council. It covers all of the Council's powers and duties, whether derived from legislation or otherwise, including all incidental powers and duties.
- 2.2 This Scheme of Delegation is intended to empower Officers to make decisions about how the Council's services are managed. As such, it is to be interpreted broadly, within the governance arrangements set out in this Constitution. However, Officers must be mindful

when exercising delegated decision-making powers that they should act in a responsible and transparent manner and should not expose the Council to unnecessary risk. This Scheme of Delegation also builds in checks and balances to ensure that there is accountability in decision-making.

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

3. Authorisations

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

Chief Executive

Chief Financial Officer and Section 151 Officer

Executive Director Corporate Services and Monitoring Officer

Executive Director Adults, Housing and Health

Executive Director Children's Services

Director of Human Resources, Organisational Development and Transformation

Executive Director Place

Director of Public Health

Assistant Director Strategy, Policy, Performance and Partnerships

Assistant Director Communications and Engagement

3.2 In addition, this Scheme of Delegation allows any other Officer to exercise delegated powers if they have been authorised to do so directly by an Officer named in Part 2. These delegations will be documented in the relevant Directorate Scheme of Delegation (see section 4 below).

3.3 The following principles apply to authorisations to Officers:

- (a) authorisations can be general or specific in terms of the powers delegated and the Officers to which the authorisation applies;
- (b) delegated powers are subject to any restrictions and limits set out in the authorisation;
- (c) save as provided in section 5 below, no authorisation may allow an Officer to:
 - (i) make a decision with financial implications above the Key Decision Threshold (see section 6); or
 - (ii) make a decision which the authorising Officer could not make under this Scheme of Delegation; and
- (d) all authorisations and decisions made by Officers under delegated arrangements must be recorded in a register maintained by the Monitoring Officer.

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

- (a) To the Chief Executive where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of the Council's functions.
- (b) To the person or body that made the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Members to determine; or could, by its scale or complexity expose the Council to major corporate risk which cannot be contained within Directorate Budgets.

3.5 The Chief Executive may exercise any power delegated to another Officer, including an Executive Director, except the statutory functions of the Monitoring Officer and the Section 151 Officer. The Chief Executive and/or Executive Directors may exercise any power delegated to an Assistant Director.

- 3.6 The Chief Executive is authorised to make any arrangements required (including re-allocation of delegations) for the necessary discharge of the Council's functions, for example, during a period of absence of an Officer to whom powers have been delegated.

4. Directorate Schemes of Delegation

- 4.1 Each Executive Director is required to agree with the Chief Executive a Directorate Scheme of Delegation. Each Directorate Scheme of Delegation will set out how sub-delegations of delegated powers under this Scheme of Delegation have been made. Officers will make decisions in accordance with their Directorate Scheme of Delegation.
- 4.2 Each Executive Director will provide their Directorate Scheme of Delegation to the Monitoring Officer and will review and update it regularly and not less frequently than once a year.

5. Decisions in exceptional circumstances

- 5.1 In exceptional circumstances, it may be necessary for decisions to be made quickly by Officers.
- 5.2 Any such decision may be made by an Executive Director or their nominee in accordance with this Scheme of Delegation provided that:
- (a) they have consulted with the relevant Cabinet Member(s) (or, in their absence, the Leader); and
 - (b) the decision has been approved by the Chief Executive, the relevant Commissioner(s) and the Section 151 Officer.
- 5.3 Any decision made under this section 5 which is a Key Decision must be:
- (a) reported to Cabinet as soon as reasonably practicable, with justification for the decision and an explanation of the reason for the decision being made under this section 5;
 - (b) published on the Council's website in accordance with the Access to Information Procedure Rules; and
 - (c) circulated to the relevant Overview and Scrutiny Committee.

6. Financial limits

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

7. Limits on delegations

- 7.1 Officers may not make a decision that is:

- (a) contrary to the Policy Framework (any such decision should be presented to Cabinet, who will make a recommendation to Full Council on whether the decision should be made);
 - (b) contrary to applicable law and this Constitution (including Standing Orders, the Contract Procedure Rules and the Finance Procedure Rules);
 - (c) outside any applicable spending limit;
 - (d) not supported by adequate budgetary provision in respect of its financial implications;
 - (e) a Key Decision, other than as specifically set out in this Scheme of Delegation (see section 6);
 - (f) contrary to any procedural or other requirements set out by the Section 151 Officer and/or the Monitoring Officer.
- 7.2 Officers are not authorised to change fees, charges or concession policies, save that Officers may:
- (a) apply inflationary increases to fees, charges and concession policies;
 - (b) determine fees for one-off events or activities; and
 - (c) determine the fees to be charged to other public bodies for services provided by the Council on a commercial or full-cost recovery basis.
- 7.3 This Scheme of Delegation does not authorise any Officer to make a compulsory purchase order, or the acquisition of an interest in land in anticipation of future requirements.
- 7.4 Unless otherwise specified in this Scheme of Delegation, Officers are not authorised to confirm any order or grant of any permission, consent or licence or other determination where a response is received expressing opposition to the proposed course of action.
- 7.5 An Officer may not appoint or dismiss an Executive Director or Assistant Director except:
- (a) to make a temporary or interim appointment of an Executive Director or Assistant Director for up to one year (with any decision to re-appoint or extend the appointment beyond one year being referred to the General Services Committee);
 - (b) to dismiss a person appointed under (a) above; or
 - (c) to make a decision relating to a Head of Service reporting to an Assistant Director.

Any proposed appointment of an Executive Director or an Assistant Director must be notified to the Leader and the General Services Committee (if required by the Leader). No Officer is authorised to make a decision about the remuneration of an Executive Director or Assistant

Director other than one appointed under section 7.5(a) above, other than to adjust their pay to the assessed “rate for the job” for their pay grade.

- 7.6 Notwithstanding the provisions of section 7.5 above, Executive Director and Assistant Director appointments are subject to any shortlisting and interview processes required by the Commissioners.
- 7.7 Before making any decision set out below, an Officer must consult the Section 151 Officer and the Monitoring Officer (or their nominee(s)):
- (a) changing the management structure of the Council;
 - (b) a decision that would affect the pay of more than one employee or contractor; and/or
 - (c) adopting any policy or plan relating to the exercise of the Council’s functions as an employer.
- 7.8 No Officer other than the Monitoring Officer shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Monitoring Officer.

8. Conflicts of Interest

- 8.1 Officers are responsible for identifying whether they have a conflict of interest in respect of any matter and notifying any such conflict of interest to the Council in accordance with the Council’s Officer Declaration of Interests Policy. Where an Officer has a conflict of interest in respect of a matter that has been delegated to them, they shall not exercise that delegated power unless approved by the Chief Executive, or the Monitoring Officer.
- 8.2 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the Monitoring Officer.
- 8.3 Where an Executive Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter or allocate the matter to another Officer.
- 8.4 Where the Monitoring Officer is unable to act on a matter in their statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.
- 8.5 Where the Monitoring Officer is unable to act on a matter of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.
- 8.6 Where any other Officer is unable to act on a matter, the Executive Director of the relevant Directorate or the Chief Executive may arrange for another Officer to discharge the matter.

9. General delegations

- 9.1 Subject to the Finance Procedure Rules and the Financial Limits Annex, Executive Directors have delegated authority to exercise any of the Council’s functions and powers so far as

necessary or conducive to provide the service for which they have management responsibility, including (but not limited to):

- (a) managing the resources available to deliver the service for which they are responsible (including staff, materials and equipment) in accordance with the Council's policies on pay, recruitment, procurement and any other applicable policy;
- (b) dealing with invitations and acceptances of tenders, and entering into contracts, in accordance with the Contract Procedure Rules;
- (c) implementing a policy or decision previously approved or taken by Full Council, a committee, the Cabinet or a Cabinet Member and/or anything incidental to, or required to facilitate, such a decision;
- (d) taking enforcement action, serving any notice, or making any order; and/or
- (e) authorising other Officers to take steps necessary or conducive to the performance of any function under this section 9.1.

9.2 For the avoidance of doubt:

- (a) anything which is not covered by this Scheme of Delegation, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive; and
- (b) any Key Decision will require Cabinet approval unless specific decision-making arrangements set out in this Scheme of Delegation apply.

Part 2 – Specific Delegations and Statutory Functions

1. Specific delegations

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

1.1 The Chief Executive

The following Executive Functions have been delegated to the Chief Executive:

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

- (g) To be responsible for determining emergency planning and management services. Operational responsibility for the provision of these services is delegated to the Strategic Lead as Deputy to the Chief Executive in relation to this matter.
- (h) To be responsible for making appropriate management arrangements for the discharge of the following functions:
 - (i) performance management arrangements throughout the Council;
 - (ii) the efficiency programme of the Council; and
 - (iii) communications, policy and performance.
- (i) Overall corporate and commercial management of any external strategic partners of the Council including, Strategic Information and Communication Technology, Strategic Procurement, Strategic Human Resources / Organisational Development and Customer Services.
- (j) Efficient management of strategic partnerships, partnerships governance and the development of the sustainable community strategy.
- (k) Any Executive Function not expressly designated as within the remit of the Leader, Cabinet, a Committee of Cabinet, or a Cabinet Member, or otherwise expressly delegated to an Officer.

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

Legislation	Function
Local Government and Housing Act 1989	
Section 4	Head of paid service
Local Government Act 1972	
Section 83(1) to (4)	Witness and receipt of declaration of acceptance of office
Section 84(1)	Receipt of notice of resignation of elected Member
Section 88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Council Chair
Section 89(1)	Receipt of notice of casual vacancy
Section 100A – 100H (except 100(D))	Admission of public (including press) to meetings
Section 100(D)	Compilation of list of background papers for reports and making copies available for public inspection

Legislation	Function
Section 115(2)	Receipt of money due from Officers
Section 225	Deposit of documents
Section 248	Keeping the roll of freemen
Schedule 12, Para 4(2)(b)	Authentication of summonses to Council meetings
Schedule 12, Para 4(3)	Receipt of notice of address to which summonses to Council meetings is to be sent
Local Government Act 1974	
Section 30(5)	To give public notice that copies of a Local Government and Social Care Ombudsman report are available for inspection
Local Government (Miscellaneous Provisions) Act 1976	
Section 41(1)	To certify copies of evidence of Council resolutions, orders, reports, and minutes of proceedings
Representation of the People Act 1983	
Section 8	Electoral registration officer
Section 35(1)	Returning officer
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection
Local Elections (Principal Areas) (England and Wales) Rules 2006	
Schedule 2, Rule 53	Retention and public inspection of documents after an election
Local Authorities (Standing Orders) (England) Regulations 2001	
Schedule 1, Part II	Appointment and dismissal of, and taking disciplinary action against, Officers

1.2 Chief Finance Officer and Section 151 Officer

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

- (a) Overall responsibility for setting and managing revenue and capital Budgets, developing and delivering Treasury Management strategies, and for updating the Council's Medium-Term Financial Strategy.
- (b) Personal responsibility to consider and report on the adequacy of working balances and reserves.
- (c) Duty to issue a public report if they consider that the Council cannot balance its budget in any given financial year.
- (d) Responsibility for maintaining adequate accounting records and systems of internal control.

The Chief Finance Officer shall also exercise corporate Council functions in relation to:

- (a) accountancy;
- (b) counter fraud and investigation;
- (c) internal audit;
- (d) insurance and risk;
- (e) revenues and housing benefits;
- (f) procurement;
- (g) essential living fund;
- (h) exchequer services;
- (i) information technology;
- (j) democratic services; and
- (k) elections.

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

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

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

Legislation	Function
Local Government Act 1972	
Section 146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities
Section 151	Administration of the Council's financial affairs
Section 228(3)	Accounts for inspection by any Member

1.3 Executive Director Corporate Services and Monitoring Officer

The Executive Director Corporate Services is authorised:

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

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

Legislation	Function
Local Government and Housing Act 1989	
Section 2(4)	Receipt of the list of politically restricted posts
Section 5	Monitoring Officer
Section 5A	Report to Cabinet in relation to unlawful activity / maladministration
Local Government Act 1972	
Section 229(5)	Certification of photographic copies of documents
Section 234	Authentication of documents
Section 238	Certification of byelaws
Local Government (Committees and Political Groups) Regulations 1990	
Regulation 8	Receipt of notice of constitution of a political group
Localism Act 2011	
Section 29	Establishing and maintaining a register of Members' interests
The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	
Regulation 3	Recording of executive decisions
Regulation 5	Making documents available for inspection following an executive decision
Regulation 6	Making background papers available for inspection
Regulation 9	Making reports considered in relation individual executive decisions available for inspection
Regulation 11	Making meeting agenda and connected reports available for inspection
Regulation 12	Publicity in connection with key decisions
Regulation 15	Notice requirements in relation to general exception to include Key Decisions on the Forward Plan
Regulation 17	Determining when information is exempt from disclosure to Members

Legislation	Function
Regulation 21	Determining when information is exempt from disclosure to the public

1.4 Executive Director Adults, Housing and Health

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

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

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

Legislation	Function
Care Act 2014	Responsibility for delivering the Council's duties in relation to adult social care
National Assistance Act 1948	
Section 47	Removal to suitable premises of people in need of care and attention
National Assistance (Amendment) Act 1951	

Legislation	Function
Section 1	Certification of the need for immediate action

1.5 Executive Director Children's Services

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

- (a) The Executive Director Children's Services shall act as the statutory Officer under section 18(1) of the Children's Act 2004 and will be responsible for all matters relating to the education of children and young people, for the safeguarding of vulnerable children and for promoting the general wellbeing of children and families and services as well as all learning and cultural services. The duties include:
- (i) Children's Social Care, youth offending and brighter futures early intervention.
 - (ii) Children and Families.
 - (iii) Learning and Universal Outcomes (school improvement, children with special needs and disabilities and admissions).
 - (iv) Schools Transport.
 - (v) Children's Commissioning and service transformation.
 - (vi) Managing the DSG budget and determining annual budgets delegated to schools.

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

Legislation	Function
Children Act 2004	
Section 18	See 1.5(a) above

1.6 Executive Director Place

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

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

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

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

Legislation	Function
Local Government Act 1972	
Section 191	Receipt of applications under S.1 of the Ordnance Survey Act 1841
Schedule 14, Para 25	Certification of resolution concerning the Public Health Act 1875, the Public Health Acts Amendment Act 1907 and the Public Health Act 1925
Local Authorities Cemeteries Order 1977	
Regulation 10	To sign exclusive rights of burial

Legislation	Function
Planning and Compulsory Purchase Act 2004	
Section 33A(1)	Duty to cooperate in relation to planning of sustainable development
Building Act 1984	
Section 93	Authentication of documents

1.7 Director Public Health

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

- (a) Health Improvement (address inequalities, improving wider determinants of ill health, strengthening families and communities, improving lifestyles).
- (b) Healthcare Public Health (improving clinical effectiveness, improving service efficiency, planning new services, audit and evaluation, clinical governance and ensuring equity of provision of and access to services).
- (c) Health Protection (controlling infectious diseases, chemicals and poisons, radiation, emergency response and environmental health hazards).
- (d) Children and Young People's Public Health.
- (e) Health Improvement and Protection.
- (f) Environment, Place and Community based Public Health.
- (g) Health Intelligence, Healthcare and Social Care Public Health.

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

Legislation	Function
National Health Service Act 2006	
Section 73A	As above
Section 73A(1)(a)	The exercise by the authority of its functions under section 2B (improvement of public health), 111 (dental public health) or 249 (joint working with the prison service) or Schedule 1 (further provisions)

Legislation	Function
Section 73A(1)(b)	The exercise by the authority of its functions by virtue of section 6C(1) or (3) (exercising public health functions of the Secretary of State as required by regulations)
Section 73A(1)(c)	Anything done by the authority in pursuance of arrangements under section 7A (exercise of Secretary of State's public health functions)
Section 73A(1)(ca)	Any public health functions of the Secretary of State exercisable by the authority in pursuance of arrangements made with another body by virtue of section 65Z5 (joint working and delegation arrangements) or 75 (arrangements between NHS bodies and local authorities)
Section 73A(1)(d)	The exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health
Section 73A(1)(e)	The functions of the authority under section 325 of the Criminal Justice Act 2003 (arrangements for assessing etc risks posed by certain offenders)
Section 73A(1)(f)	Such other functions relating to public health as may be prescribed

1.8 Assistant Director Strategy, Policy, Performance and Partnerships

The areas of responsibility for the Assistant Director Strategy, Policy, Performance and Partnerships shall be:

- (a) Strategy and Corporate Performance.

1.9 Assistant Director Communications and Engagement

The areas of responsibility for the Assistant Director Communications and Engagement shall be:

- (a) Communications.
- (b) Web.
- (c) Customer Services.
- (d) Performance, Quality and Business Intelligence (Social Care, Education).

1.10 Chief Planning Officer

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

Legislation	Function
Weights and Measures Act 1985	
Section 72(1)(a)	Chief inspector of weights and measures
Food Safety Act 1990	
Section 49(3)(a)	Authentication of documents
Public Health Act 1936	
Section 85(2)	Report and authorisation in relation to cleansing of verminous persons or articles
Public Health Act 1961	
Section 37	Control of verminous household articles
Public Health (Control of Disease) Act 1984	
Section 48	Certifying that the retention of a body in any place would endanger health
Section 59	Authentication of documents relating to matters within their responsibility

2. Recording decisions

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

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

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

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

- (a) the date of the decision;
- (b) details of the decision and the reasons for it;
- (c) details of any alternative options considered and rejected; and

- (d) where the decision has been delegated under a specific express authorisation, the names of any Member who has declared a conflict of interest in relation to the decision.
- 2.3 The written record of the decision, together with any background papers, must be made available for inspection by members of the public as soon as reasonably practicable after the decision has been made:
- (a) at all reasonable hours at the Civic Offices;
 - (b) on the Council's website; and
 - (c) by such other means that the Council considers appropriate.
- 2.4 The written record of the decision must be retained and made available for public inspection for at least 6 years. Any background papers referred to by the decision-maker must be retained and made available for public inspection for at least 4 years. The relevant retention period will begin with the date on which the decision, to which the written record and any background papers relates, was made.
- 2.5 For the avoidance of doubt, Chapter 8 (Access to Information Procedure Rules) of this Constitution shall apply to any record of a decision, and the Council is not required to make public any confidential or exempt information.
- 2.6 The Head of Democratic, Scrutiny and Member Services and the Monitoring Officer are responsible for ensuring that decisions are properly recorded in accordance with this section 2 and that the record of any decision is available to Officers, Members and to the public, particularly if the decision relates to a change in policy or practice, or a financial commitment not already included in approved Budget plans.
- 2.7 Officers making a decision are responsible for:
- (a) ensuring that the decision is implemented in accordance with that decision; and
 - (b) responding to any request for an explanation of their reasons for the decision from, and accounting for its implementation to, other Officers, Members and statutory regulators.

Part 3 – Investment Delegations

1. Introduction

- 1.1 Local authorities have certain powers to make investments in order to utilise surplus cash, to generate income in a prudent manner that does not expose the Council to unnecessary risk. The Council will only make such investments where they are appropriate, they have been subject to appropriate due diligence, and they have been approved in accordance with this Scheme of Delegation. This Part 3 sets out the basis on which the Council is authorised to make investments and the governance controls around investment decision-making.
- 1.2 Investments include all of the Council's financial assets as well as other non-financial assets that the organisation holds primarily or partially to generate a profit, for example, investment property portfolios. Investments also include loans made by the Council to any Council-owned Company, to a joint venture, or to a third party, and equity investments, for example shares in limited companies. The term does not include pension funds or trust fund investments, which are subject to separate regulatory regimes.

2. Investment strategy

- 2.1 For each financial year, the Council will prepare an Investment Strategy. The Investment Strategy should contain the disclosures and reporting requirements specified in the Statutory Guidance on Local Government Investments issued under section 15(1)(a) of the local Government Act 2003.
- 2.2 The Council has also put in place a Disinvestment Strategy, setting out how it proposes to rationalise previous investment holdings which no longer represent good value for money.
- 2.3 The Investment Strategy and Disinvestment Strategy will be presented to full Council for approval before the start of each financial year.
- 2.4 Any material change to the Investment Strategy and Disinvestment Strategy must be approved by full Council before the change is implemented.
- 2.5 When setting its Investment Strategy, the Council must have regard to:
- (a) relevant statutory requirements, and statutory guidance;
 - (b) CIPFA guidance, primarily Treasury Management in the Public Services: Codes of Practice and Cross-Sectoral Guidance Notes and the CIPFA Prudential Code for Capital Finance in Local Authorities; and
 - (c) any specific requirements set by the Commissioners and/or the Department for Levelling Up, Housing and Communities.

3. Investment principles and governance controls

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

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

Chapter 9 – Rules, Codes and Protocols

Part 1

Article 14 – Finance, Contracts and Legal Matters

1. Financial management

- 1.1 The management of the Council's financial affairs will be conducted in accordance with the Finance Procedure Rules set out in Part 3 of this Chapter 9, and any guidance issued by the Chief Finance Officer.

2. Contracts

- 2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 2 of this Chapter 9.

3. Legal proceedings

- 3.1 The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or, in any case where the Monitoring Officer and/or the Chief Executive considers that such action is necessary to protect the Council's interests.

4. Authentication of documents

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or any other person authorised by them, unless any enactment otherwise authorises or requires, or the Council or Cabinet has given requisite authority to some other person in accordance with the provisions of this Constitution.

5. Common Seal / Electronic Seal of the Council

- 5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. The seal may be applied to any document subject to the approval of:
- (a) full Council;
 - (b) Cabinet;
 - (c) a Committee or Sub-Committee of the Council;
 - (d) a Committee of Cabinet; or
 - (e) a Cabinet Member.

The Common Seal will be added to those documents which in the opinion of the Monitoring Officer should be sealed or are required to be sealed pursuant to the Council's Procurement Guide or this Constitution. The application of the Common Seal will be

witnessed by the Chief Executive or Monitoring Officer or any other person authorised by the Monitoring Officer.

Part 2 – Contract Procedure Rules

1. Introduction – Purpose of the Contract Procedure Rules

- 1.1 As a result of the making by the Council of a report under section 114 of the Local Government Finance Act 1988, and the subsequent Intervention, spending controls are in place which restrict the Council's spending to essential items. Spending should only be incurred to support "Business As Usual". Full guidance relating to procurement during the Section 114 Period will be as issued by the Section 151 Officer, and these Contract Procedure Rules should be read in the context of that guidance.
- 1.2 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:
- (a) furthers its corporate objectives;
 - (b) restricts spending to essential items only;
 - (c) prioritises spending plans in line with any report under section 114 of the Local Government Finance Act 1988 and any further instructions from the Commissioners or central government departments;
 - (d) uses its resources efficiently;
 - (e) purchases quality goods, services and works, consistent with the priorities of the Council and which provide Value of Money; and
 - (f) safeguards its reputation from any implication of dishonesty or corruption.
- 1.3 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- 1.4 These Contract Procedure Rules are made in accordance with the requirements of section 135 of the Local Government Act 1972.
- 1.5 These Contract Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines on procurement procedures are set out in the Council's Procurement Guide.

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

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in Rule 2.3.

- 2.3 These Contract Procedure Rules do not apply to:
- (a) employment contracts;
 - (b) contracts relating solely to interests in land;
 - (c) legal costs which are exempt under regulation 10 of the Public Contracts Regulations 2015; and
 - (d) service level agreements setting out the conditions that the Council applies to its funding of particular voluntary sector bodies.

3. Breach of these Contract Procedure Rules

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

3.9 Reports on the number of confirmed breaches of these Contract Procedure Rules are to be sent by the Head of Procurement to the Chief Finance Officer on a quarterly basis.

4. General Principles Applying to All Contracts

4.1 All purchases however small shall be made or evidenced in writing.

4.2 Standard contract clauses shall be used in all contracts for purchases over the Small Procurement Threshold. The standard contract clauses are issued by Legal Services and can be found on the Council's intranet.

4.3 As a minimum, all contracts for purchases over the Small Procurement Threshold shall include clauses which set out:

- (a) the works, supplies (goods), services, material, matters or things to be carried out or supplied;
- (b) the time within which the contract is to be performed;
- (c) quality requirements and/or standards which must be met;
- (d) requirements on the contractor to hold and maintain appropriate insurance;
- (e) what happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part);
- (f) requirements on the contractor to comply with all relevant equalities and health and safety legislation; that the Council shall be entitled to terminate the contract and recover its losses in the event that the contractor, its employees or anyone acting on its behalf does anything improper to seek to influence the Council to give the contract to any person, or as to the circumstances in which a contract may be given, or any contract or commits an offence under the Bribery Act 2010 or section 117(2) Local Government Act 1972, or commits any fraud in connection with any Council contract.

4.4 All contracts shall include relevant specifications and/or briefs / technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and any required information as set out in the Council's Procurement Guide.

4.5 All contracts of a value over the Small Procurement Threshold or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

5. Regulatory Context

5.1 All purchasing shall be conducted in accordance with applicable "Regulatory Provisions" which are:

- (a) all relevant statutory provisions;

- (b) the relevant PCR 2015 principles, which are defined in the Council's Procurement Guide;
- (c) the Council's Constitution including these Contract Procedure Rules, the Finance Procedure Rules and the Scheme of Delegation;
- (d) the Council's Procurement Guide and any other relevant guidelines, policies and procedures of the Council.

5.2 In the event of a conflict between any of the above, the following order of precedence applies:

- (a) the PCR 2015;
- (b) other applicable UK legislation;
- (c) the Council's Constitution;
- (d) the Council's Procurement Guide;
- (e) other relevant guidelines, policies and procedures.

6. Responsibilities of Executive Directors, Assistant Directors / Directors and Responsible Officers

6.1 Each Executive Director shall:

- (a) be responsible for the purchasing undertaken by their Directorate;
- (b) be accountable to the Cabinet for the performance of their duties in relation to purchasing;
- (c) comply with the Council's decision-making processes including implementing and operating a Directorate Scheme of Delegation;
- (d) appoint in writing an Assistant Director / Director who shall, subject to Rule 9 below, be an authorised signatory in respect of commissioning related to the Service for which they are responsible, and who will be responsible for ensuring that Responsible Officers within their Service comply with their duties under Rule 6.3 below;
- (e) take immediate action in the event of breach of these Contract Procedure Rules, in accordance with Rule 3 above.

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

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

- (a) ensure that expenditure is restricted to essential items only in line with any report under section 114 of the Local Government Finance Act 1988 and the Commissioners' requirements;

- (b) comply with all Regulatory Provisions and ensure the integrity of the tender process;
- (c) comply with relevant statutory provisions and the Council's requirements relating to declarations of interest (including gifts and hospitality) affecting any purchasing process;
- (d) ensure that appropriate analysis of the requirement, timescales, procedure and documentation to be used is undertaken in relation to any purchasing;
- (e) ensure that the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings;
- (f) ensure that the Council's decision-making processes are followed;
- (g) ensure that all contracts of a value over the Small Procurement Threshold are included on the Council's Contract Register which is maintained by Procurement Services;
- (h) ensure that proper records of all contract award procedures, waivers/exemptions and extensions are maintained, with separate files for each purchase of a value over the Small Procurement Threshold;
- (i) ensure that Value of Money is achieved;
- (j) seek advice from the Section 151 Officer as to whether adequate and appropriate security (such as a bond or guarantee), is to be taken to protect the Council in the event of non-performance, and in the case of tenders, whether such security is to be required as part of the tender process;
- (k) seek appropriate advice from Legal Services, Finance and Procurement Services and ensure that it is followed
- (l) ensure that the Council's Document Retention Policy is followed;
- (m) for tenders above £75,000, ensure that a financial evaluation is or has been made of the financial standing of tenderers in accordance with guidance issued by the Section 151 Officer and that this has been recorded by the Head of Procurement; and
- (n) include in all reports seeking Cabinet approval to award a contract a statement to confirm that:
 - the proposed expenditure represents essential spending in line with the requirements of any report under section 114 of the Local Government Finance Act 1988 and/or any directions from Commissioners and/or central government;
 - advice has been sought as appropriate from Legal Services and Procurement Services and that advice has been followed; and

- in their opinion, the tender process has been fair and transparent and in compliance with the relevant provisions of the PCR 2015, UK legislation and these Contract Procedure Rules, or where there are anomalies, clear details of those anomalies.

In respect of contracts for which Cabinet approval is not required (for example, contracts under the Cabinet Approval Threshold) the Responsible Officer will ensure that a similar statement is included on the relevant file.

6.4 In considering how best to procure works, supplies (goods) and services, Executive Directors, Assistant Directors / Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of purchasing schemes and e-procurement / purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.

7. Scheme of Delegation

7.1 Council purchasing may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other Officers if expressly allowed to do so in the Scheme of Delegation and as set out in the relevant Directorate Scheme of Delegation (see section 4 of the Scheme of Delegation).

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

8. Exemptions to these Contract Procedure Rules

8.1 Any exemption or waiver of these Contract Procedure Rules must be:

- (a) fully documented;
- (b) approved in accordance with the Procurement Thresholds Annex and the Scheme of Delegation;
- (c) subject to a written report in advance (in an approved format and in accordance with Rule 10) to Cabinet, the relevant Cabinet Member or to the relevant Executive Director or Assistant Director / Director in line with relevant decision-making thresholds which are set out in the Scheme of Delegation and the Procurement Thresholds Annex. The report shall include reasons for the waiver which demonstrate that the waiver is genuinely required; and
- (d) subject to written approval in advance (in the approved format and in accordance with Rule 10) by Cabinet, the relevant Cabinet Member or the relevant Executive Director, Assistant Director / Director, Section 151 Officer or Procurement Service who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.

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- 8.2 Exemptions to these Contract Procedure Rules will only apply in exceptional circumstances and should only be applied on advice from Procurement Services and with the approval of the Chief Finance Officer. Details of when an exemption may apply can be found in the Council's Procurement Guide.
- 8.3 Before submitting a request under this Rule 8, the basis for any exemption should be agreed with Procurement Services. Any request for an exemption should be submitted in accordance with guidance issued by the Head of Procurement. All decisions on exemptions must take into account:
- (a) probity; and
 - (b) Best Value / Value of Money principles.
- 8.4 The Chief Finance Officer and the Head of Procurement reserve the right to refuse any application for an exemption. Where an exemption relies on an exception in the PCR 2015, it will be rejected unless evidence is provided to demonstrate that the exception applies.
- 8.5 The Head of Procurement will maintain a register of all approved exemptions, which will include the basis on which an exemption has been approved and will monitor and report the use of exemptions for management control purposes.
- 8.6 For procurements above the PCR Thresholds, the rules pertaining to exemptions in the PCR 2015 will apply.
- 8.7 Any attempt to seek retrospective approval of an exemption will be rejected and will be treated as a potential breach of these Contract Procedure Rules.
- 8.8 Exemptions must not be used to circumvent these Contract Procedure Rules or as a result of poor project planning.
- 8.9 If an exemption is approved, Responsible Officers must:
- (a) ensure that a formal contract is entered into;
 - (b) undertake appropriate due diligence on the relevant supplier before purchasing, and proportionate contract management during the life of the contract;
 - (c) ensure that appropriate approval to award the contract has been given in accordance with the Procurement Thresholds Annex and the Scheme of Delegation, including submitting a report to the relevant Decision Taker in advance setting out the reasons for the exemption and demonstrating that it is genuinely required. The Decision Taker shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional; and
 - (d) ensure that the value of the contract does not exceed a PCR Threshold and that no contract extension is sought.
- 8.10 Where an exemption is sought in relation to a Tender from a single source, or to obtain a single Tender from one supplier only, Rule 10.3 applies.

9. Financial Thresholds and Procedures

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

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

- 10.1 Subject to the Finance Procedure Rules and provisions within the Council's Constitution regarding Key Decisions, Officers must obtain approval to proceed to tender, approval to award a contract, and approval in respect of any waiver or extension, in writing and in accordance with the Procurement Thresholds Annex.
- 10.2 All applications for approvals to proceed to tender must:
- (a) be fully documented;
 - (b) append a commissioning report (a "Stage 1" report) in an approved format to be submitted in advance to either the Cabinet, relevant Cabinet Member(s) or to the relevant Executive Director or Assistant Director / Director in accordance with Rule 10.1 above and which shall set out the following:
 - (i) an appropriate and proportionate business case setting out the commissioning need and costings;
 - (ii) a draft specification detailing the quality required, which should be proportionate to the priorities of the Council;
 - (iii) appropriate project management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register (referencing the Council's risk register), contingency plans (including requirements under the Civil Contingencies Act 2004) and proposed project management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed contract;
 - (iv) confirmation from Legal Services, Procurement Services and Finance that they have been consulted and agree with the commissioning report in so far as it relates to their respective fields; and
 - (v) confirmation that the requirements of Rule 5 above have been, or will be, met;
- 10.3 In addition to the requirements set out in Rule 10.2 above, where a Responsible Officer proposes to seek a Tender from a single source, or to obtain a single tender from one tenderer only, they must consult and obtain agreement from Legal Services and Procurement Services. Any such procurement must be compliant with Regulatory Provisions (including the PCR 2015). The application for approval for such a procurement must also include written authorisation from the Section 151 Officer, setting out one of the following grounds for the authorisation:
- (a) it is known (not assumed) that only one supplier can meet the requirement;
 - (b) continuity of knowledge or synergy with previous work is an overriding consideration;

- (c) the Council has received an unsolicited proposal that contains ideas or concepts in respect of which the intellectual property is owned exclusively by the proposed single tenderer, that the Council wishes to use because it meets immediate needs; or
- (d) the Council urgently needs to meet its statutory obligations.

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

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

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

- 10.4 When a decision is made to award a contract, the Responsible Officer must, in addition to complying with their general obligations under these Contract Procedure Rules ensure, in particular, that:
- (a) the appropriate approvals, including approval to proceed to tender and approval to award the contract, have been obtained to authorise those decisions; and
 - (b) where appropriate, a standstill period complying with PCR 2015 is incorporated into the final award process.
- 10.5 Any contracts valued above the threshold set in the Procurement Thresholds Annex shall be executed as a deed. All other contracts may be signed by Officers with appropriate delegated authority.
- 10.6 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the appropriate Executive Director or his delegate (taking appropriate advice, where necessary).
- 10.7 In the case of major projects and complex procurements (for example, involving the procurement of frameworks or use of the competitive dialogue, innovation partnership or the competitive procedure with negotiation), the relevant Executive Director / Assistant Director / Director should follow advice from Procurement Services, Legal Services and Finance as to whether:
- (a) a project specific scheme of delegation should be sought and approved by Cabinet (for example, delegating powers of approval to a Cabinet Member) at the beginning of the commissioning process in order to ensure timely approvals at key stages of the procurement process; and/or

- (b) a proportionate gateway review process should be utilised.

10.8 In the event of a civil emergency brought about by events unforeseeable by, and not attributable to, the Council and requiring an immediate response in order to protect the Council or its residents, the relevant Executive Director may, with the consent of the Chief Executive and the Section 151 Officer, and where it is strictly necessary authorise entry into contracts above the Cabinet Approval Threshold on an immediate basis.

Where possible, the Executive Director should request at least one written quote in advance. A full report (following, where relevant, the format set out in Rule 10.2 above) must be submitted by the Executive Director to Cabinet at either the next available Cabinet meeting or the following Cabinet meeting.

11. This Rule 10.8 must be read in conjunction with Rules 3.8 and 7.77 – 7.79 of the Finance Procedure Rules. Calculating the Contract Value

11.1 The contract value shall be a genuine pre-estimate of the value of the entire contract including Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).

11.2 Contracts must not be split artificially to avoid the application of Regulatory Provisions.

11.3 The PCR 2015 cover contracts which, individually, are below the stated PCR Threshold but which constitute repeat purchases and/or purchases of a similar type in a specified period and might exceed the PCR Threshold in their totality. Responsible Officers must seek advice on the application of the PCR 2015 where they envisage that they may require repeat purchases and/or purchases of a similar type over a period of time.

12. Principles Underlying Tendering Processes and Tender Evaluation

12.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner that ensures :

- (a) sufficient time is given to plan and run the process;
- (b) equal opportunity and equal treatment;
- (c) openness and transparency;
- (d) probity;
- (e) outcomes which deliver sustainability, efficiency and cost savings (where appropriate); and
- (f) maintenance of accurate and up to date records.

13. Submission and Opening of Tenders

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

14. Evaluation of Quotes and Tenders

- 14.1 All quotes and Tenders must be evaluated in accordance with the evaluation criteria notified in advance to those submitting quotes / Tenders.
- 14.2 Tenders subject to the PCR 2015 shall be evaluated in accordance with the rules set out in the PCR 2015.

- 14.3 Save in exceptional circumstances approved in advance by the relevant Executive Director, all contracts shall be awarded on the basis of the quote or Tender which represents best Value of Money, or where the contract value exceeds the PCR Threshold on the basis of the most economically advantageous Tender to the Council, and not on the basis of lowest price.
- 14.4 Tenders received in an incomplete form must be evaluated in accordance with the Invitation to Tender documents as set out in the Procurement Guide.

14.5 .

15. Extensions to Existing Contracts

- 15.1 All contracts entered into by the Council must specify:
- (a) the expected termination date;
 - (b) processes to be applied for early termination, variation and waiver; and
 - (c) processes to be applied for extensions to the contract.
- 15.2 In most circumstances, maximum contract periods are as follows:
- (a) 10 years for Major Contracts;
 - (b) 12 months for consultancy contracts; and
 - (c) 6 years for other services, supplies and consumables.
- Advice must be sought from Procurement Services if any longer contract period is required.
- 15.3 Where contracts are to be entered into for longer periods, contract documentation and reports to Members should explain why this is considered to be necessary and why it represents Best Value for the Council.
- 15.4 Where extensions to existing contracts are made, the extensions must be determined in accordance with the contract terms or otherwise by agreement between the parties, for a specified period and made in accordance with Regulatory Provisions and the principles set out in the Council's Procurement Guide, as applicable. Extension of existing contracts includes modification and variation of contracts.
- 15.5 Any extension must be:
- (a) fully documented;
 - (b) approved in accordance with the thresholds set out in the Procurement Thresholds Annex; and
 - (c) approved by the appropriate Decision Taker in accordance with the Procurement Thresholds Annex and the Scheme of Delegation. A report must be submitted to the relevant Decision Taker in advance setting out the reasons for the extension and confirmation from the Section 151 Officer and the Head of Procurement that

the extension is permitted. The Decision Taker shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are valid.

15.6 Any extension must take into account:

- (a) probity; and
- (b) Best Value / Value of Money principles.

15.7 For contracts subject to PCR 2015, any extension must meet the conditions set out in Regulation 72 thereof in addition to the requirements set out in these Contract Procedure Rules.

16. Purchasing Schemes (including Framework Agreements)

16.1 A Responsible Officer may use purchasing schemes subject to the conditions set out in this Rule 16 and in the Council's Procurement Guide.

16.2 Responsible Officers must confirm in advance that:

- (a) the Council is legally entitled to use the purchasing scheme;
- (b) the purchases to be made properly fall within the coverage of the purchasing scheme
- (c) the establishment and operation of each purchasing scheme is compliant with the PCR 2015 (where they apply) and meets the Council's own requirements (as set out in these Contract Procedure Rules, the Council's Procurement Guide and as otherwise advised by Procurement Services).

17. Procurement Board

17.1 All contracts with a value of £25,000 or more (over the life of the contract) will be reviewed by the Procurement Board in accordance with the Board's terms of reference.

17.2 The Procurement Board will be accountable to, and will provide quarterly reports to, Cabinet.

18. Review of and Changes to these Contract Procedure Rules

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

PROCUREMENT THRESHOLDS ANNEX

1. Introduction

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

2. Interpretation

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

This Procurement Thresholds Annex should be read in conjunction with the Contract Procedure Rules.

3. Procurement Thresholds

The current statutory spend thresholds are as follows:

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

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

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

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

4. Key Decisions

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

5. Exemptions

Any exemption to the Contract Procedure Rules and/or the requirements set out in this Procurement Thresholds Annex must be in accordance with Rule 8 of the Contract Procedure Rules and any other guidance in the Procurement Guide issued by the Head of Procurement. An exemption may not be used for an Above Threshold Procurement. The presumption is in favour of competitive process i.e., undertaking further / mini competitions via a Framework Agreement except in circumstances where the only call off process under a Framework is via a direct award.

6. Frameworks

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

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

7. Procurement Board

All contracts with a value of £25,000 or more (over the life of the contract) will be reviewed by the Procurement Board in accordance with Rule 17 of the Contract Procedure Rules.

GOODS AND SERVICES

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

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

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Up to £30,000 (“Small Procurement Threshold”)	Expenditure Control Panel (“ECP”) approval required	At least 1 written quote unless an appropriate contract already exists	Not applicable	Budget Manager, Head of Service, Assistant Director / Director or Executive Director approval given	Must demonstrate Best Value
Above £30,000 and up to £74,999	Approval from Strategic Approval Panel (“SAP”) required	Undertake quotation process At least 3 written quotes	Exemption process approved in line with Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see “Procurement Approvals” below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender (if Invitation to Tender issued) Does not apply when procuring via a Framework

Value	Prior Approval Procurement	Council before	Procurement Process	Exemption Rules	from Decision to Award	Other
£75,000 to £213,477	Approval from SAP	required	Competitively advertised tender, in accordance with advice from Procurement Services, Legal and Finance	Exemption process approved in line with Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender (if Invitation to Tender issued) Does not apply when procuring via a Framework

Value	Prior Council Approval before Procurement	Procurement Process	Exemption from Rules	Decision to Award	Other
Above £213,477 (an Above Threshold Procurement)	Approvals Required from <ul style="list-style-type: none"> • SAP; and • for contracts with a value over the Key Decision Threshold, Cabinet 	Procurement process to be conducted in accordance with PCR 2015	Exemption process subject to the PCR 2015 and Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender (if Invitation to Tender issued) Does not apply when procuring via a Framework

LIGHT TOUCH REGIME

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

Value	Prior Approval Procurement	Council Procurement before Process	Exemption Rules	from Decision to Award	Other
Up to the Small Procurement Threshold	ECP required	approval	At least 1 written quote unless an appropriate contract already exists	Not applicable	Budget Manager, Head of Service, Assistant Director / Director or Executive Director approval given Must demonstrate Best Value
Above Small Procurement Threshold and up to £663,540	Approvals Required from <ul style="list-style-type: none"> • SAP; and • for contracts with a value over the Key Decision Threshold, Cabinet 	Competitively advertised tender, in accordance with advice from Procurement Services, Legal Services and Finance	Exemption process approved in line with Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see “Procurement Approvals” below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender (if Invitation to Tender issued) Does not apply when procuring via a Framework

Value	Prior Approval Procurement	Council Procurement before Process	Exemption Rules	from Decision to Award	Other
Above £663,540	Approvals required from <ul style="list-style-type: none"> • SAP; and • for contracts with a value over the Key Decision Threshold, Cabinet 	Procurement process to be conducted in accordance with PCR 2015	Exemption process subject to the Public Contracts Regulations 2015 in addition to Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see “Procurement Approvals” below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender Does not apply when procuring via a Framework

WORKS AND CONCESSIONS

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

Value	Prior Approval Procurement	Council approval before Procurement	Procurement Process	Exemption Rules	from Decision to Award	Other
Up to the Small Procurement Threshold	ECP required	approval	At least 1 written quote unless an appropriate contract already exists	Not applicable	Budget Manager, Head of Service, Assistant Director / Director or Executive Director approval given.	Must demonstrate Best Value
Above Small Procurement Threshold and up to £499,999	Approval from SAP	required	Undertake quotation process At least 3 written quotes	Exemption process approved in line with Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see "Procurement Approvals" below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender (if Invitation to Tender issued) Does not apply when procuring via a Framework

Value	Prior Approval Procurement	Council Procurement before Process	Exemption Rules	from Decision to Award	Other
Above £500,000 and up to £5,336, 937	Approvals required from <ul style="list-style-type: none"> • SAP; and • for contracts with a value over the Key Decision Threshold, Cabinet 	Competitively advertised tender, in accordance with advice from Procurement Services, Legal Services and Finance	Exemption process approved in line with Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see “Procurement Approvals” below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender Does not apply when procuring via a Framework
Above £5,336,937 (an Above Threshold Procurement)	Approvals required from <ul style="list-style-type: none"> • SAP; and • for contracts with a value over the Key Decision Threshold, Cabinet 	Procurement process to be conducted in accordance with PCR 2015	Exemption process subject to the Public Contracts Regulations 2015 in addition to Rule 8 of the Contract Procedure Rules	Dependent on value, Executive Director or Assistant Director / Director (see “Procurement Approvals” below)	To be published on: <ul style="list-style-type: none"> • E-tendering Portal • Contracts Finder • Find a Tender Does not apply when procuring via a Framework

PROCUREMENT APPROVALS

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

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

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

<p>Executive Director or Assistant Director / Director</p>		<ul style="list-style-type: none">• the Delegated Cabinet Member has been consulted by means of a written report; and• the written report sets out the nature of the contract, the tenders received and a recommendation as to the course of action proposed; and• the Delegated Cabinet Member has signified in writing their approval to the course of action proposed
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Part 3 – Finance Procedure Rules

Introduction

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

The Section 151 Officer's role

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

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

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

Section 114 of the Local Government Finance Act 1988 prescribes that the Section 151 Officer must make a report if:

- (a) the Council, or someone acting on its behalf, has or is about to incur unlawful expenditure;
- (b) the Cabinet, or someone acting on its behalf, has or is about to incur unlawful expenditure;
or
- (c) the expenditure to be incurred by the Council during a financial year is likely to exceed its available resources.

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

The purpose of the Finance Procedure Rules

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

- (a) uses its resources wisely and for the purposes intended;
- (b) follows best practice for dealing with financial matters;
- (c) seeks improvement in Value of Money, service delivery and customer satisfaction; and
- (d) secures its financial sustainability.

The Finance Procedure Rules seek to maintain an appropriate balance between managing risk in accordance with CIPFA best practice, innovation, and meeting the Council's statutory duties and corporate objectives.

This includes meeting any specific responsibilities or directions placed on the Council by Commissioners or central government departments. Officers and Members, and others acting on the Council's behalf, (there are separate Finance Procedure Rules applicable for Schools) are authorised to make decisions in accordance with these Finance Procedure Rules.

These Finance Procedure Rules do not authorise any person to make a decision which is contrary to any provision in the Constitution or which exposes the Council to an unacceptable level of financial or operational risk.

Understanding of the Finance Procedure Rules

It is the responsibility of Chief Officers to bring the Finance Procedure Rules to the attention of all Officers, ensuring that necessary training is provided to Officers, and monitoring compliance by Officers with these Finance Procedure Rules. All Budget Managers must have access to a copy of these Finance Procedure Rules and should receive appropriate training in relation to their Budget responsibilities.

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

Structure of the Finance Procedure Rules

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

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

Further guidance

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

The Finance Procedure Rules should be used in conjunction with:

- the rest of the Council's Constitution, including the Contract Procedure Rules and the Code of Conduct;
- the Scheme of Delegation and Directorate Schemes of Delegation (including financial delegations);
- the Financial Limits Annex;
- the Council's [Whistleblowing Policy and Procedure](#);
- the Anti-Fraud and Corruption Strategy;
- the Audit Protocol
- the IT Security Policy;
- Directorate Guidance and Procedure Notes; and
- the Council's Document Retention Policy.

The Section 151 Officer will:

- (a) issue advice, guidance and accounting instruction notes to underpin the Finance Procedure Rules;
- (b) ensure compliance with specific statutory provisions; and
- (c) reinforce best professional practice.

Members, Officers, and others acting on behalf of the Council are required to comply with any advice and guidance issued by the Section 151 Officer and their deputy. The Section 151 Officer will review and update (as necessary) these Finance Procedure Rules on an annual basis to ensure that they are fit for purpose and comply with best practice.

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

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

1. Rule 1 – Roles and Responsibilities

Introduction

1.1 The general roles and responsibilities of Members, Officers and External Auditors are set out within the Council's Constitution. More detail on the roles and responsibilities of Commissioners is also provided in Chapter 0 of this Constitution. The purpose of this Rule 1 is to explain the roles and responsibilities of Members, Officers and External Auditors (and how those interact with the role of the Commissioners) with respect to financial matters.

Sound financial planning, management and administration are essential to:

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

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

Roles and Responsibilities

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

Council

1.4 The Council is responsible for:

- overall responsibility for the Policy Framework and the Budget;
- approving the Finance Procedure Rules;
- making arrangements for the proper administration of its financial affairs and to secure that one of its Officers has responsibility for the administration of these affairs; and
- making arrangements for approving the statutory annual statement of accounts in accordance with the timeframes set by applicable regulations.

Cabinet

1.5 Cabinet is responsible for:

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

Cabinet Member for Finance

1.6 The Cabinet Member for Finance has specific strategic responsibility for financial administration and management, including preparation and management of the Revenue Budget and the Capital Programme, precepts, levies and borrowing.

Overview and Scrutiny Committees

1.7 Overview and Scrutiny Committees are responsible for:

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

In this context, the Corporate Overview and Scrutiny Committee is responsible for:

- scrutinising the financial arrangements and performance of the Council, including considering the financial position and management of the Council's finances, Revenue Budget and Capital Programme; and
- contributing to the Council's objectives in relation to the overall strategic direction, policies and priorities of the Cabinet and of the Council, including the overall corporate Revenue Budget and Capital Strategy, financial resources, precepts and levies.

Standards and Audit Committee

1.8 Standards and Audit Committee is responsible for:

- approving the Council's Annual Statement of Accounts;
- considering the Council's arrangements for corporate governance and risk management and approving the Annual Governance Statement;

- all matters related to the appointment of the Council's External Auditor;
- assessment against the CIPFA FM Code;
- receiving, considering and commenting on reports issued by the External Auditor, including the External Auditor's annual audit plans, reports on the Financial Statements, annual audit letters, reports on specific matters, and written recommendations;
- ensuring that there are effective relationships between External Audit and Internal Audit, inspection agencies and other relevant bodies, and that the value of audit is actively promoted;
- receiving reports from the Council's Internal Auditor on the outcome of audit reviews and investigations and implementing recommendations, including the annual report of the Chief Internal Auditor; and
- monitoring the effectiveness of the Council's Finance Procedure Rules, procurement policies and procedures and its strategies for counter fraud and corruption, declarations of interest, gifts and hospitality, whistleblowing and anti-money laundering.

Head of Paid Service

1.9 The Head of Paid Service is responsible for:

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

Section 151 Officer

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

1.11 The Section 151 Officer's deputy fulfils this role in their absence.

1.12 In addition to the statutory duties arising under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988, the Section 151 Officer has the following statutory duties:

- a requirement under the Local Government and Housing Act 1989 to consult the Monitoring Officer and the Head of Paid Service before making a report to the Council under section 114 of the Local Government Finance Act 1988;

- a requirement under section 25 of the Local Government Act 2003 to make a report to the Council when it is considering its Budget and council tax, that addresses the robustness of the estimates and adequacy (or otherwise) of reserves; and
- a requirement under the Accounts and Audit Regulations 2015 to ensure that the accounting control systems are observed, that the accounting records are maintained in accordance with proper practices, and that they are kept up to date.

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

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

Monitoring Officer

1.14 The Monitoring Officer is responsible for:

- reporting, after consultation with the Head of Paid Service and the Section 151 Officer, any actual or potential breaches of the law or maladministration to the Council and/or to Cabinet;
- advising whether the decisions of Cabinet are in accordance with the Budget and the Policy Framework;

- providing advice to all Members on the scope of their powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues; and
- implementing any additional arrangements, policies or procedures relating to governance issues, as directed by the Commissioners and central government departments.

Executive Directors

1.15 Executive Directors have delegated responsibility for the financial management of their Services.

1.16 This responsibility must be exercised within the corporate financial management framework determined by the Section 151 Officer, and includes:

- putting in place appropriate Budget management and delegation arrangements to ensure the effective use of resources, the safeguarding of assets, and the operation of a system of appropriate internal controls;
- maintaining adequate arrangements for the identification, management and reporting of strategic and operational risks;
- promoting appropriate financial management standards within their Services, and monitoring adherence to those standards and good practice, liaising as necessary with the Section 151 Officer, and ensuring that relevant training is provided to Officers with financial management responsibilities;
- maintaining adequate accounting records that support all of the balances and transactions in the accounts and all items of income and expenditure;
- ensuring transparency of decision-making in line with Scheme of Delegation requirements (including their Directorate Scheme of Delegation);
- ensuring that all decisions are based on accurate, up to date and unbiased information;
- promoting sound financial practices in relation to the standards, performance, and development of Officers in their Services;
- advising Cabinet Members and the Section 151 Officer of the financial implications of all proposals in relation to their Services;
- seeking approval in accordance with the Scheme of Delegation, and in conjunction with the Section 151 Officer, on any matter liable to affect the Council's finances materially (in accordance with guidance issued by the Section 151 Officer), before any commitment is made;
- obtaining the approval of the Section 151 Officer in relation to any proposal to commission external financial and/or tax advisory services on behalf of the Council (this requirement does not apply to the Monitoring Officer, although they must consult the Section 151 Officer before commissioning such advice);

- consulting with, and obtaining the approval of, the Section 151 Officer before making any changes to accounting records or procedures;
- complying with the following principles when allocating accounting duties:
 - the duties of providing information about sums due to or from the Council and calculating, checking (including reconciling the accounts) and recording these sums must be separate from the duty of collecting or disbursing them; and
 - employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions;
- ensuring that claims for funds (including grants, contributions and 'match funding') are made in accordance with accounting instructions issued by the Section 151 Officer and the conditions defined by the awarding body, by the due date, and that appropriate records are maintained;
- contributing to the development of performance plans in line with statutory requirements;
- contributing to the development of corporate and Service targets and objectives and performance information;
- Taking responsibility for their Directorate in relation to the annual corporate governance review and corporate systems of risk management; and
- ensuring that Budget Managers have effective procedures for safeguarding the Council's resources.

Executive Directors' Board

1.17 The Executive Directors' Board is responsible for:

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

Assistant Directors / Directors and Budget Managers

1.18 Assistant Directors / Directors and Budget Managers are responsible for:

- determining the appropriate level of control within their areas of responsibility in accordance with advice and guidance provided by the Section 151 Officer, their Executive Directors and the Council's External Auditors and Internal Auditors.
- ensuring that all Officers for whom they are responsible understand and comply with the Finance Procedure Rules, Contract Procedure Rules, Council policies and Directorate instructions (including Directorate Schemes of Delegation);
- monitoring compliance within these regulations, policies and instructions;

- identifying the short-, medium- and long-term financial implications of policy, legislative requirements and Service standards;
- planning and maintaining effective use of resources to achieve agreed Service delivery standards within the Budget;
- achieving and demonstrating Best Value for commissioned and provided services;
- taking or recommending actions where necessary to stay within the Budget;
- clearly understanding the consequences of a lack of financial control and taking steps to ensure that financial control measures are followed;
- ensuring that all Officers for whom they are responsible understand and have access to a copy of the Council's Anti-Fraud and Corruption Strategy and associated guidance; and
- operating processes to check that established controls are in place and evaluating their effectiveness.

Officers

1.19 All Officers are responsible for:

- following the Finance Procedure Rules, Contract Procedure Rules, Code of Conduct, Council policies and Directorate instructions (including Directorate Schemes of Delegation).
- ensuring that Council resources are only used for carrying out the business of the Council;
- enabling the Council to achieve open and transparent administration by supporting approved fraud prevention strategies and avoiding potential conflicts of interest;
- assisting the Council's External Audit and Internal Audit processes;
- keeping accurate and comprehensive records to support transactions undertaken on the Council's behalf; and
- raising concerns regarding financial misconduct in accordance with the [Whistleblowing Policy and Procedure](#).

Internal Audit

1.20 Internal Audit will review, appraise and report upon:

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

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

1.21 Further details of the role of Internal Audit are set out in Rule 5.

External Audit

1.22 External Audit will:

- report on whether the Council's accounts and statements present a true and fair view of the Council's financial position;
- complete a Value of Money assessment of the Council; and
- Carry out agreed ad hoc projects.

1.23 Further details of the role of External Audit are set out in Rule 5.

2. Rule 2 – Financial Planning

Policy Framework

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

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

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

- Housing Revenue Account (HRA);
- Investment Management and Disinvestment Strategies;
- Asset Management Plan;
- asset use and asset disposal strategies;
- asset condition survey outcomes;
- use of Dedicated Schools Grant (DSG) and budgets delegated to schools, together with any plans in place for reducing DSG overspends; and
- annual pay policy statement.

Medium Term Financial Strategy

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

Revenue income and expenditure

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

Revenue Budget

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

Budget preparation

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

As part of Budget setting preparations, supplementary guidance will be provided by the Section 151 Officer to spending departments detailing the expected processes for identifying, delivering and recording financial savings.

- 2.12 To ensure a consistent approach across the Council, the Section 151 Officer, in consultation with the Cabinet Member for Finance, will issue detailed guidance, procedures and a timetable for production of the Budget. This will provide a format for each Directorate to use to prepare its Service Budget(s). The Cabinet Member for Finance will, in consultation with the Section 151 Officer, review the detailed draft Revenue Budget and Capital Programme prepared by each Service in accordance with the guidance and timetable set by the Section 151 Officer.
- 2.13 Detailed Service Budgets will be subject to challenge and review through the process determined by the Section 151 Officer. Any proposed changes to Service levels because of Budget plans will be subject to an Equalities Impact Assessment as part of the consideration process before approval and implementation. The Council will engage partners in the Budget preparation process where possible and appropriate.

2.14 The Section 151 Officer has a statutory duty to report on the Budget proposals presented to Council (see Rule 1.12). Executive Directors must provide the Section 151 Officer with any information required to enable the robustness of their Budget proposals to be assessed.

2.15 The Budget and the proposed level of taxation will be presented for approval by Full Council, following recommendation by the Cabinet. Council tax and non-domestic rates must be set by 1st March in the year prior to the year of taxation.

Responsibilities in relation to the Budget

2.16 Members and Officers of the Council shall have the responsibilities set out below in relation to the Budget.

Full Council

2.17 Full Council is responsible for:

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

Cabinet

2.18 Cabinet is responsible for:

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

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

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

- direct resources towards Council priorities in an achievable way;
- reflect the best estimates of pay and price increases available at the time;

- consider and recognise the major financial risks facing the Council; and
 - contain proposals for increased income or reduced expenditure that are achievable.
- 2.21 The Chief Finance Officer must also report on the adequacy of the level of Council reserves and their sufficiency to meet the known and quantified financial risks facing the Council over the medium term.
- 2.22 The Chief Finance Officer will ensure that Executive Directors are provided with guidance to support them in preparing their draft Directorate Service Budgets. This guidance will cover:
- legal requirements;
 - medium-term planning prospects;
 - available resources;
 - spending pressures;
 - Best Value and other relevant government guidelines;
 - other internal policy documents; and
 - cross-cutting issues (where relevant).
- 2.23 Executive Directors must prepare detailed draft Service Budgets (revenue and capital) for their Directorate, in consultation with the Chief Finance Officer, and in accordance with the guidance and timetable set by the Chief Finance Officer, for consideration by Cabinet. This shall include proposals for investment, demand growth and savings, and income growth to achieve improved economy, efficiency and effectiveness of Services.

Format of the Budget

- 2.24 The format of the Budget determines the level of detail to which financial control and management will be exercised. The format shapes how the virement rules operate and sets the level at which funds may be reallocated within and between Budget heads (see Rules 3.13 to 3.15 for further details).
- 2.25 The format of the Budget will be set by the Section 151 Officer to ensure that appropriate detail is included.

Maintenance of reserves

- 2.26 Reserves are maintained to enable the Council to cope with unpredictable financial pressures, and to plan for future spending commitments. A general reserve is maintained as a contingency to protect the Budget against cost pressures, whilst earmarked reserves are held to protect funds for specific purposes.
- 2.27 The Section 151 Officer is responsible for recommending to Cabinet and the Council the adequate level of unallocated General Fund and Housing Revenue Account Reserves, the Reserves Strategy and any limitations or conditions on the use of such unallocated reserves. This will be based upon:

- an assessment of the robustness of the Budget and adequacy of reserves under section 25 of the Local Governance Finance Act 2003;
 - the projected level of reserves for the year and in the medium term compared to a risk assessment based on the Budget risk register and the corporate risk register; and
 - an ongoing assessment of the above.
- 2.28 The creation of any reserve will be subject to the approval of the Cabinet Member for Finance, on the advice of the Section 151 Officer. For each reserve established, a proforma will be completed and signed off in accordance with the approvals set out in the Financial Limits Annex, clearly articulating the purpose, usage (including the timeframe for usage), and the basis of transactions.
- 2.29 Increases in existing reserves arise due to:
- the Budget setting process, which requires Full Council approval;
 - the return of funds previously drawn from reserves that are no longer required for the agreed purpose, which requires approval by the Section 151 Officer; or
 - the transfer of an underspend into reserves.
- 2.30 The withdrawal of funds from reserves is subject to approval in accordance with Rules 3.16 to 3.23 on supplementary estimates. No funds withdrawn from a reserve may be spent, other than for the purpose agreed at the time the withdrawal was approved, without the prior agreement of the Section 151 Officer, the Monitoring Officer and the Cabinet Member for Finance. All utilisation of reserves should be reported to Members.
- 2.31 Directorates shall review and certify annually all their relevant earmarked reserves and provisions following guidance provided by the Section 151 Officer.
- 2.32 Under section 114 of the Local Government Finance Act 1988, the Section 151 Officer must report to Council if there is or is likely to be unlawful expenditure or an unbalanced budget. This would include situations where reserves have become seriously depleted, and it is forecast that the Council will not have the resources to meet its expenditure in a particular financial year.

Capital expenditure

- 2.33 Expenditure is classified as capital expenditure when it results in the acquisition or construction of an asset (e.g., land, buildings, roads and bridges, vehicles, plant and equipment) that:
- will be held for use in the delivery of services; and
 - is expected to be used during more than one financial year.

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

- 2.34 There may be instances where expenditure does not meet the criteria in Rule 2.33 above but would nevertheless be treated as capital expenditure, including where:
- the Council has no direct future control or benefit from the resulting assets but would have treated the expenditure as capital if it did control or benefit from the resulting assets;
 - expenditure is defined as capital by statute; and
 - the government has given explicit permission to apply capital financing resources to fund expenditure that would not otherwise meet the criteria for capitalisation.
- 2.35 During the Section 114 Period, capital expenditure will be restricted to essential items only, with priority given to maintaining assets necessary for day-to-day Service delivery. New borrowing for capital purposes will only be permitted in limited circumstances, as set out by the Section 151 Officer, and must be approved by the Commissioners.
- 2.36 The Council operates a “de-minimis limits” process for capital expenditure. This means that items below these limits are charged to revenue rather than capital. The limits are as set out in the Financial Limits Annex.
- 2.37 The Section 151 Officer is responsible for the application of these de-minimis limits and will report any exceptions to the Cabinet Member for Finance.
- 2.38 Where expenditure meets the ‘capital expenditure’ criteria in Rule 2.33 and is in excess of the Council’s de-minimis limits, it will be classified as capital expenditure, even if provision exists within the Revenue Budget to fund the work (and vice versa).
- 2.39 Similarly, where specific financing (e.g., a government grant) is provided to facilitate a project, this will not determine the accounting treatment of the expenditure. That is, the accounting treatment is determined according to the type of expenditure, and not by the funding source (see Rule 4).

Capital Programme

The Section 151 Officer will issue detailed guidance for the preparation of the Capital Programme, including the need for a comprehensive business case (see Rule 2.47 below).

- 2.40 Directorates will also use this framework to undertake an annual review of the medium-term Capital Programme and consequential revenue implications for inclusion in the Medium Term Financial Strategy.
- 2.41 The Cabinet Member for Finance, in conjunction with the Section 151 Officer, will manage the preparation of the Council’s Capital Programme on an annual basis in accordance with the Council’s capital projects’ governance arrangements and capitalisation criteria.
- 2.42 Each project that is added to the Capital Programme will be for the provision and purpose of delivering public services (including housing, regeneration and local infrastructure) or in support of joint working with others to deliver such services.
- 2.43 **No scheme may be added to the Capital Programme if its only purpose is to achieve a financial return.**

2.44 Each scheme that is added to the Capital Programme must be allocated:

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

Business cases for capital schemes

2.45 **All capital schemes must be supported by a business case.**

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

2.47 Subject to the Chief Finance Officer's guidance, a business case shall, as a minimum, include:

- the ongoing need for the capital scheme;
- available capital funding (see Rule 2.51 below) to fund the scheme;
- an assessment of the cost predictability of the scheme, including total scheme costs, including land, works, fees and all associated costs;
- the need for a risk-based contingency within the available resources, or where no risk assessment is carried out, a contingency of 10-15% within the costing (any such contingency not to be used for changes in specification);
- an assessment of time predictability i.e., a realistic assessment of the phasing of capital expenditure and income over financial years;
- the revenue implications of the scheme to be met within Service Budgets;
- whether the scheme offers revenue savings and/or income generation opportunities;
- whether the scheme offers improved Value of Money;
- a consideration of priority areas of need and Service delivery requirements based on asset management plans and up to date condition surveys; and
- any implications for the Council's VAT Partial Exemption Limit.

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

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

- Section 151 Officer (including finance, tax, cash management and banking, purchase to pay and income collection);
- Executive Director Corporate Services (including in their capacity as Monitoring Officer, and in relation to legal, audit, risk management and insurance issues);
- Assistant Director HR & OD (including payroll).
- Assistant Director Property and FM (including property and facilities management);and
- Procurement Services.

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

Financing of capital expenditure

2.51 The Cabinet Member for Finance, in conjunction with the Section 151 Officer, will determine the financing of the Capital Programme, taking into consideration the availability of reserves, funding from other bodies and the affordability of borrowing.

2.52 All capital receipts, generated through the sales of capital assets, shall be pooled unless otherwise agreed by Cabinet, for example, to meet contractual obligations or where legislation requires a different approach.

Leasing and rental arrangements

2.53 Leases of land or buildings and other property agreements will only be authorised for completion, on the Council's behalf, in accordance with the delegations set out in Rules 6.20 – 6.29. The relevant Head of Finance will be consulted as part of this process and will dedicate appropriate finance team support as required.

2.54 Leasing arrangements for vehicles, plant and equipment (including rental agreements and hire purchase arrangements) will only be entered into with the prior approval of the Section 151 Officer.

2.55 Prior approval is required to enter into leases to ensure that they can be accommodated within the borrowing limits set by the Council. Such arrangements must represent best Value of Money and be accounted for appropriately.

2.56 A lease register, setting out details of all leases entered into, expected cash flows, and the key terms and conditions of the underlying lease agreements will be maintained by the Section 151 Officer.

Internal trading activities

- 2.57 Where Services are delivered by one Council function to others within, or external to, the Council, and users of that Service have choice about whether and how much to buy, then the Service is likely to be 'trading'. Where a significant proportion of a Service's activities are delivered by trading, the Service may need, or wish, to be formally designated as an internal trading activity.
- 2.58 Services are only permitted to operate as an internal trading activity with the prior approval of Cabinet, in consultation with the Section 151 Officer.
- 2.59 Services wishing to operate as an internal trading activity must demonstrate that they are:
- providing all, or the majority, of their services in an environment where their customers have the option to use them or an alternative service provider; and
 - charging for the full cost of the goods / services they provide, based on an agreed charge or rate.
- 2.60 Approved internal trading activities must maintain a trading account which is:
- charged with all expenditure related to the provision of the trading activity's services (including direct costs, the full costs of services provided by the Council's support services, any service management provided by senior managers, and any asset and other accounting charges); and
 - credited with all income due for work done by the trading activity.
- 2.61 Trading activities are required to balance their budgets by generating sufficient income to cover the full costs of the services they provide.
- 2.62 Trading activities must operate within the Council's overall arrangements and rules for personnel and resource management. Cabinet may approve special arrangements in exceptional circumstances where it can be demonstrated that adherence to these rules and arrangements would lead to the trading activity becoming uncompetitive and losing work and that the proposed departure does not expose the Council to significant risk.

Financial targets for trading activities

- 2.63 Each trading activity must prepare an annual financial plan for approval by the Council as part of the annual Budget setting, which defines the expected levels of income and expenditure for the year.
- 2.64 Trading activities must, as a minimum, aim to break-even (i.e., only incur expenditure that can be financed from the income the activity expects to generate during the year). Trading activities may only plan for a deficit in exceptional circumstances, and then only if the deficit can be met from the trading activity's own accumulated revenue reserves or, in exceptional circumstances, from an approved contribution from the General Fund (as approved by the Section 151 Officer).

Trading reserves

- 2.65 Trading activities are permitted to retain the surpluses they generate, provided they can demonstrate that these are necessary for the future business needs of their operations. The

Section 151 Officer will advise the Cabinet Member for Finance, after consultation with the relevant Executive Director(s), if the level of accumulated balances held by a trading activity exceed those deemed necessary to meet the business needs of the operation. The Cabinet Member for Finance will then determine whether the excess balances are transferred to the General Balance or another reserve.

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

Closing a trading account

- 2.67 The approval of Cabinet, in consultation with the Section 151 Officer, is required where it is proposed that a trading activity ceases to operate.
- 2.68 The Cabinet Member for Finance, in consultation with the Section 151 Officer, may recommend closure of a trading account where the trading activity fails to at least break-even for two successive financial years and/or where the trading activity has exhausted its revenue reserve.
- 2.69 If a trading activity has revenue reserves remaining upon closure of its trading account, the residual balance will be transferred to the General Balance or to another reserve as directed by the Section 151 Officer.

Capital Strategy and Treasury Management Strategy

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

Fees and charges policy

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

Pay policy

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

3. Rule 3 – Financial Management

Introduction

- 3.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the Policy Framework, Revenue Budget, trading activities' financial plans, Capital Strategy and Treasury Management Strategy.
- 3.2 Sound financial management is important to ensure that:
- Council objectives are secured within the Budget agreed by the Council;
 - proper use is made of public monies;
 - any specific requirements of Commissioners and central government departments are implemented,
 - key Services are delivered; and
 - the Council achieves Best Value.

Financial management standards

- 3.3 All Officers and Members have a duty to abide by the highest standards of probity in dealing with public money. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

Revenue Budget monitoring and control

Budget management

- 3.4 The Council operates within an annual cash limit, approved when the annual Budget is set. To ensure that the Council does not overspend in total, each Service is required to manage its own expenditure and income recovery within the cash limited budget allocated to it.
- 3.5 Budget management also ensures that, once the Council has approved the Budget, the Council's resources are used for their intended purposes and are properly accounted for.

Framework for budgetary control

- 3.6 Once the Budget is approved by the Council, Executive Directors are authorised to incur expenditure in accordance with the approved Budget, subject to the limits in the Constitution and the Scheme of Delegation. Any significant changes to the approved Budget (revenue or capital) require Member and Commissioner approval. Executive Directors must maintain effective budgetary control within their Service(s) to ensure that spending is contained within the annual cash limit and Value of Money is secured.
- 3.7 Executive Directors must ensure that no commitment is made that would result in an approved Budget being exceeded. Prior approval must be obtained to increase the Budget either by virement (see Rules 3.13 to 3.15) or by a supplementary estimate (see Rules 3.16 to 3.23) before any additional commitment is made.
- 3.8 In addition, subject to the limits in the Constitution and the Scheme of Delegation, Executive Directors may exceptionally incur additional expenditure in an emergency (see Rules 7.77 to 7.79 for the approval required to make an emergency payment). In such situations, retrospective approval must be sought, as soon after the event as possible, to offset the additional expenditure by virement or supplementary estimate.
- 3.9 Executive Directors will:
- **Ensure that all income and expenditure is properly recorded and accounted for.**
Executive Directors will ensure that all Officers responsible for committing expenditure comply with all relevant guidance and follow approved certification processes.
 - **Ensure that an appropriate Budget Manager structure is in place to ensure that responsibility is assigned for each item of income and expenditure under their control.**
Budget Managers will be accountable for the effective management of the budgets for which they are responsible, even where they put delegations in place that enable Officers to commit expenditure on their behalf.
 - **Ensure that individual policy budgets are not overspent.**
It is expected that each policy budget will be managed within the agreed cash limit Budget.
Executive Directors, in consultation with the relevant Cabinet Member(s), will use the virement scheme (see Rules 3.13 to 3.15) to address areas of overspending, by moving sufficient unspent Budget from elsewhere.

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

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

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

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

Such reports will be prepared, in consultation with the Section 151 Officer, on the relevant Service's projected 'controllable net expenditure' compared with its Service Budget. Cabinet Members must be fully briefed, as part of this process, on any Budget pressures and any proposal to address these pressures by virement (see Rules 3.13 to 3.15). Any such reports will be presented to Cabinet on a quarterly basis, highlighting progress or problems encountered.

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

Prior approval of Cabinet or relevant Cabinet Member(s) may be required for:

- Key Decisions;
- proposals that create financial commitments in future years;
- proposals which materially extend or reduce the Council's Services; or
- proposals which initiate new Council Services.

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

See Rules 3.13 to 3.15.

- **Agree with other relevant Executive Directors where it appears that a Budget proposal, including a virement proposal, may impact on their Service area(s).**
- **Ensure that relevant training is delivered to all Officers to whom responsibility for Budget management is assigned.**

Officers will undertake approved finance training prior to commencement as an operational Budget Manager and/or as an authorised signatory, to ensure they have the necessary knowledge and skills to effectively perform their financial responsibilities. Refresher training will be undertaken at 12-monthly intervals thereafter, or as specified by the Section 151 Officer.

- 3.10 The Section 151 Officer will ensure that each Budget Manager receives or has access to timely information on income and expenditure for each Budget for which they are responsible, which is sufficiently detailed to enable them and their managers to fulfil their budgetary responsibilities.
- 3.11 The Section 151 Officer will monitor performance against the Council's Budget on an on-going basis and will advise on the Council's overall financial position. Specifically, the Section 151 Officer will prepare quarterly financial overview reports for the Cabinet Member for Finance to present to Cabinet on a monthly basis. These financial overview reports will:
- provide a comparison of the Council's projected income and expenditure with the latest approved Budget;
 - include an assessment of the Council's reserves and balances and its overall financial position; and
 - seek approval to changes to the approved Budget (including virements between policy budgets and supplementary estimate requests).
- 3.12 Where supplementary accounting records are maintained, Executive Directors and Budget Managers must reconcile these to the Council's main accounting systems, or bank statements, on a regular basis (at least monthly, and more frequently where necessary). If, with the approval of the Section 151 Officer, a Directorate uses a financial system other than the Council's corporate financial system, the Executive Director of that Directorate must ensure that financial information from their system is regularly and accurately transferred to the Council's corporate financial system.

Scheme of virement

- 3.13 As detailed in Rule 3.6, Executive Directors must ensure that spending remains within their Service's overall cash limit, and that spending does not exceed individual policy budget headings. It is permissible, in certain circumstances to transfer resources between approved Budget headings, subject to obtaining the necessary approval. The transfer of resources between approved Budget headings is known as "virement".
- 3.14 The virement rules are as follows:
- virements should only take place within the limits specified in the Financial Limits Annex, and in accordance with the guidance on virements issued by the Section 151 Officer;
 - no expenditure shall be incurred without appropriate Budget provision and, if necessary, a virement should be undertaken to put this in place before the expenditure is incurred;
 - no virement relating to a specific financial year should be made at the end of the financial year after the date specified in the Section 151 Officer's timetable for closure of the accounts;
 - virements are not permitted in relation to asset charges or other Budget headings that are deemed to be outside the control of the relevant Budget Manager, or where a proposal would adversely affect long-term revenue commitments;

- virements are not permitted between the Revenue Budget and the Capital Programme and any change to the Capital Programme will be dealt with in accordance with Rules 3.44 and 3.45;
- a virement proposed by a Budget Manager that is likely to impact on the level of Service activity of another Budget Manager can be implemented only with the agreement of the relevant Budget Manager;
- virements that require Member approval must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial years;
- where a Cabinet Member's approval is required to a virement, this approval should be sought via a 'Cabinet Member Action' or a report to Cabinet;
- when a Cabinet Member is deciding on an operational matter, any necessary virements must be included as part of that decision; and
- virements that are being actioned to effect a change in policy or priorities (either within the same portfolio or between portfolios) will be subject to approval as set out in the Financial Limits Annex.

3.15 The following exceptions apply to the scheme of virement:

- The virement rules do not apply to the transfer of resources between the individual budget headings of an internal trading activity. This is because trading activities are controlled to an overall financial target rather than against individual expenditure and income headings (see Rule 2.60). However, the approval of the Cabinet Member for Finance is required to transfer resources between individual trading activities and to/from the General Fund – see Rule 2.62.
- Member approval is not required where resources will continue to be used for the approved purpose but are being moved, for example, to reflect a change in Budget Manager responsibilities. Such transfers will require the approval of the relevant Head of Finance or the Assistant Director Finance
- Member approval is not required for Budget movements required to comply with the CIPFA Service Expenditure Reporting Code of Practice guidance on accounting for overheads, or Budget movements arising in order to comply with proper accounting practice. Approval is required from the relevant Head of Finance or the Assistant Director Finance.
- If the proposed virement, together with the total of previous virements within the same financial year, would result in an aggregate increase or decrease in the original 'controllable net' budget for any of the portfolios affected of more than the amount set out in the Financial Limits Annex, the decision shall be taken by the Cabinet Member for Finance, in consultation with the Section 151 Officer.

Supplementary estimates

3.16 If it is not possible to move resources between Budget headings to meet a liability, a request may exceptionally be made for additional funding from the general reserve or from an

earmarked revenue reserve. Requests for additional funding are referred to as “supplementary estimates”.

- 3.17 Supplementary estimates can only be requested for one-off purposes, although it may be possible to request funding for a project that spans across more than one financial year. Where additional funding is required on an on-going basis, the full year effect must be addressed through the Revenue Budget setting process (see Rules 2.10 – 2.15).
- 3.18 A request for a supplementary estimate must specify:
- the total amount of funding required;
 - the source(s) of the supplementary funding (which will be advised by the Section 151 Officer);
 - the profile across financial years of the proposed draw down from the general reserve and/or an earmarked revenue reserve; and
 - why the supplementary funding is required and whether there are any on-going cost implications.
- 3.19 No supplementary estimate is permitted without consultation with the Section 151 Officer and the approval of both the Monitoring Officer and the Cabinet Member for Finance. Supplementary estimates affecting General Fund and HRA balances should also be discussed and agreed with the Commissioners. All supplementary estimates, once approved, should be reported to Cabinet (via the Financial Overview Reports).
- 3.20 Where supplementary funding is granted for a project that slips into a later year, the supplementary funding can be re-profiled from the year of award, and into the following financial year, without the need for further approval up to the Key Decision threshold and provided that:
- the funding is still being used for the approved purpose; and
 - the total agreed amount is not exceeded.
- 3.21 Where supplementary funding is granted for a project that progresses ahead of schedule, the supplementary funding may be brought forward into an earlier year, in consultation with the Section 151 Officer, up to the Key Decision threshold and provided that:
- the funding is still being used for the approved purpose; and
 - the total agreed amount is not exceeded.
- 3.22 The approval of the Cabinet Member for Finance is required to re-profile supplementary estimates between financial years that:
- are more than the Key Decision threshold; and
 - extend beyond more than one year of the original agreed period of utilisation.
- 3.23 Any supplementary funding provided must only be spent for the purposes for which it was approved. This means that:

- the Section 151 Officer may withdraw supplementary funding if it becomes apparent that the funding is not being used for the agreed purpose; and
- funding that is no longer needed for the approved purpose must be returned to the reserve from which it was allocated unless directed otherwise by the Section 151 Officer.

Treatment of year end balances

Carry forward scheme

- 3.24 In certain circumstances, it is permissible to transfer resources between financial years. That is, to:
- carry unspent Budget forward for use in the following year; or
 - fund an overspend in the current year from next year's Budget allocation.
- 3.25 Carry forward of any under- or overspend is not permitted. In-year under- and/or overspends should be addressed through the virement or supplementary estimate procedures set out in these Finance Procedure Rules.
- 3.26 All requests to carry unspent Budget forward will be subject to approval by the Section 151 Officer and will be reported to Cabinet. Whilst such requests may be approved prior to the end of a financial year, no carry forward requests will be guaranteed before consideration by Cabinet of the final outturn position of the whole Council upon closure of the accounts so that the Council's ability to support the carry forward requests can be assessed in the context of the Council's overall financial position.
- 3.27 No carry-forward or virement will be allowed if:
- it results in a policy change which Members have not approved;
 - it commits additional ongoing expenditure, or reduces income, in future years;
 - it involves loan charges, capital expenditure, apportioned central charges, contributions to outside bodies or Council finance over which the Directorate concerned has no control;
 - the underspend arises from a change in volume of Service or reduced unit costs that were not anticipated when the Budget was set;
 - the Directorate's total budget is or is projected to be overspent, in which case. the first call on any underspend will be to rectify the Directorate's financial position; and
 - the total Budget (General Fund or HRA) is or is projected to be overspent, in which case, the first call on any virement of an underspend will be to rectify the overall financial position.
- 3.28 The Section 151 Officer will advise the Cabinet Member for Finance if, after consultation with the relevant Executive Director(s), the amount of any unspent Service Budget that a Service is permitted to carry forward into the following financial year should be reduced by

the value of any supplementary estimates provided during the year for the purpose of funding controllable expenditure.

- 3.29 Where a Service identifies the need to incur expenditure in the current financial year for which Budget provision has been made in the following year's Budget, a supplementary estimate can be requested. Any such request must be planned appropriately and must be made before the expenditure is incurred. In this instance, the following year's budget will be reduced accordingly, and the current year's increased expenditure will not be categorised as an overspend.

Trading activities

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

Partnership schemes

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

Grant funded schemes

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

Individual schools' budgets

- 3.36 Individual schools' budgets are ring-fenced in accordance with statutory provisions.
- 3.37 Underspends against individual schools' budgets are appropriated into the schools' reserve to support expenditure in a later year by the schools concerned.

- 3.38 School overspends are financed by a withdrawal from the schools' reserves accumulated in previous years. Where an unplanned deficit occurs, the governing body of the relevant school must prepare a detailed financial recovery plan, which will be evaluated by the Executive Director Children's Services and the Section 151 Officer. If the deficit exceeds 5% of the school's budget, the plan will be referred to the relevant Service Cabinet Member. Schools will be expected to agree a plan to recover the deficit within a defined period.

Capital monitoring and control

Approval to spend

- 3.39 Capital schemes are subject to full appraisal and production of an associated business case before they will be submitted for approval by the Council as part of the Capital Programme. See Rules 2.45 to 2.50 for details of how business cases are to be produced.
- 3.40 Once a capital scheme is approved, this will serve as approval to tender for suppliers to deliver the capital scheme in accordance with the Contract Procedure Rules, and a report to Cabinet will not be required. The award of contracts will still need to be approved in accordance with the thresholds and decision-making process set out in the Contract Procedure Rules.
- 3.41 If the sum approved for a capital scheme is likely to be exceeded, confirmation must be sought from the Section 151 Officer that appropriate capital spending powers are available.
- 3.42 If the Council has approved a Capital Programme for future years and/or a reserve capital programme, this provides authorisation to carry out feasibility studies, outline design and application for planning consent (where required), provided that the resources have been identified.
- 3.43 Where expenditure has been incurred on feasibility studies, design work and other preliminary activities but the project does not go ahead, these expenses shall be charged against the Service Budget (revenue) of the relevant spending department.
- 3.44 Any proposal to amend an approved Capital Programme by including a new scheme or deleting an approved scheme requires Cabinet approval and the production of a revised business case. This includes all applications for schemes to be funded from government sources, grants or other external funding.
- 3.45 Where additional funding for a scheme is fully funded by external resources and is consistent with the Council's corporate priorities to the satisfaction of the Section 151 Officer, the scheme shall be added to the Capital Programme with a subsequent report to Cabinet.

Framework for budgetary control

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

Scheme of virement

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

Re-profiling of payment guidelines between years

- 3.50 Where it is anticipated that a scheme with approval to 'start' will be progressed at a different rate to that scheduled (such that expenditure is expected to vary from the approved payment guideline for the year) approval must be sought to re-profile the payment guidelines for the scheme (or 'block' approval).
- 3.51 For a scheme with approval to 'start', the re-profiling of the capital payment guidelines between financial years is subject to agreement as set out in the Financial Limits Annex.
- 3.52 The above approval will also be required where it is intended to accelerate a scheme that is within the Capital Programme with an indicative start beyond the current financial year, where it is proposed to change the start date to within the current financial year.

Adding scheme and payment approvals to the Capital Programme

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

Trading activities

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

4. Rule 4 – Accounting Records and Financial Systems

Accounting records

- 4.1 Maintenance of proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.
- 4.2 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council, and for the compilation of all accounts and accounting records.
- 4.3 The Council's accounting records are maintained within its General Ledger. The General Ledger records all sums of money received and expended and all the assets, liabilities and reserves of the Council, and the matters to which the income and expenditure, assets, liabilities and reserves relate. This information is captured by assigning an account code, at source, to every transaction and balance. The integrity of the Council's financial reporting for management and statutory purposes is dependent upon account codes being assigned to transactions and balances correctly at source, in compliance with the Council's standard coding conventions.
- 4.4 The Council's Section 151 Officer will be responsible for ensuring that a fit for purpose Chart of Accounts (listing and categorising all the Council's financial transactions) is maintained and published, together with supplementary guidance which sets out:
- how the Chart of Accounts will operate in practice and who is responsible, on an operational level, for adding and deleting new codes as necessary; and
 - General Ledger access, authorisation and password arrangements.
- 4.5 Executive Directors are responsible for ensuring that their Services (including those delivered through strategic partnerships) comply with the coding conventions adopted within the General Ledger and with any supplementary guidance issued. This includes adherence to standard subjective classifications for categories of income, expenditure, assets, liabilities and reserves. The requirement to adhere to this standard classification applies even where expenditure is matched fully by income. All income and expenditure should be recorded in the General Ledger gross, and not as net amounts.
- 4.6 Where application of this standard classification results in under- or overspends, appropriate action must be taken to re-align the Budget. The guiding principle for this re-alignment is that Budget provision should follow expenditure and/or income, and not vice versa.

Annual Statement of Accounts

- 4.7 The Council has a statutory responsibility to prepare an annual Statement of Accounts that:
- presents a 'true and fair view' of its financial performance during the year and of its financial position at the year-end; and
 - is produced, presented for public inspection and external audit, and published to specified timescales.
- 4.8 The Section 151 Officer is responsible for ensuring that these requirements are met. In particular, the Section 151 Officer will:

- select suitable accounting policies that comply with relevant codes of practice and other applicable accounting standards and statutory provisions;
- issue accounting instructions on closure of the annual accounts to Budget Managers, including a timetable;
- monitor delivery of the agreed timetable, taking action as necessary to resolve technical issues, resourcing problems and other delays;
- carry out adequate quality assurance and review of draft accounts and working papers at pre-publication stage;
- sign and date the Statement of Accounts, thereby confirming that the accounts give a 'true and fair' view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March;
- submit the accounts to the External Auditor and make proper arrangements to support the audit of the Council's accounts and for making the accounts available for public inspection; and
- publish the Statement of Accounts upon completion of the External Audit for the year.

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

Financial systems

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

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

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

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

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

- 4.12 A change request must be submitted to the Section 151 Officer for approval prior to making any changes to such systems.
- 4.13 All finance systems must be documented and backed up, and disaster recovery and business continuity plans must be maintained to allow information system processing to resume quickly in the event of an interruption.
- 4.14 Executive Directors will ensure that an adequate audit trail exists through any computerised finance system operated within their own areas, that audit reviews are carried out as necessary, and that a backup and business continuity plan is in place for any such system.
- 4.15 Where appropriate, the data processed by computer systems will be notified to the Information Commissioner in accordance with Data Protection Legislation.
- 4.16 Relevant policies and guidelines for computer systems and equipment issued by the Executive Director Corporate Services will be observed by all Officers and others working for or on behalf of the Council, as appropriate.

5. Rule 5 – Risk and Opportunity Management including Insurance

Introduction

- 5.1 It is essential that robust, integrated systems for identifying and evaluating all significant strategic and operational risks to the Council are developed and maintained. This includes the proactive participation by all those with responsibility for planning and delivering Services.
- 5.2 The objectives of risk management and insurance are to ensure that risks to the Council are identified and quantified and that effective measures are taken to reduce, eliminate, accept or insure against them. This involves ensuring that:
- the possible impact of risks and opportunities and the likelihood of them arising is evaluated;
 - action to be taken in respect of residual risks and opportunities is determined;
 - measures to avoid, transfer or reduce risk are identified and applied;
 - measures to bring forward opportunities are identified and applied; and
 - a programme for risk reduction and loss prevention is formulated.

General

- 5.3 The Section 151 Officer is responsible for ensuring that adequate risk and opportunity management and insurance arrangements are in place, although this function may be carried out within another Directorate.
- 5.4 Executive Directors must ensure that Budget Managers and Officers:
- are aware of their responsibilities in relation to insurance and risk management;
 - receive adequate support and training to carry out their financial responsibilities;
 - comply with the Council's standards for risk management; and
 - are personally protected from associated risks.
- 5.5 Executive Directors are responsible for notifying the Section 151 Officer of:
- all new property, vehicles, plant or other risks that require insurance or an alteration to existing insurances;
 - all new partnership arrangements or changes to existing partnership arrangements that require insurance or an alteration to existing insurances; and
 - any loss or liability or damage that may lead to a claim against the Council.
- 5.6 Executive Directors are responsible for ensuring that they, and anyone covered by the Council's insurances:
- do not admit liability nor offer any payment of compensation that may prejudice the Council's liability in respect of any future claim; and
 - do not enter into any indemnity without first consulting the Monitoring Officer and the Section 151 Officer.
- 5.7 Executive Directors are responsible for the identification of potential risks of loss or damage to the resources and operations they control. The most common risks are:
- loss of service;
 - liability for injury to/death of employees and third parties, or damage to their property, caused by the negligence of the Council;
 - damage or loss to Council property resulting from fire, flood, storm and similar perils;
 - loss of Council equipment or property due to theft;
 - additional or consequential expenses arising from a loss; and
 - loss of Council money due to theft or dishonesty of employees or the public.

5.8 Having identified all risks, Executive Directors must assess the likelihood of their occurrence and evaluate their possible impact. This involves arranging risks in order of priority, recording each risk and judging the likelihood and impact of:

- financial cost;
- disruption to Service delivery; and
- damage to the Council's reputation.

5.9 Each Executive Director must maintain a risk register and mitigation plan as part of their Service or Directorate plans and ensure that any critical risks are reflected in the Corporate Risk Register. The Assistant Director Finance is responsible for maintaining the Corporate Risk Register and will provide quarterly reports to the Senior Leadership Team and the Standards and Audit Committee.

5.10 Executive Directors will prepare a risk assessment of the Budget and Medium Term Financial Strategy and agree this with the Section 151 Officer to inform the Annual Governance Statement and the Section 151 Officer's statement of the robustness of estimates and adequacy of reserves.

Risk management

5.11 Risk management is concerned with evaluating the measures in place, and the actions needed, to identify and control risks effectively. The objectives are to secure the Council's assets and to ensure the Council's continued financial and organisational wellbeing.

5.12 The Standards and Audit Committee considers the Council's Risk Management Policy and Strategy and advises on any action necessary to ensure compliance with best practice, and the Cabinet approves it. The Senior Leadership Team keeps under review the strategic risk register and promotes a culture of risk management awareness throughout the Council.

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

- ensure that procedures are in place to identify, assess and prevent or contain material risks, and allow for the identification and management of positive opportunities;
- regularly review the effectiveness of risk reduction strategies and controls;
- engender a positive attitude towards the control of risk;
- provide relevant information on risk management initiatives, and training on risk management;
- ensure that acceptable levels of risk are determined; and
- report regularly on risk management to the Section 151 Officer.

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

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

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

- take full ownership of all risks within their areas of responsibility, including those related to partnerships in which their Services participate;
- ensure that risk management is implemented in line with the Council's Risk Management Policy and Strategy and the minimum standards for business planning process;
- appoint a Risk Coordinator and authorise them to progress effective risk management that adheres to corporate guidelines;
- identify and manage risks and ensure that mitigating actions are regularly reported;
- Have regard to other specialist Officers (e.g., those with expertise in crime prevention, fire prevention, information governance, health and safety);
- ensure that there are appropriate arrangements in place within their Service area to identify risk issues and take appropriate action to mitigate the effects of them and maximise opportunities, including ensuring that the relevant Officers are trained to manage risk and, where required, provide a defence for the Council;
- make sure that consideration is given, and appropriate arrangements are made, to ensure Service delivery by third party providers and delivery vehicles; and
- ensure that Service programme, project and partnership risk registers are compiled, and kept up to date.

Insurance

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

- effect corporate insurance cover, through external insurance and internal funding, and negotiate all claims in consultation with other Officers, where necessary;
- include all appropriate employees of the Council in suitable fidelity guarantee insurance;
- offer insurance cover to schools in accordance with arrangements for financing schools;
- ensure that provision is made for losses that might result from identified risks;

- ensure that procedures are in place to investigate claims within required timescales; and
 - be aware of, and manage effectively, operational risk to the Council.
- 5.17 The settling of insurance claims against the Council will be subject to approval as set out in the Financial Limits Annex.
- 5.18 The Section 151 Officer shall notify the Cabinet Member for Finance if the total amount paid to claimants during a financial year exceeds £2m with respect to any of the following classes of claim:
- employer's liability;
 - public liability (highways claims);
 - public liability (non-highways claims);
 - property;
 - motor; or
 - other.
- 5.19 If the £2m threshold is exceeded for any financial year, the Cabinet Member for Finance may request to be consulted on further proposed settlements in the category concerned for the remainder of that financial year.
- 5.20 Executive Directors must comply with all relevant Insurance terms and conditions, and in particular must:
- notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Section 151 Officer or the Council's insurers;
 - notify the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances;
 - consult the Section 151 Officer and the Monitoring Officer on the terms of any indemnity that the Council is proposing to give; and
 - ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

Internal control and the governance framework

- 5.21 The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its strategic objectives and statutory obligations. Internal controls are devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources, and that the Council's assets and interests are safeguarded.

- 5.22 It is the responsibility of the Section 151 Officer and the Monitoring Officer to put in place an appropriate control environment and effective internal controls that comply with proper practices, and provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 5.23 Key components of internal control and the governance framework should be identified and reviewed as part of the Council's Annual Governance Review. Supplementary guidance will be issued by the Section 151 Officer to explain how Annual Governance Reviews will be carried out and how any issues identified during these reviews should be reported and addressed.
- 5.24 The Section 151 Officer will also compile an Annual Governance Statement each year. This Governance Statement will incorporate outcomes from the Annual Governance Review and will be compiled with reference to proper practices in relation to governance (principally the CIPFA/SOLACE guidance 'Delivering Good Governance in Local Government').
- 5.25 The Council's governance framework, control environment and internal controls include:
- identification and communication of the Council's vision of its purpose and intended outcomes for citizens and Service users;
 - reviewing the Council's vision and its implications for the Council's governance arrangements;
 - measuring the quality of Services for users, and ensuring that they are delivered in accordance with the Council's objectives, and that they represent the best use of resources;
 - making proper arrangements for project management;
 - defining and documenting the roles and responsibilities of the Council's executive, non-executive, scrutiny and Officer functions, with clear delegation arrangements and protocols for effective communication;
 - developing, communicating and embedding codes of conduct, which define the standards of behaviour for Members and Officers;
 - reviewing and updating standing orders, standing financial instructions, a scheme of delegation and supporting procedural notes/manuals, which clearly define how decisions are taken and the processes and controls required for managing risks;
 - undertaking the core functions of an Audit Committee, as identified in CIPFA's Audit Committees – Practical Guidance for Local Authorities and Police;
 - ensuring compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful;
 - whistleblowing and arrangements for receiving and investigating complaints from the public;
 - establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation;

- incorporating good governance arrangements in respect of partnerships and other group working and reflecting these in the Council's overall governance arrangements;
- policies, objectives and plans for monitoring financial and other performance, and taking appropriate anticipatory and remedial action where these are not met;
- financial and operational control systems and procedures which comprise physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- maintaining an effective internal audit function that is appropriately resourced, and which operates in accordance with the principles contained in the Public Sector Internal Audit Standards (PSIAS) and with any other statutory obligations and regulations, and other regulatory guidance.

5.26 It is the responsibility of Executive Directors to:

- establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness, and for achieving their financial performance targets;
- manage processes to ensure that controls are adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks;
- communicate responsibilities, codes of conduct and the importance of good governance arrangements to their Officers and ensure that they understand the consequences of lack of control and inadequate governance arrangements;
- review existing controls in the light of changes affecting the Council and to establish and implement new controls, and remove controls that are unnecessary, in line with guidance from the Section 151 Officer;
- undertake self-assessments of the status of the governance framework, including systems of internal control for each of their Service areas, as directed by the Section 151 Officer; and
- support Internal Audit in any review being undertaken within their Service area and respond to issues raised within Internal Audit reports within the agreed timescale.

Preventing fraud and corruption

Counter fraud and anti-bribery strategy

5.27 The Council has and maintains an effective Anti-Fraud and Corruption Strategy and maintains a culture that will not tolerate fraud or corruption. It is the responsibility of the Section 151 Officer to maintain the Council's Anti-Fraud and Corruption Strategy.

5.28 Executive Directors must ensure that this policy is adhered to and that all appropriate action is taken, including reporting all suspected irregularities to the Chief Internal Auditor (see Rule 5.53).

- 5.29 The Council is also responsible for putting arrangements in place for carrying out a regular programme of counter-fraud work, and for exercising oversight of this work. The Monitoring Officer and the Standards and Audit Committee will ensure that:
- a risk-based work plan containing a programme of both proactive and responsive counter fraud work is put in place at the start of each financial year;
 - effective procedures are in place to investigate promptly any suspected fraud or irregularity; and
 - adequate resources are available to deliver this work plan as approved.

Declaration of Interests

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

Gifts and hospitality

- 5.31 Officers must be cautious regarding offers of gifts and hospitality as acceptance can easily give the impression of improper behaviour or favour.
- 5.32 The Council's Officer Gift and Hospitality Policy explains how offers of gifts and hospitality are to be dealt with, including what can be accepted, what cannot be accepted, and what must be declared. In accordance with the Officer Gift and Hospitality Policy, Executive Directors must ensure that a gifts and hospitality register is established and maintained for the Services for which they are responsible. A summary of these registers should be reported annually to Cabinet by the Section 151 Officer.

Whistleblowing

- 5.33 In accordance with the Council's [Whistleblowing Policy and Procedure](#), financial irregularities must be reported to the Chief Internal Auditor (see Rule 5.53). The Chief Internal Auditor will report significant matters to the Chief Executive, Cabinet and the Standards and Audit Committee.

Standards of conduct

- 5.34 The full responsibilities with regard to standards of conduct for Officers are set out in the Officers' Code of Conduct and the standards for Members are set out in Chapter 7 of the Constitution.

Money laundering

- 5.35 Money laundering is defined as:
- concealing, disguising, converting, transferring or removing criminal property from the Country or

- being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.
- 5.36 In accordance with the Council's Anti Money Laundering Policy, all suspected attempts to use the Council to launder money must be reported to the Chief Internal Auditor who is the Council's Money Laundering Reporting Officer.
- 5.37 Executive Directors must ensure that Officers within their Directorate understand what money laundering is and their obligations under the anti-money laundering legislation, so that they can recognise situations that might lead to suspicions of money laundering.
- 5.38 When a person knows or suspects that money laundering activity is taking place (or has taken place) or becomes concerned that their involvement in a matter may amount to a prohibited act under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2011, they must disclose this as soon as practicable or risk prosecution. They should report any such concerns to the Section 151 Officer.
- 5.39 To mitigate the risks of the Council being used to launder money:
- cash payments exceeding £1,000 will not be accepted other than with the prior approval of the Section 151 Officer; and
 - receipts and payments unrelated to the Council's own activities will not be paid into or from a Council bank account without the prior approval of the Section 151 Officer.

Anti-bribery policy

- 5.40 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Bribery Act 2010 has been enacted to enable robust action against such activity.
- 5.41 In accordance with the Council's Anti-bribery Policy, the detection, prevention and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control.

Promoting good governance

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

Audit requirements

External Audit

- 5.43 The duties of the External Auditor are defined by the Local Audit and Accountability Act 2014, as well as the Code of Audit Practice and relevant auditing standards. In particular, the External Auditor must:
- be satisfied that the Council has complied with the applicable enactments;

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

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

5.45 The Council may, from time to time, also be subject to audit, inspection or investigation by other bodies such as Ofsted, the Care Quality Commission and HM Revenue and Customs, who have statutory rights of access to Council documents and systems.

5.46 Whilst the External Auditor and other statutory inspectors must comply with statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information received or obtained during the course of their audit or inspection work, regard must nevertheless be given to the sensitivity of data requested by the External Auditor and/or other statutory inspector(s). If there is any doubt about whether it is appropriate to provide such data to the External Auditor or other statutory inspector(s), advice should be sought from the Section 151 Officer and the Monitoring Officer (as appropriate).

5.47 Services must respond promptly to External Audit and/or inspection recommendations in writing, detailing the action intended to address the recommendations.

Internal Audit

5.48 The requirement for the Council to have an internal audit function is imposed by regulation 5 of the Accounts and Audit Regulations 2015 and reinforced by section 151 of the Local Government Act 1972, which requires that local authorities 'make arrangements for the proper administration of their financial affairs'.

5.49 More specifically, the Accounts and Audit Regulations 2015 require local authorities to undertake an effective internal audit to evaluate the effectiveness of their risk management, control and governance processes, taking into account public sector internal auditing standards or guidance. Internal Audit findings are considered by the Standards and Audit

Committee on behalf of the Council as part of the consideration of the system of internal control referred to in Rules 5.21 to 5.42.

- 5.50 Internal Audit is an independent and objective appraisal function, established by the Council for reviewing the systems of internal control and assists the Council's stakeholders on business objectives and related risks and, thereby, contributes strategically to the organisation.
- 5.51 The Internal Auditors adhere to proper practices in relation to internal control; specifically, the PSIAS, IIA (Institute of Internal Auditors) standards and the COSO (Committee of Sponsoring Organisations) risk framework. They examine, evaluate and report upon the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- 5.52 The Internal Auditors have the authority to:
- access any Council premises, assets, records, documents and correspondence, and control systems;
 - receive any information and explanation related to any matter under consideration;
 - require any employee of the Council or school maintained by the Council to account for cash, stores or any other asset under their control;
 - access records belonging to third parties (e.g., contractors) when required; and
 - directly access the Chief Executive, Cabinet, the Standards and Audit Committee and the Corporate Overview & Scrutiny Committee.
- 5.53 The Section 151 Officer and the Standards and Audit Committee are required to approve an Annual Audit Plan, a draft of which will be prepared by the Chief Internal Auditor. The Annual Audit Plan will take account of the characteristics and relative risks of the Council's activities. The Section 151 Officer and the Standards and Audit Committee will also ensure that effective procedures are in place to investigate promptly any suspected fraud or irregularity (see Rule 5.29 above) and that adequate resources are available to deliver both work plans once approved.
- 5.54 Services must respond to Internal Audit reports in writing, within a timescale agreed as part of the Internal Audit methodology detailing the action intended, responsible Officer, timescale for implementation and whether the action will require additional resources to address all agreed recommendations. The relevant Executive Director(s) must ensure that any agreed actions arising from Internal Audit recommendations are carried out in a timely and efficient fashion.
- 5.55 The Chief Internal Auditor will maintain a record of all reports and allegations of suspected fraud, corruption or other financial irregularity in respect of funds and assets that are the responsibility of the Council and will ensure that appropriate action is taken to investigate these.
- 5.56 The Chief Internal Auditor will be given the opportunity to evaluate the adequacy of new systems, or changes to existing systems, for maintaining financial records or records of assets in a timely manner before live operation.

6. Rule 6 – Control of Resource and Asset Management

Introduction

- 6.1 The purpose of this Rule 6 is to ensure that Budget Managers and Officers have a clear understanding of their responsibilities regarding resources and asset management.
- 6.2 Executive Directors and Budget Managers must formulate a Service delivery plan to identify the resources that are required to meet agreed Service levels with due regard to the principles of Best Value and Value of Money. A comparison of resource inputs, outputs and outcomes must be made to identify:
- where new resources are required and that these represent Value of Money;
 - that the application of existing resources represents Value of Money;
 - opportunities to minimise or eliminate resource consumption (e.g., energy, water or paper) and to meet the Council's Carbon Reduction Commitment;
 - opportunities for resource efficiency, including the use of property, technology and business processes; and
 - opportunities to minimise negative environmental impacts.
- 6.3 Budget Managers are responsible for ensuring that the most favourable terms for price, delivery and quality are obtained on all purchases in accordance with the Contract Procedure Rules.
- 6.4 Budget Managers must have due regard to the environmental impact of their purchasing decisions, including the national Carbon Reduction Commitment.

Assets

Using and accounting for resources

- 6.5 Asset inventories will be maintained for all land and buildings valued at £10,000 or more and all vehicles, plant and equipment valued at £4,000 or more. The Finance Manager – Capital/Systems is responsible for maintaining these asset inventories and will ensure that their accuracy is checked at least once a year.
- 6.6 All valuable equipment must be visibly security marked in such a way as to identify it as the property of the Council, school or other establishment where held. All of the Council's computer equipment must be marked with the corporate standard marking that uniquely identifies equipment as the property of the Council.
- 6.7 Executive Directors, Assistant Directors / Directors and/or Budget Managers are responsible for ensuring that proper security arrangements are maintained at all times for buildings, furniture, equipment, stocks, cash and other valuable resources or assets. All valuable resources must be locked away wherever possible to reduce the risk of theft. Buildings must be kept secure, well maintained and, where appropriate, access must be restricted to appropriate personnel.

Security of assets

- 6.8 The Council holds non-current assets in the form of property, land, infrastructure, vehicles, plant and equipment which are collectively worth many millions of pounds. These assets must be safeguarded and used efficiently.
- 6.9 All Officers have a responsibility for safeguarding the Council's assets and information, including the security of the Council's computer systems and paper records, and for ensuring compliance with the Council's computer and Internet security policies.
- 6.10 The Assistant Director Property and FM will undertake the role of 'Corporate Landlord' on the Council's behalf and will:
- ensure the proper security and maintenance of all premises occupied and/or owned by the Council; and
 - hold the title deeds for all Council properties.
- 6.11 Executive Directors will:
- advise the Assistant Director Property and FM of any situation where security of Council premises is thought to be defective or where it is considered that special security arrangements may be needed;
 - ensure that no Council asset is subject to personal use by an Officer without proper authority;
 - ensure the safe custody of vehicles, equipment, furniture, inventory, stores and other property belonging to the Council;
 - ensure cash holdings on Council premises are kept to a minimum; and
 - ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times and report any loss of any such keys to the relevant Executive Director and the Chief Internal Auditor.

Asset register

- 6.12 The Section 151 Officer is responsible for the maintenance of a corporate register of the Council's property, plant and equipment assets (the 'Asset Register'). This register forms the basis of balance sheet reporting on all property, plant and equipment assets held by the Council.
- 6.13 This Asset Register is maintained, in accordance with the requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK and the underlying accounting standards for:
- all items capitalised in accordance with the guidelines set out in Rule 2.33 that are expected to be used and controlled by the Council during more than one financial year; and
 - items that the Council has acquired under the terms of a lease or similar arrangement.

6.14 This means that the Asset Register is maintained for:

- all land held by the Council;
- buildings held and being used by the Council for operational purposes, including those held under the terms of a lease;
- buildings held for investment purposes;
- land and buildings deemed to be surplus to current requirements and/or held pending disposal;
- all highways infrastructure (e.g., roads, structures, traffic management systems etc.) that, when acquired, was capitalised in accordance with the guidance set out in Rule 2.33; and
- all vehicles, plant and equipment (including IT hardware) and intangible assets (mainly IT software) that:
 - when acquired, was capitalised in accordance with the guidance set out in Rule 2.33; or
 - is held under the terms of a lease or similar arrangement.

6.15 Executive Directors will provide the Section 151 Officer with any information necessary to maintain the Asset Register. This will include confirmation of the location of moveable assets, which should be appropriately marked and insured.

6.16 The Assistant Director Property and FM, in conjunction with the Section 151 Officer, will ensure that land and building assets that are required to be measured at 'current value' are re-valued, as part of a rolling programme, in accordance with:

- the requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK; and
- methodologies and bases for estimation set out in relevant professional standards and codes of practice (including those of CIPFA and the Royal Institute of Chartered Surveyors (RICS)).

6.17 The Assistant Director Property and FM will ensure that:

- regular impairment reviews are undertaken in line with CIPFA and RICS requirements;
- estimated useful lives and depreciation rates are re-assessed on a regular basis; and
- asset condition surveys are carried out to inform backlog maintenance requirements and capital investment plans.

Use of property other than for direct Service delivery

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

Property transactions

- 6.20 The Council enters into a variety of property agreements, including (but not limited to):
- freehold acquisitions and disposals;
 - long leasehold acquisitions and disposals;
 - short leases as tenant and as landlord;
 - section 106 agreements as landowner;
 - release of covenants;
 - compulsory acquisitions and land compensation claims;
 - taking and granting easements;
 - option Agreements; and
 - lease surrenders and exit agreements (including dilapidations).
- 6.21 Each of these transactions has a financial consequence for the Council.
- 6.22 Approval is required to authorise any of these property transactions, and to declare properties surplus to requirements, as set out in the Financial Limits Annex.
- 6.23 The financial thresholds for all property transactions (set out in the Financial Limits Annex) apply to decisions based on the open market value of the interest in the land or property (i.e., the value based on highest and best use, taking account of any information the Council has about the purchaser's proposals for the land acquired) which is reasonably foreseeable at the date of the approval, and not to the actual money involved.
- 6.24 Any moveable assets located within properties proposed for sale, that would be included as part of the sale (e.g., paintings), will be subject to separate consideration in accordance with Rule 6.15.
- 6.25 All property transactions are subject to the Key Decision criteria set out in the Constitution.
- 6.26 Once land and buildings have been declared surplus to requirements, the Assistant Director Property and FM will arrange for the disposal of these assets in accordance with the

Council's property strategy and only then when it is in the best interests of the Council and when Best Value is obtained.

- 6.27 Cabinet and Commissioner approval must be obtained, in consultation with the Section 151 Officer, if it is proposed to dispose of the freehold (or an unexpired leasehold interest) of the Council's interest in a property (in full or in part) at a value which is below market value. In some circumstances approval of the Secretary of State will also be required. Before making recommendations to Cabinet, the Assistant Director Property and FM must consult with the Monitoring Officer or their nominee on this issue and may, in some situations, also need to obtain specialist external legal advice (to be advised by the Monitoring Officer or their nominee).
- 6.28 The proceeds from the sale of all land and buildings previously held by the Council for operational purposes will (subject to certain statutory limitations) be pooled and applied to finance future capital investment or for any other purpose permitted by applicable legislation. No such capital receipts will be earmarked for use by a specific Service.
- 6.29 The Assistant Director Property and FM will advise on best practice for disposal of other assets that are deemed surplus to requirements, bearing in mind factors such as environmental issues, security and data protection.

Disposal of other assets

- 6.30 The Assistant Director Property and FM will ensure that asset use is maximised and that an asset disposal strategy is in place to ensure that all assets not required for operational purposes are disposed of at the best price currently available. The approvals set out in the Financial Limits Annex apply to disposals of assets under this Rule 6.30.
- 6.31 The Executive Director Corporate Services is responsible for ensuring that the standards, policies and guidelines of decommissioning of IT equipment are well defined and communicated to all staff within the Council. Applicable data protection legislation must be a key consideration in the decommissioning of IT equipment.

Consumable stocks and stores

- 6.32 Executive Directors will make adequate arrangements for the care and custody of consumable stocks and stores held by their Services and will maintain inventory records that document the receipt (by purchase or donation) and usage of these items.
- 6.33 The stock of such items should be subject to independent physical checks at least once every financial year. Discrepancies between inventory records and the physical stock must be investigated and pursued to a satisfactory conclusion.
- 6.34 Stocks and stores must be charged to the relevant Service revenue account when consumed.
- 6.35 The relevant Executive Director (or Budget Manager) must complete a certificate at each financial year end, confirming the number and value (i.e., value represents the lower of cost and net realisable value) of items held in stock as at 31 March.
- 6.36 Obsolete stocks and stores (i.e., items that cannot be sold or consumed) or items no longer held (i.e., due to theft or other loss) must be written off (i.e., charged to the revenue account

as an expense) straight away. The minimum levels of approval required to write off stock balances are as set out in the Financial Limits Annex.

Cash

Introduction

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

Treasury management

- 6.39 Treasury management is an important aspect of the overall financial management of the Council. Treasury management activities are those associated with the management of the Council's cash flows and its borrowing and investments. A fundamental aim is to effectively control the risks associated with these activities and to pursue Best Value, in so far as that is consistent with the effective management of risk.
- 6.40 The Council complies with the CIPFA Treasury Management in the Public Services: Code of Practice and Cross-sectoral Guidance Notes, and has approved:
- a Treasury Management Policy Statement;
 - Treasury Management Practices ; and
 - an Investment Strategy and a Disinvestment Strategy which set out:
 - the Council's approach to managing surplus cash;
 - the Council's approach to rationalising investment holdings which no longer represent good Value of Money;
 - how the Council will take steps to meet CIPFA Treasury Management guidance and Prudential Code requirements in full;
 - a restriction on the Council incurring borrowing for investment purposes; and
 - measures to prevent the Council from being exposed to unnecessary financial risk.
- 6.41 The Section 151 Officer is responsible for maintaining the Treasury Management Policy Statement and TMP, and for recommending any changes to Council for approval.
- 6.42 As noted, the Section 151 Officer will propose an annual Treasury Management Strategy and Debt Reduction Strategy to the Council before the start of the relevant financial year. The Treasury Management Strategy will comply with CIPFA's Code of Practice on Treasury

Management, relevant regulations and statutory guidance, and with the Council's own Treasury Management Policy Statement and TMP. It will set out the parameters within which:

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

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

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

Loans to third parties

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

6.46 The rate of interest chargeable on loans to third parties (including subsidiaries of the Council):

- for the purpose of financing expenditure which, if incurred by the Council, would constitute capital expenditure; and
- For other purposes (e.g., to support cash flows),

will be determined in consultation with the Section 151 Officer, having due regard to the subsidy control requirements applicable in the United Kingdom as set out in the Subsidy Control Act 2022.

6.47 Repayments arising from loans to third parties (including subsidiaries of the Council) for the purpose of financing expenditure which, if incurred by the Council, would constitute capital expenditure are deemed to be capital receipts. These capital receipts will be applied to repay the amounts loaned.

Bank accounts

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

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

6.50 As noted in Rule 5.39, cash unrelated to the Council's own activities will not be paid into a Council bank account without the prior approval of the Section 151 Officer.

Imprest accounts (petty cash)

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

6.52 The Section 151 Officer will:

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

6.53 Officers operating an imprest account will:

- obtain and retain vouchers to support each payment from the imprest account and, where appropriate, an official receipted VAT invoice must be obtained;
- make adequate arrangements for the safe custody of the account;
- produce cash and all vouchers to the total value of the imprest amount;
- record transactions promptly;
- reconcile and balance the account at least monthly with reconciliation sheets to be signed and retained by the imprest holder;
- ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made; and
- provide the Section 151 Officer with a certificate of the value of the account held at each 31 March.

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

Trust funds and funds held for third parties

6.54 All trust funds will be operated subject to oversight by the Section 151 Officer. Wherever possible, all cash funds will be held in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities and other key documentation relating to the trust (e.g., trust deeds, lease agreements, title deeds etc) with the Section 151 Officer unless the trust deed provides otherwise.

- 6.55 Trust funds will be operated within any relevant legislation and the specific requirements for each trust. All trust funds will be subject to audit or independent examination in line with Charity Commission requirements.
- 6.56 Where funds are held on behalf of third parties, for their secure administration, records will be maintained of all transactions.

Staffing

- 6.57 The Head of Paid Service is responsible for providing overall management to Council staff and is also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration rate for job roles.
- 6.58 Executive Directors have primary responsibility for their establishment and are accountable for compliance with establishment and financial controls. Executive Directors are responsible for ensuring that positions are only created as new requirements and associated funding emerge and are deleted or modified as needs and funding change. They will ensure that the staffing budget is not exceeded without the approval of the Section 151 Officer and that it is managed to enable the agreed level of Service to be provided.
- 6.59 The Section 151 Officer and Executive Director Corporate Services will advise Executive Directors on areas such as National Insurance and pension contributions, as appropriate.
- 6.60 Executive Directors and Budget Managers must ensure that all staff are aware of health and safety standards in relation to employees and third parties. It is the individual duty of each employee to comply with these standards.

Intellectual property

- 6.61 Intellectual property is a generic term that includes inventions and writing. If an employee creates these during the course of their employment they will usually belong to the Council, not to the employee.
- 6.62 Executive Directors will ensure that their staff are not carrying out private work in Council time and that their staff are aware of the Council's rights with regard to intellectual property.
- 6.63 Instances where intellectual property has been (or may be) created which has, or may have, commercial value to the Council should be referred to the relevant Executive Director.

Information Systems

- 6.64 Where new information systems are introduced, or there are significant amendments to existing systems, the development must conform to standards specified by the Council. There must be a full business case (including costs and benefits and how benefits will be realised), a review of business processes, a training needs analysis and adequate project management that meets the Council's standards, including early consideration of internal controls and security.
- 6.65 All Officers must comply in full with the Council's IT Security Policy. The Strategic Lead IT will ensure that:

- adequate control is exercised over computer access through unique user identities, access levels, passwords, and identification of security violations;
- systems to back up and store computer data are sufficient; and
- a contingency plan is developed and maintained so that in the event of any disaster, systems and equipment can be reinstated.

7. Rule 7 – Financial Administration

Introduction

7.1 This Rule 7 outlines the standards of financial administration, including:

- being clear on who is authorised to approve financial transactions (orders, payments, payroll, income);
- ensuring that Officer appointments, and appointments of temporary staff and agency workers, are made in accordance with employment law, that salaries and wages and other remuneration are properly authorised, that the proper deductions are made (statutory and non-statutory) and all payments are properly recorded and correctly charged;
- ordering and paying for goods and services according to the Contract Procedure Rules, securing Value of Money, paying only for what the Council receives and dealing with VAT correctly;
- ensuring that all sources of income to the Council are identified, claimed and collected;
- ensuring that a live and complete record of all Council transactions is maintained; and
- ensuring that the Council pays and accounts for tax correctly.

Authorisation Levels

7.2 Expenditure should only be incurred by an Officer, or income raised, if authority to purchase goods and services has been delegated to that Officer by an Executive Director under their Directorate Scheme of Delegation.

7.3 The Council operates a framework of authorisations in relation to decision making and Executive Directors must supply the Section 151 Officer with a list of Officers who may:

- place orders and make payments, including via the Council's procure-to-pay system;
- certify travel and expense claims;
- sign petty cash cheques and claim petty cash reimbursement;
- authorise payroll transactions, including starters and leavers, overtime or bonus payments, notification of sickness, and salary adjustments; and

- raise and collect income, including issuing receipts, requesting income adjustments, raising invoices and credit notes, requesting write-offs and invoice cancellations.

This list should include any constraints or limitations on Officers' authorisations.

- 7.4 Transactions will not be processed unless authorisation has been given. Executive Directors must notify any changes in authorised personnel to the Section 151 Officer as soon as reasonably practicable.

Income

Introduction

- 7.5 Effective income collection systems are necessary to ensure that all income due to the Council is identified, collected and banked correctly.

- 7.6 Wherever possible, income should be collected in advance of supplying goods or services, to minimise the time and cost required to administer debts and to avoid bad debts.

- 7.7 A Fees & Charging Policy approved by the Council must be established and reviewed annually by the Section 151 Officer. Cabinet must approve the Fees & Charging Policy. The Fees & Charging Policy should include consideration of:

- whether the charge should be at full cost or subsidised and, if the latter, the proposed level of subsidy;
- who the Council should be charging, and when;
- any concessions to meet the objectives of the Council within the relevant legislation; and
- new Services that can or should be charged for.

- 7.8 It is the responsibility of Executive Directors to ensure that Officers authorised to act on their behalf in respect of income collection are clearly identified.

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

Income collection

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

- 7.11 Executive Directors will, in accordance with guidance issued by the Section 151 Officer, ensure that:

- all money received by, or on behalf of, the Council is paid fully and promptly into the appropriate Council bank account in the form in which it is received;
- income is not used to cash personal cheques or other payments;

- appropriate details are recorded onto paying-in slips to provide an audit trail;
- a record is kept of money received directly by employees of the Council;
- the receiving Officer signs for the transfer of funds, and the transferring Officer retains a copy;
- wherever possible, at least two Officers are present when post is opened so that money received by post is properly identified and recorded (this requirement must be met where post regularly contains money);
- money collected and deposited is reconciled to the appropriate bank account on a monthly basis;
- responsibility for cash collection is separated from responsibility for identifying the amount due and that responsibility for reconciling the amount due is separated from responsibility for handling the amount received;
- cash is only held on premises up to levels approved by the Section 151 Officer, and all such cash is locked away to safeguard against loss or theft, and to ensure the security of cash handling;
- all appropriate income documents are retained and stored for the defined period in accordance with the Council's Information Management policies and guidance; and
- the Section 151 Officer is advised of outstanding income relating to the previous financial year as soon as possible after 31 March, and in line with the timetable for closure of the accounts determined by the Section 151 Officer.

Debt recovery

- 7.12 Amounts owed to the Council will be recorded by billing the customer or client in accordance with the Council's income management framework.
- 7.13 Executive Directors will ensure that arrangements are in place within their Directorate that define who is empowered to raise a debt on the Council's behalf.
- 7.14 Once debts are raised, Executive Directors must assist the Section 151 Officer with collection, recovery and enforcement of those debts by responding promptly to queries and assisting with disputes in compliance with the timelines set out in the Council's Income Collection and Debt Recovery Strategy.

Writing off debts

- 7.15 Executive Directors will critically review outstanding debts on a regular basis, in conjunction with the Section 151 Officer, and take prompt action to write off debts no longer deemed to be recoverable.
- 7.16 No bona fide debt may be cancelled, other than by formal write off. Debts will only be written off if:
- the debtor is deceased, insolvent or has absconded;

- the debt is statute barred;
- it is uneconomical to pursue the debt; or
- the debt is uncollectable after exhausting all reasonable options.

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

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

7.19 The Service Manager – Income and Assessments and/or Head of Finance Transactional Services will advise the Section 151 Officer and impacted Budget Managers on a monthly basis of the debts written off using their delegated powers.

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

Credit notes

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

7.22 Credit notes will not be issued:

- for irrecoverable debts, in which case the formal write off procedure should be followed;
- where the debtor cannot afford to pay at that time, in which case the debt should remain, and revised payment terms agreed, as appropriate; and
- where a debt is to be recovered through deductions from payments. in which case the deductions made should be offset against the debtor and this should be the first course of action.

7.23 Credit notes will be subject to the approval of the Service Manager – Income and Assessments or the Head of Finance Transactional Services, in consultation with the Executive Director or relevant Budget Manager, as appropriate.

Purchasing and procurement

Introduction

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

- what is being procured;

- the value of the procurement; and
- the contract terms.

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

7.26 Compliance with the Council's procedures is mandatory and helps to ensure that Best Value is obtained from its purchasing arrangements.

Purchasing via corporate contracts

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

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

Procurement

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

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

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

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

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

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

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

7.34 Where a third party is procuring goods, work or services on behalf of the Council, the relevant Officer(s) must ensure that the third party is aware of and complies with the Council's procurement procedures (including the Contract Procedure Rules, where appropriate).

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

Ordering and paying for work, goods and services

Orders for work, goods and services

7.36 Orders for work, goods and services must:

- be in a form approved by the Section 151 Officer;
- be raised via one of the Council's Purchase-to-Pay systems and issued to the supplier prior to receipt of goods or services or commencement of works save for periodic payments such as rent, or rates, and payments made from petty cash or using a purchase card;
- not be raised for any personal or private purchases; and
- be authorised in accordance with the Constitution and in accordance with the Financial Limits Annex and the Procurement Thresholds Annex.

7.37 Where an order is issued to reflect a procurement decision taken by Members, the order may be authorised by the relevant Budget Manager.

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

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

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

Authorised signatories

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

7.42 Where the primary approver is not the Budget Manager, the primary approver must be in the line management hierarchy of the Budget Manager so that all requisitions are escalated through the primary approver's line management hierarchy until reaching the person with the relevant delegated approval limit.

7.43 Executive Directors will identify in each case the delegated limits of the primary and other approvers below the relevant Budget Manager, and the other Officers to whom a primary or other approver can delegate their approval rights. An approver may only reassign their authorisation rights to an Officer with an equivalent or higher delegated limit to their own and delegations should be recorded in the form prescribed by the Section 151 Officer.

7.44 No one may authorise an order unless they are satisfied that:

- they have the delegated power to commit the expenditure;
- the work, goods and services ordered are appropriate and needed;
- there is adequate budgetary provision;
- where a suitable corporate mandated contract exists, this has been used; and
- where there is no corporate mandated contract, the Contract Procedure Rules have been adhered to.

Receipt of work, goods and services

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

Payment of suppliers

- 7.48 For items ordered via the Council's Purchase to Pay system, the Section 151 Officer will make payments from the Council's funds upon receipt of an original, certified copy, or valid electronic VAT invoice, provided that:
- a valid purchase order number is quoted on the suppliers' invoice; and
 - confirmation of receipt of the work, goods or services has been provided and the invoice is consistent with the receipted amount.
- 7.49 Invoices received which do not quote an approved purchase order number are not valid and will be returned to the supplier unpaid.
- 7.50 The Section 151 Officer will also make payments from the Council's funds upon receipt of an original, certified copy, or valid electronic VAT invoice that has been checked, coded and certified in accordance with the thresholds set out in Rule 7.39, confirming that:
- the receipt of goods or services to the correct price, quantity and quality standards;
 - the invoice has not previously been paid;
 - expenditure has been properly incurred and is within Budget provision;

- prices and arithmetic are correct and accord with quotations, Tenders, contracts or catalogue prices;
 - discounts have been taken, where available; and
 - the correct accounting treatment of tax has been applied.
- 7.51 Payments to creditors will be made as soon as possible within agreed payment terms in order to avoid late payment charges under the Late Payment of Commercial Debts (Interest) Act 1998, as amended by the Late Payment of Commercial Debts Regulations 2013.
- 7.52 Any invoice in dispute with a supplier must be clearly identified and processed in accordance with guidance issued by the Section 151 Officer.
- 7.53 **It is not permissible to make a payment in advance of the delivery of works, goods or services, or to vary the Council's standard settlement terms, other than with the prior approval of the Section 151 Officer.**
- 7.54 Executive Directors will notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute / court order where there is no budgetary provision. In such cases, appropriate budget provision should be sought, either by way of a virement (see Rules 3.13 – 3.15) or supplementary estimate (see Rules 3.16 – 3.23).
- 7.55 The normal methods of payment by the Council are:
- BACS payments direct into suppliers' bank accounts; and
 - Purchase Card (in accordance with the Council's Purchase Card Policy).
- 7.56 In exceptional circumstances, where suppliers are unable to accept payment via BACS, cheques will be issued by the Section 151 Officer. The use of direct debits to make payments will require the prior agreement of the Section 151 Officer.
- 7.57 All appropriate evidence of the transaction and payment documents will be retained and stored in accordance with the Council's Information Management policies and guidance.
- 7.58 Executive Directors must advise the Section 151 Officer, at the end of each financial year, of outstanding expenditure relating to the financial year just ended, in line with the timetable for closure of the accounts determined by the Section 151 Officer.
- 7.59 The Council will publish a record of all payments to suppliers on its website on a monthly basis in accordance with the Local Government Association's 'Local transparency guidance – publishing spending and procurement information'.

Contracts for construction and alterations to buildings / civil engineering works

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

Payments to staff and Members

Salaries

- 7.61 Staff appointments will be made in accordance with the Council's Recruitment and Selection Policy and supporting policies, establishments, grades and scales of pay.
- 7.62 The Section 151 Officer is responsible for all payments of salaries and overtime to staff (with the exception of those schools that have the delegated power to procure their payroll function from elsewhere). The Section 151 Officer will:
- arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with prescribed procedures, on the due date; and
 - record and make arrangements for the accurate and timely payment of tax, pensions and other deductions.
- 7.63 The Section 151 Officer is responsible for ensuring that there are adequate arrangements for administering pension matters on a day-to-day basis.
- 7.64 Executive Directors must ensure that effective systems and procedures are operated, so that:
- payments are only made to bona fide employees;
 - payments are only made where there is a valid entitlement;
 - conditions and contracts of employment are correctly applied; and
 - employees' names and contact details listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 7.65 The Section 151 Officer will advise upon the employment status of individuals employed on a self-employed consultant or sub-contract basis.

Expenses and allowances

- 7.66 The Section 151 Officer is responsible for the payment of certified expense claims submitted by employees that are made in accordance with the Council's travel and subsistence policy.
- 7.67 Certification of travel and subsistence claims is taken to mean that journeys were authorised, and expenses properly and necessarily incurred for business purposes, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved.
- 7.68 The Section 151 Officer is also responsible for the payment of Members' travel or other allowances. Members' expenses must be claimed in accordance with the provisions set out in the Members' Allowance Scheme (as set out in Chapter 11 of the Constitution).
- 7.69 The Section 151 Officer will ensure that taxable allowances and benefits are accounted for, recorded and returned, where appropriate, to HM Revenue and Customs. Details of any employee benefits in kind must be notified to the Section 151 Officer to enable full and complete reporting within the income tax self-assessment system.

7.70 Due consideration should be given to tax implications, ensuring that advice is sought, and the Section 151 Officer is informed where appropriate.

Ex-gratia payments

7.71 Ex-gratia payments are one-off payments made to an employee or former employee as a gesture of goodwill, without a legal or contractual obligation to do so. They include compromise and other payments made for loss of office.

7.72 Ex-gratia payments can be made to employees or former employees subject to obtaining approval as set out in the Financial Limits Annex. Any such ex-gratia payments should be reported to the Section 151 Officer.

7.73 The circumstances of the proposed payment must not have the effect of circumventing other Council pay and allowance policies, tax rules or other legislation.

Taxation

7.74 The Section 151 Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, as a consequence of its own activities, or indirectly, as a result of service delivery through external partners.

7.75 To enable the Section 151 Officer to fulfil the requirements of this role, Executive Directors will ensure that:

- the Section 151 Officer is consulted on all proposals that may alter or affect the Council's tax liability, including proposals to implement alternative service delivery and payment models (as outlined in Rule 8.1);
- the VAT guidance issued by the Section 151 Officer is complied with (i.e., to ensure that the correct liability is attached to all income due and that all amounts recoverable on purchases can be claimed);
- where construction and maintenance works are undertaken, the sub-contractor fulfils the necessary construction industry tax scheme requirements (as advised by the Section 151 Officer); and
- the Section 151 Officer's guidance on fee payments to consultants, individuals and partners is complied with.

7.76 The Section 151 Officer will be responsible for the Council's tax records, making all tax payments, receiving tax credits, and submitting tax returns by their due date, as appropriate.

Emergency payments

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

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

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

Transparency

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

Electronic payments

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

8. Rule 8 – External Arrangements

Alternative service delivery models

Introduction

- 8.1 Alternative service delivery models may be considered, including but not limited to:
- outsourcing Service provision to the private or voluntary sector, or to another public sector organisation;
 - spinning out a service to a separate independent enterprise;
 - enabling joint working with other public sector bodies;
 - facilitating working with the private or voluntary or public sector, or a combination thereof; or
 - using a company owned by the Council or by another local authority.
- 8.2 There is no one best or dominant model for service delivery. It is necessary to consider any proposals to use an alternative delivery model on a case-by-case basis. However, an alternative delivery model may only be pursued and established in compliance with the decision-making process outlined in Rule 8.4.

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

Business cases for alternative delivery vehicles

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

- governance arrangements for the partnership;
- risk and opportunity management and risk sharing agreements, including the risk of service failure;
- financial administration, cash management and accounting arrangements;
- pensions risk;
- taxation implications;
- human resources implications;
- the transfer of assets and liabilities;
- insurance arrangements; and.
- legal implications.

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

8.6 Executive Directors are responsible for consulting the Section 151 Officer and ensuring that Cabinet approval for an alternative delivery vehicle is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

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

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

- the arrangements for financial record keeping, accounting, billing customers and paying suppliers, tax, pensions, banking and cash management;
- the arrangements to ensure that the Council will maintain adequate oversight and assurances over the financial performance of the alternative delivery vehicle;

- an assessment of the financial and non-financial risks, together with the plans to mitigate those risks, including consideration of the financial and reputational impact of failure to deliver Services, with clear plans on how this would be addressed;
- the financial commitments the Council will make (including to provide cash management, working capital and longer-term loan funding and/or financial guarantees), and details of any other financial implications for the Council arising as a consequence of the proposed alternative delivery model;
- arrangements for providing any information required for the Council's Statement of Accounts to the Section 151 Officer;
- audit requirements (both internal and external) and arrangements for the Council's External Auditors and Internal Auditors, where relevant, to have access to information.
- the governance arrangements for decision making, and how these will be carried out to ensure that the services provided remain aligned to those of the Council;
- performance measurement arrangements.;
- any proposals to transfer Council assets to the alternative delivery vehicle, and the arrangements for safeguarding their title and use;
- whether equality, sustainability, recruitment and employment practices, data handling and protection, freedom of information principles, standards and behaviour and arrangements for engaging with citizens and service users are aligned to the Council's legal requirements and policies;
- the pensions arrangements for employees of the alternative delivery vehicle, especially if Council employees are transferring to the alternative delivery vehicle;
- Where the proposal is for a local authority trading company, the proposed policy and decision-making process for the retention or distribution of profits, including agreement of a dividend policy should that sets out the process by which decisions will be taken regarding the retention or distribution of profits; and
- exit arrangements and, if relevant, what would be done to ensure services continue to be delivered in the event of non-delivery by the alternative delivery vehicle.

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

Partnerships

Context

8.10 Partnerships include any arrangements where the Council agrees to undertake, part fund, or participate in a project with other bodies, either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Shared services with other public bodies, including section 75 agreements entered into under the Health Act 2003, or similar arrangements, are classed as partnerships. It does not include situations where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project.

8.11 It is important to understand and distinguish between a partnership in this context and a supplier who the Council may refer to as a 'partner' due to the status that the Council has contractually awarded to it. Irrespective of the title applied to it, this latter type of partnership is a supplier relationship, which will be entered into in accordance with, and governed by, the Contract Procedure Rules and the Council's Procurement Guide.

Forming of partnerships

8.12 The approval of both the Section 151 Officer and the Monitoring Officer is required before the Council enters into any formal partnership agreement. The approval of the Section 151 Officer must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership. This is to ensure that the:

- legal status and financial viability of the arrangement are clearly established and that they are acceptable to the Council;
- the Council's financial commitment to the partnership is quantified and can be accommodated within the existing Budget;
- financial and corporate governance arrangements in place for the partnership are robust and acceptable from the Council's perspective;
- the Council is not exposed to undue financial, legal or reputation risk as a result of its involvement in the partnership; and
- the Council's own financial accounting and reporting requirements can be satisfied.

8.13 A partnership agreement must be produced that documents each of the matters listed in Rule 8.12, as well as the arrangements for dispute resolution and for exiting from the arrangement.

8.14 Cabinet is responsible for approving delegations and frameworks for all partnerships.

8.15 Executive Directors will ensure that:

- the approval of the Section 151 Officer and the Monitoring Officer is obtained prior to entering into a partnership agreement;
- an appraisal is undertaken which demonstrates that the risks associated with the arrangement are minimal, or that appropriate arrangements are in place to mitigate any such risks;
- the partnership agreement and arrangements will not impact adversely on the Services provided by the Council or on its finances;

- the proposed financial contribution by the Council to the partnership can be met from existing Budget provision; and
- Cabinet approval is secured for all delegations and frameworks for the proposed partnership.

Delegation of budget to a partnership

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

Financial administration

8.17 Where the Council is the 'Accountable Body' for a partnership, these Finance Procedure Rules and the Constitution will apply to decisions relating to the spending by that partnership. All expenditure must be authorised by an appropriate Officer, or by someone else who has a statutory power to authorise such expenditure. Executive Directors are responsible for ensuring that the Council is promoting and applying the same high standards of financial administration to any partnership as those that apply to the Council.

8.18 The Council must adhere to all relevant legislation, regulations and statutory guidance in relation to partnership arrangements.

8.19 Whenever any such arrangements are made, there must be a written document which clearly establishes the responsibilities of the respective partners for managing the arrangement and the resources made available to the partnership.

8.20 This document must also set out the arrangements in respect of unspent funding at each year end (unless this is to be returned to the Council as unspent money) and for addressing any overspend. The Council cannot carry underspent partner contributions forwards from one financial year to another if this is contrary to the partner's own financial procedure rules.

8.21 Executive Directors must provide information on the partnership arrangements to the Section 151 Officer, in order that the appropriate disclosures can be made within the Council's annual Statement of Accounts.

Documenting and recording of partnership agreements

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

8.23 Executive Directors must also ensure that partnership arrangements meet all applicable assurance, performance and audit requirements.

Representing the Council

- 8.24 Executive Directors will ensure that the Council has full oversight of the operation of any partnership arrangement. This will usually be by Officer support and by Members holding positions on the relevant 'partnership board'.
- 8.25 Executive Directors will ensure that appropriate Officer input is provided to support Members in this role, and that all decisions made by the Council are discharged as permitted within the Scheme of Delegation.

External funding (grants and other contributions)

Funding conditions

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

Accounting for external funding

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

External funding claims

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

Third party expenditure

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

Work by the Council for other organisations

Approval to contractual arrangements

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

- approving the contractual arrangements for any work undertaken by their Directorate for third parties or external bodies;
- ensuring that the appropriate expertise exists to fulfil the contract; and
- ensuring that no contract adversely impacts upon the Services provided by the Council.

Financial aspects of third-party contracts

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

8.35 Executive Directors will:

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

Documenting and recording contracts

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

FINANCIAL LIMITS ANNEX

1. KEY DECISIONS

The following will be Key Decisions:

Approver	Financial Threshold	Conditions
As set out in the Scheme of Delegations	Expenditure or savings with financial implications of up to £500,000	
Chief Executive or Executive Director	<p>Expenditure or savings with financial implications of £500,000 or more</p> <p>AND/OR</p> <p>The decision is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral wards in the area of the Council.</p>	<p>A written report setting out the justification for the decision must be produced by relevant Officers and reviewed by the Decision Taker.</p> <p>The Decision Taker must consult the relevant Commissioner and Cabinet Member, or in their absence, the Leader, about the decision.</p> <p>The decision must be:</p> <ul style="list-style-type: none"> • reported to Cabinet for information; • published on the Council's website in accordance with the Access to Information Procedure Rules; and • circulated to the relevant Overview and Scrutiny Committee for review.

The Key Decision Threshold will be reviewed annually as part of the Budget setting process.

2. AUTHORISATIONS AND APPROVALS

RESERVES

(Rule 2.28 of the Finance Procedure Rules)

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

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

(Rules 3.14, 3.15 and 3.48 of the Finance Procedure Rules)

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

REPROFILING OF CAPITAL EXPENDITURE

(Rule 3.51 of the Finance Procedure Rules)

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

CHANGES TO CAPITAL PROGRAMME

(Rule 3.54 of the Finance Procedure Rules)

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

SETTLING INSURANCE CLAIMS

(Rule 5.17 of the Finance Procedure Rules)

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

PROPERTY TRANSACTIONS, INCLUDING INVESTMENT PROPERTY AND ASSET DISPOSALS

(Rules 6.22 and 6.23 of the Finance Procedure Rules)

Threshold	Minimum approval level	Consultation
Operational and surplus properties		
Up to £250,000	Assistant Director Property and FM	
Above £250,000 and up to £1m	Executive Director Place	Executive Member of Place, Cabinet Member for Finance, Section 151 Officer and Monitoring Officer
£1m and above	Cabinet	Cabinet Member for Property and Cabinet Member for Finance, Section 151 Officer, Monitoring Officer and Commissioner
Investment properties		
Up to £250,000	Section 151 Officer	Head of Property
Above £250,000 and up to £500,000	Section 151 Officer	Head of Property
Above £500,000 and less than £2m	Section 151 Officer	Cabinet Member for Finance
£2m and above but less than £5m	Cabinet Member for Finance	Leader and Section 151 Officer
£5m and above	Cabinet	Cabinet Member for Finance, Leader and Section 151 Officer

DISPOSAL OF OTHER ASSETS

(Rule 6.30 of the Finance Procedure Rules)

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

STOCK WRITE OFF

(Rule 6.36 of the Finance Procedure Rules)

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

LOANS TO THIRD PARTIES

(Rule 6.45 of the Finance Procedure Rules)

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

DEBT WRITE OFF

(Rule 7.17 of the Finance Procedure Rules)

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

ORDERS FOR WORK, GOODS AND SERVICES

(Rule 7.39 of the Finance Procedure Rules)

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

EX-GRATIA PAYMENTS

(Rule 7.72 of the Finance Procedure Rules)

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

Ex gratia payments should be limited to £100,000

EMERGENCY PAYMENTS

(Rule 7.78 of the Finance Procedure Rules)

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

Details of all emergency payments should be reported to Cabinet for information as soon as practicable.

DELEGATION OF BUDGET TO A PARTNERSHIP

(Rule 8.16 of the Finance Procedure Rules)

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

3. OTHER

CAPITAL EXPENDITURE – DE MINIMIS

(Rule 2.36 of the Finance Procedure Rules)

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

4. CONTRACT FORMALITIES

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

Part 4 – Indemnities for Members and Officers

1. Introduction

- 1.1 By the nature of their roles, councillors and officers of local authorities are potentially exposed to liability when acting on behalf of the authority. Statute provides certain protections for councillors and officers from personal liability and allows local authorities to indemnify councillors and officers in respect of liability and associated costs, in certain circumstances.
- 1.2 Local authorities are also permitted to take out insurance to protect the authority in the event that a councillor or an officer's actions or inactions give rise to a claim.

The Council indemnifies its Members and Officers on the terms set out in this Part 4. Terms of Indemnity

- 1.3 Subject to the exceptions set out below, the Council will indemnify each of its Members and Officers against any loss or damage suffered by the Member or Officer arising from their action or failure to act in their capacity as a Member or Officer of the Council. For the purposes of this indemnity, a "Member" includes an elected Member of the Council, a co-opted Member of a committee of the Council and the Independent Person.
- 1.4 This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
- (a) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Member or Officer;
 - (b) any act or failure to act by the Member or Officer otherwise than in their capacity as a Member or Officer of the Council;
 - (c) any failure by a Member to comply with the Members' Code of Conduct.
- 1.5 Subject to the exceptions set out below, the Council will indemnify each of its Members and Officers against reasonable costs which they may incur in securing appropriate legal advice and representation in respect of any civil or Criminal Proceedings or Code of Conduct Proceedings to which they are subject in relation to their action or failure to act in their capacity as a Member or Officer of the Council. For the purposes of this section 1.5:
- (a) "Criminal Proceedings" includes any interview or investigation by the police, and/or any proceedings before a criminal court, in the United Kingdom.
 - (b) "Code of Conduct Proceedings" means any investigation or hearing in respect of an alleged failure to comply with the Members' Code of Conduct.
- 1.6 This indemnity will not extend to any advice or representation in respect of any claim or threatened claim in defamation to be brought by a Member or Officer, but will extend to the defence of a claim for defamation by a Member or Officer.
- 1.7 Where any Member or Officer avails themselves of this indemnity in respect of defending themselves against any Criminal Proceedings or Code of Conduct Proceedings and , in

respect of the matter in relation to which the Member or Officer has made use of this indemnity:

- (a) the Member or Officer is convicted of a criminal offence in consequence of such proceedings; or
- (b) a Case Tribunal or Standards and Audit Committee determine that the Member has failed to comply with the Members' Code of Conduct; and the conviction or determination is not overturned on appeal,

the Member or Officer shall reimburse any expenditure incurred by the Council under the indemnity.

1.8 Where the Council arranges insurance to cover its liability under this indemnity, the requirement to reimburse in section 1.7 shall apply as if references to the Council were references to the insurer.

1.9 For the purpose of these indemnities, loss or damage is deemed to have arisen to the Member or Officer in their capacity as a Member or Officer of the Council where:

- (a) the act or failure to act was outside the powers of the Council, or outside the powers of the Member or Officer, but the Member or Officer reasonably believed that the act or failure to act was within their powers or within the powers of the Council (as appropriate) at the time that they acted or failed to act, as the case may be;
- (b) the act, or failure to act, occurred not in the discharge of the functions of the Member or Officer as a Member or Officer of the Council but in their capacity as a member or employee of another organisation, where the Member or Officer was, at the time of the act or failure to act, a member or employee of that organisation either:
 - (i) in consequence of their appointment as such member or employee of that organisation by the Council, or
 - (ii) in consequence of their nomination for appointment as such member or officer of that organisation by the Council, or
 - (iii) as a result of the Council's specific approval of their appointment as such member or employee of that organisation for the purpose of these indemnities.

1.10 The Council undertakes not to sue (or join in action as co-defendant) an Officer in respect of any negligent act or failure to act by the Officer in their capacity as an Officer of the Council, subject to the following exceptions:

- (a) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Officer; or
- (b) any act or failure to act by the Officer otherwise than in their capacity as an Officer of the Council.

- 1.11 These indemnities and undertakings will not apply if a Member or Officer, without the express permission of the Council or of the appropriate Officer of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the indemnity.
- 1.12 These indemnities and undertakings are without prejudice to the rights of the Council to take Disciplinary Action against an Officer in respect of any act or failure to act.
- 1.13 These indemnities and undertakings apply retrospectively to any act or failure to act which may have occurred before the date on which these indemnities come into force and shall continue to apply after the Member or Officer has ceased to be a Member or Officer of the Council as well as during their term as a Member of, or their employment by, the Council (as applicable).

Part 5 – Protocol for recording of Council, Cabinet, Committee and Sub-Committee meetings

1. Introduction

- 1.1 This protocol has been produced to assist the conduct of the recording of meetings and to ensure that, in doing so, the Council is compliant with its obligations under the Data Protection Legislation and the Human Rights Act 1998.
- 1.2 Accordingly, the following will apply to all meetings to be recorded by the Council.

2. Main provisions

- 2.1 Subject to any exclusion set out in this protocol, all Council, Cabinet, Committee and Sub-Committee meetings will be recorded for transmission and publication on the Council's website.
- 2.2 The Chair of the meeting may request that any part of a recording may not be published to the Council's website if, in their opinion, the recording would prejudice the proceedings of the meeting for any of the following reasons:
 - (i) public disturbance or other suspension of the meeting;
 - (ii) exclusion of public and press being proposed and agreed by the Council, the Cabinet, a Committee or Sub-Committee; or
 - (iii) any other reason proposed, seconded and supported by the Council, the Cabinet, a Committee or Sub-Committee and recorded in the Minutes of the meeting.

In such circumstances, Democratic Services will stop the recording as directed by the Chair and recorded in the minutes of the meeting. Any meeting, or part thereof, to which this section applies, shall not be published on the Council's website.

- 2.3 The proceedings of exempt or confidential agenda items may be recorded but shall not be published to the Council's website. Any such recordings will be held securely by Democratic Services. Recordings shall be edited so that non-exempt / non-confidential parts of such a meeting are made available to the public in the usual way.
- 2.4 Subject to paragraph 2.5 below, all recordings will be available on the Council's website for a minimum of 12 months from the date of the meeting.
- 2.5 Archived recordings, or parts thereof, shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law doctrine, for example Data Protection Legislation or the Human Rights Act 1998 or provisions relating to confidential or exempt information.

If the Monitoring Officer has decided to take such action, they must notify all Members in writing of their decision and include the reasons for this as soon as possible. The Council

anticipates that the need to exercise the power set out above will occur only on an exceptional basis.

- 2.6 Any Member who is concerned about any recording that has been made, including any that has not already been published on the Council's website, should raise their concerns with the Monitoring Officer or, in their absence, the Deputy Monitoring Officer.
- 2.7 Any concerns raised by a Member or a member of the public in respect of an audio recording being taken at a particular meeting should be brought to the attention of the Chair or a member of Democratic Services in attendance at the meeting.

3. Agenda and Signage at Meetings

- 3.1 On each Agenda for a meeting, and on signs to be displayed inside and outside the Council Chamber and each of the committee rooms, there will be displayed the following notice:

Recording Notice

Please note that this meeting may be recorded for transmission and publication on the Council's website. At the start of the meeting the Chair will confirm if all or part of the meeting is to be recorded.

You should be aware that, for this purpose, the Council is a Data Controller under Data Protection legislation. Data collected during this recording will be retained in accordance with the Council's Information Management Policy.

Members of the public not wishing any speech or address they may make to be recorded for publication to the internet should contact Democratic Services to discuss their concerns.

The Council will not publish any part of a recording where members of the public have made it known that they do not wish to appear in any broadcast.

If you have any queries regarding this, please contact the Democratic Services Manager on 01375 652 082.

4. Meetings of the Planning Committee, Licensing Committee and other 'quasi-judicial' hearings

- 4.1 This section 4 applies to meetings of the Planning Committee, the Licensing Committee and any other quasi-judicial hearings conducted by the Council.
- 4.2 In any correspondence notifying applicants, licence holders, supporters or objectors, or anyone who has registered to speak at a meeting, of the meeting date on which a particular application will be heard, the following advice will be included if the meeting is to be recorded:

"Please note that meetings of Thurrock Council, its Cabinet, Committees and Sub-Committees may be recorded for subsequent broadcast via the Council's website.

"If you do not wish your speech to be recorded for publication to the internet, please contact Democratic Services to discuss your concerns.

"The Council will not publish any part of a recording where members of the public have made it known that they do not wish to appear in any broadcast."

5. Conduct of Meetings

- 5.1 At the start of each meeting to be recorded, an announcement will be made to the effect that the meeting is being recorded and that the Chair may also terminate or suspend the recording of the meeting, in accordance with this protocol.

This will be confirmed by the Chair making the following statement or one to like effect:

"I would like to remind everyone present that this meeting will be recorded for publication on the Council's website and will normally be available within 3 working days of the meeting."

6. Transcription

- 6.1 The Council will not provide transcripts of the recordings or any extracts from them. The minutes of the meeting are the official record of proceedings.

Part 3 – Council-owned Companies

Introduction

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

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

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

Considerations for setting up a Council-owned Company

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

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

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

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

Project plan for setting up a Council-owned Company

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

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

Council-owned Company governance

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

Integrity and Accountability

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

In addition:

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

Controls and Freedoms

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

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

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

Councillors

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

Councillors should be mindful of:

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

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

Officers

Officers should also be aware of Council-owned Company governance and should ensure that it is complied with effectively and that the Lawyers in Local Government Code of Practice and the CIPFA local authority owned companies good practice guide are followed. The Section 151 Officer will provide monthly financial report packs including cash flow and P&L forecasts to the Senior Leadership Team for their review.

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

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

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

Decision Making

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

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

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

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

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

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

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

The Board

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

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

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

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

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

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

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

Scrutiny

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

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

Conflicts of interest

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

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

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

Client-side management

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

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

Access to Information

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

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

Documentation

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

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

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

Reporting

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

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

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

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

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

Changing the nature of a Council-owned Company

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

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

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

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

Reviewing Council-owned Company arrangements

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

Appendix

Good practice governance checklist for Council-owned Companies:

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

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

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

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

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Chapter 2 – Full Council

This Chapter of the Constitution sets out:

- Part 1 – the role and functions of Full Council and the role of the Mayor;
- Part 2 – the rules of procedure that govern how the Council operates (“Council Procedure Rules”); and
- Part 3 – details of the functions that are required to be discharged by Full Council, and those which the Council has decided should be within its remit.

Full Council refers to a meeting of Council Members. In Thurrock, there are 49 Members who represent 20 electoral Wards.

This body is ultimately responsible for making decisions on behalf of the Council. However, in practice, many decisions are delegated to Committees, other smaller groups of Members, or Officers.

For the meanings of capitalised terms used in this Chapter, see Chapter 1.

Part 1 – Full Council and the Mayor

Full Council

1. Membership

Full Council comprises the 49 Members of the Council.

2. Role of Full Council

Full Council is a forum where Members meet to discuss and debate issues of importance to Thurrock and decide the Council's Budget and Policy Framework.

3. Functions of Full Council

Full Council has the following functions:

- (a) subject to Chapter 1, Part 2, section 3.4 (which allows the Monitoring Officer to amend the Constitution in certain circumstances), adopting and changing the Constitution;
- (b) approving and adopting the Council's Budget and Policy Framework;
- (c) approving an application to the Secretary of State in respect of any housing land transfer¹;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about the discharge of an Executive Function which is covered by the Policy Framework and which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget;
- (e) electing and removing the Leader;
- (f) agreeing and/or amending the terms of reference for Committees, deciding their composition and appointing Members to serve on them;
- (g) appointing representatives to Outside Bodies, unless the appointment is an Executive Function or has been delegated by the Council to another Council body or an Officer;
- (h) adopting a scheme for Members' allowances for the purposes of Chapter 11 of the Constitution;
- (i) changing the name of the area;
- (j) appointing or dismissing the Head of Paid Service;

¹ Housing land transfer means the approval or adoption of applications (whether in draft form or otherwise) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person or to dispose of land used for residential purposes where approval is required under relevant legislation.

- (k) making, amending, revoking, re-enacting or adopting bylaws, and promoting or opposing the making of local legislation or personal bills;
- (l) all other functions which the Council lawfully decides should be undertaken by itself rather than the Leader / Cabinet and which are set out in this Chapter 2; and
- (m) all other matters which, by law, must be reserved to Full Council.

4. Council meetings

Council meetings will be conducted in accordance with the Council Procedure Rules in Part 2 of this Chapter 2.

5. Responsibility and delegation of functions

The Council may arrange for the discharge of any of its functions (save those reserved to Full Council by law) by a Committee, a Sub-Committee or by an Officer. Similarly, a Committee may delegate any of its functions to a Sub-Committee or an Officer, and a Sub-Committee may delegate any of its functions to an Officer.

6. Budget and Policy Framework

- 1.2 The Budget and Policy Framework sets out the plans, policies and strategies that are reserved under statute to Council for determination.
- 1.3 Other plans, policies and strategies requiring approval that are not included in the Budget and Policy Framework and are not otherwise reserved by law to the Council will be the responsibility of the Cabinet.
- 1.4 The Council, usually at its Annual Meeting, is responsible for adopting the Budget and Policy Framework.
- 1.5 The Cabinet is responsible for the implementation of the Budget and Policy Framework.
- 1.6 The elements of the Budget and Policy Framework which are reserved to Council (both by law and as determined by the Council) are set out in Part 3 of this Chapter 2.
- 1.7 The process for developing the Budget and Policy Framework is set out in the Budget and Policy Framework Procedure Rules in Part 3 of Chapter 3 of the Constitution.

The Mayor

1. Election

The Council will elect the Mayor annually at its Annual Meeting.

2. Mayor's term of office

The Mayor will remain in office until:

- (a) the election of their successor at the next Annual Meeting, notwithstanding that they may cease to be a Councillor by reason of non-re-election;
- (b) their ceasing to be a Councillor by virtue of being disqualified from office; or
- (c) their removal from office by a resolution of Council.

3. Mayor's functions and responsibilities

The Mayor has the following functions and responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary (taking advice from the Monitoring Officer, as appropriate);
- (b) to preside at Council meetings so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to exercise a second and casting vote at Council meetings in the event of a tied vote;
- (d) to ensure that Council meetings are a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Leader / Cabinet to account;
- (e) to act as "first citizen" of the borough;
- (f) to promote public involvement in the Council's activities;
- (g) to be the Council's conscience;
- (h) to attend such civic and ceremonial functions as they, and the Council, decide is appropriate; and
- (i) to decide (in the absence of the Chair of the relevant Overview and Scrutiny Committee) whether a decision that:
 - (i) is not contained in the Forward Plan and has not been submitted with **5 Clear Days'** notice; or
 - (ii) concerns a plan or strategy forming part of the Budget or Policy Framework and would be contrary to the Policy Framework or, contrary or not wholly in accordance with, the Budget,

is so urgent that the Cabinet should take the decision.

4. Deputy Mayor

In the Mayor's absence, their functions and responsibilities (with the exception of acting as "first citizen") will be exercised by the Deputy Mayor.

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Part 2 – Council Procedure and Rules

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TYPES OF MEETING AND THEIR BUSINESS

1. Types of Council meeting

1.1 There are 3 types of Council meeting:

- (a) the Annual Meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings.

1.2 Council meetings will be conducted in accordance with the Council Procedure Rules set out in this Part 2.

1.3 These Council Procedure Rules apply equally to Committee and Sub-Committee meetings, save where the Constitution provides otherwise.

2. Annual Meeting of the Council

Date of Annual Meeting

2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting shall take place within **21 days** of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.

2.2 The date of an Annual Meeting will be determined by resolution of the Council, or in the absence of such resolution, by the Chief Executive and notified in writing to all Members.

Business of the Annual Meeting

2.3 The Annual Meeting will:

- (a) elect a person to preside at the meeting if neither the Mayor nor the Deputy Mayor is present or able to act;
- (b) receive any apologies for absence from Members;
- (c) approve the minutes of the last meeting;
- (d) elect a Mayor for the ensuing municipal year;
- (e) consider any urgent business;
- (f) elect a Deputy Mayor for the ensuing municipal year;
- (g) receive any declarations of interest from Members;

- (h) elect a Leader of the Council in any year in which the Leader's term of office expires²;
- (i) receive any announcements from the Mayor or the Leader;
- (j) appoint at least one Overview and Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to Full Council nor are Executive Functions;
- (k) agree the Scheme of Delegation, or such part of it as the Constitution determines it is for Full Council to agree;
- (l) receive nominations for, and make appointments to, those outside bodies to which Full Council is entitled to appoint;
- (m) approve a programme of ordinary meetings of Full Council for the coming municipal year including a meeting to determine the Budget and Policy Framework; and
- (n) consider any business set out in the notice convening the meeting.

Selection of Members to sit on Committees

2.4 At the Annual Meeting, Full Council will:

- (a) decide which Committees to establish for the municipal year;
- (b) decide the size and terms of reference for those Committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules; and
- (d) receive nominations of Members to serve on each Committee.

3. Ordinary meetings

Postponing and cancelling ordinary meetings

- 1.2 The Mayor may cancel or postpone an ordinary meeting before a public notice of the meeting is issued if:
- (a) after consultation with the Chief Executive, they consider that there is insufficient business to transact at the meeting; or
 - (b) an event occurs which they consider would make it inappropriate to hold the meeting on the intended date.

² Rule 2.4(h) above will apply only at Annual Meeting following an election or following the removal or death or incapacity or resignation of the Leader.

They may also postpone a meeting if, after consultation with the Chief Executive, they consider that circumstances make it impossible for a meeting to be held as convened. In these circumstances, the meeting will be held on a date agreed with Group Leaders.

Business of ordinary meetings

1.3 Business at ordinary meetings will be to:

- (a) appoint a person to preside at the meeting if neither the Mayor nor the Deputy Mayor is present or able to act;
- (b) receive any apologies for absence from Members;
- (c) approve the minutes of the last meeting;
- (d) consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency;
- (e) receive any declarations of interest from Members;
- (f) receive any announcements from or on behalf of the Mayor or the Leader;
- (g) answer questions from members of the public in accordance with **Rule 16**;
- (h) receive petitions from Members and from members of the public in accordance with **Rule 15**;
- (i) make any appointments that fall to be made to Committees, Outside Bodies, statutory and other panels;
- (j) deal with any business deferred from the last Council meeting;
- (k) receive any reports from Committees;
- (l) receive reports from the Statutory Officers;
- (m) receive reports from Cabinet or from Cabinet Members³;
- (n) receive any reports from the Chairs of Overview and Scrutiny Committees;
- (o) answer questions from Members in accordance with **Rule 16**;
- (p) receive reports about the business of Outside Bodies from Members and Officers attending as the Council's representatives on those Outside Bodies;
- (q) receive for information the minutes of Committee meetings; and
- (r) consider motions from Members in accordance with **Rules 17 and 18** and the rules of debate set out in these Council Procedure Rules.

³ The rules concerning receipt of reports are set out in **Rule 19**.

2. Extraordinary meetings

Calling extraordinary meetings

2.1 Those listed below may require the Chief Executive to call an extraordinary meeting:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) a Statutory Officer; and
- (d) any 5 Members where they have presented a signed requisition specifying the business to be considered at the meeting to the Mayor, and the Mayor has refused, or has failed within **7 Clear Days** of the presentation of the requisition, to call a meeting.

2.2 The Chief Executive shall arrange a meeting of Council to be held within **20 Clear Working Days** of receipt of such request.

Business of extraordinary meetings

2.3 Business at extraordinary meetings of the Council shall be restricted to:

- (a) appointing a person to preside at the meeting if neither the Mayor nor the Deputy Mayor is present and able to act;
- (b) receiving apologies for absence from Members;
- (c) receiving any declarations of interest from Members;
- (d) considering any business set out in the notice convening the meeting; and
- (e) considering any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency.

MEETING PRACTICALITIES

3. Time and place of meetings

Council meetings will take place at **7pm** on the scheduled date and will be held in the Council Chamber (unless the Council decides otherwise).

4. Notice of summons to meetings

4.1 The Chief Executive will give notice to the public of the date, time and place of any Council meeting in accordance with the Access to Information Rules.

4.2 At least **5 Clear Days** before a meeting, the Chief Executive will email a summons to every Member. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

5. Chair of meeting

Person presiding at a meeting

5.1 When the Mayor is present and able to act at a meeting, they will preside at the meeting and act as Chair. In their absence, the Deputy Mayor will preside. If neither the Mayor, nor the Deputy Mayor is present and able to act, a Member will be elected to preside at the meeting.

5.2 The person presiding at a meeting may exercise any power or duty of the Mayor. Where these Council Procedure Rules apply to Committee and/or Sub-Committee meetings, references to the Mayor include references to the relevant Chair.

Appointing a Chair in the absence of the Mayor and Deputy Mayor

5.3 Where it is necessary to appoint a Member to preside at a meeting, the Chief Executive (or, in their absence, an Officer acting on their behalf) will invite nominations for a Chair of the meeting. Members will vote for a Chair who will duly preside at the meeting (or a particular item, as the case may be).

5.4 If there is an equality of votes, the meeting will be adjourned for 15 minutes, then reconvened for a second vote. If there is still an equality of votes, the Chair will be chosen by drawing lots.

6. Quorum

6.1 The quorum for Full Council is **17**.

6.2 If, during a Council meeting, the Mayor counts the number of Members present and declares that there is not a quorum present, the meeting shall be adjourned to a date, time and place determined by the Mayor. If no date is fixed, the remaining business of the meeting will be considered at the next ordinary meeting.

7. Order of business

7.1 Where the Monitoring Officer considers that the report or consideration of any item or items of business at a meeting is likely to disclose confidential or exempt information, they may group any such items together on the agenda for convenience.

7.2 The Mayor may vary the order of business set out in these Council Procedure Rules at any meeting, except in respect of:

- (a) Rule 2.4 (a) to (g) at the Annual Meeting;
- (b) Rule 3.4 (a) to (e) at an ordinary meeting; and
- (c) Rule 4.4 (a) to (c) at an extraordinary meeting.

8. Record of Attendance

8.1 All Members present during the whole or any part of a meeting must sign their names on the attendance sheet provided before the conclusion of the meeting.

9. External speakers

9.1 The Mayor may invite such speakers as they consider appropriate to address a Council meeting.

9.2 All Members will be given proper notice of any speaker's invitation. Members may, where appropriate, lodge, with notice, written questions to the speaker.

10. Duration of meetings

Time allowed for meetings

10.1 Subject to the provisions of this Rule 11, the maximum time allowed to complete the business of a Council meeting is **3 hours**.

Termination of meetings

10.2 If the business of the meeting has not been concluded within 3 hours of its start time, the Mayor must interrupt the meeting and the Member speaking must stop immediately.

10.3 The Mayor will then immediately and without debate take a vote on the item under discussion (including any amendment).

Disposal of remaining business

10.4 Subject to Rule 12.5 below, if there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without debate.

10.5 Where a notice of motion submitted under Rule 17 falls to be dealt with under Rule 12.4, the Member giving the notice may either:

- (a) speak to the motion for not more than **3 minutes** before the motion is put to the vote by the Mayor without debate; or
- (b) require that the motion is deferred to the next available meeting and dealt with as business deferred from the previous meeting.

10.6 During the process set out in Rule 12.4, the only motions which may be moved are:

- (a) that a matter be delegated or referred to an appropriate body or individual for decision or report; and
- (b) that a matter be deferred to the next meeting.

10.7 Voting on remaining motions shall be in accordance with these Council Procedure Rules including those relating to recorded votes.

10.8 Subject to Rule 12.9, when all the other motions or recommendations have been dealt with, the Mayor may, at their absolute discretion, allow a further **15 minutes** to be added to the meeting to discuss the minutes of Committees and take questions from Members on them.

10.9 The maximum amount of time allowed for the disposal of remaining business is **30 minutes**.

Close of the meeting

10.10 When all motions and recommendations have been dealt with or the 30 minutes allowed under Rule 12.9 have passed (whichever is sooner), the Mayor will declare the meeting closed.

Example agenda for ordinary meeting

Agenda
Open to Public and Press

1 Appointment of Chair in the absence of the Mayor and the Deputy Mayor

2 Apologies for absence

3 Minutes

Approval of minutes from previous meeting(s).

4 Items of urgent business

To consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency.

5 Declaration of interests

To receive any declaration of interests from Members.

THE ORDER OF BUSINESS FOR ITEMS 1-5 MAY NOT BE VARIED

6 Announcements on behalf of the Mayor or the Leader of the Council

7 Questions from members of the public

In accordance with Rule 16.

Time Limit: 45 minutes

8 Petitions from Members and members of the public

In accordance with Rule 15.

9 Appointments to Committees and Outside Bodies, statutory and other panels

10 Business deferred from previous meeting

11 Reports from Committees

12 Reports from Statutory Officers

13 Reports from Cabinet and Cabinet Members

14 Questions from Members

In accordance with Rule 16.

Time Limit: 45 minutes

15 Reports from Members representing the Council on Outside Bodies

16 Minutes of Committees

For noting.

17 Motions

In accordance with Rules 17 and 18 and the rules of debate set out in the Council Procedure Rules.

TOTAL TIME: 3 HOURS

18 Disposal of remaining business

Dealing with motions yet to be debated and any other remaining business.

Time Limit: 30 minutes (including time for item 19)

19 Discussion of, and questions on, Committee meeting minutes

At the discretion of the Mayor.

Time Limit: 15 minutes

CLOSE

TOTAL TIME FOR MEETING: 3 HOURS 30 MINUTES

11. Declarations of interest

Member interests

- 11.1 Members must, when requested during a Council meeting, and in accordance with the Members' Code of Conduct, declare any interest they have in any matter which is included on the agenda for that meeting.

Withdrawal from a meeting for disclosable pecuniary interests

- 11.2 Where a Member has a disclosable pecuniary interest in any matter to be considered at a Council meeting, they must withdraw from the meeting, including from the public gallery, for the duration of the consideration of the matter unless they have been granted a dispensation to speak and/or vote on the matter in accordance with the Members' Code of Conduct.

12. Minutes

Approving Council meeting minutes

- 12.1 The Mayor will, at the next suitable meeting, move that the minutes of the previous meeting be signed as a correct record. The minutes may not be discussed or debated, save to correct an inaccuracy. If approved by the meeting, the Mayor will then sign the minutes.

No requirement to sign minutes of previous meeting at extraordinary meeting

- 12.2 Where a meeting is followed by an extraordinary meeting, its minutes shall not be tabled at that extraordinary meeting but shall be approved and signed at the next Council meeting which is not an extraordinary meeting.

Form of minutes

- 12.3 Minutes of a meeting shall record all motions and amendments in the exact form in which the Mayor put them to the meeting.

PETITIONS AND QUESTIONS

13. Petitions

Rules for petitions

- 13.1 A petition organiser may request the opportunity to present their petition to the Council in accordance with the Council's rules relating to petitions. These rules can be found on the Council's website at <https://www.thurrock.gov.uk/petitions/rules-for-submitting-petition>.
- 13.2 A petition must:
- (a) identify the petition organiser and be accompanied by their contact details, including an address;
 - (b) contain the name, valid address and signature of at least 10 people who are registered to vote in the borough;
 - (c) include a clear and concise statement covering the subject of the petition setting out what action the petitioners wish the Council to take;
 - (d) relate to a matter for which the Council has responsibility, and which affects the Council or its area; and
 - (e) not, in the opinion of the Monitoring Officer:
 - (i) be trivial, defamatory, offensive;
 - (ii) be substantially the same as a petition which has been considered under these Rules within the previous **12 months**;
 - (iii) name or clearly identify a Council employee; or
 - (iv) involve the disclosure of confidential or exempt information.

Notice of petitions

- 13.3 Notice of a petition must be submitted to the Monitoring Officer no later than **12 noon 1 Clear Working Day before the Council meeting** at which it will be presented.

Presentation of petitions

- 13.4 Petitions may be presented to the Council by the petition organiser, or by another signatory of the petition, or a Member, on behalf of the petition organiser.
- 13.5 A maximum of **3 minutes** is permitted for a person to present a petition to the Council.

Petitions with 1,500 signatures

- 13.6 If a petition has 1,500 signatures, it may qualify for debate by Full Council. If the petition is debated, the person presenting it will have **5 minutes** to address the Council and Members will have a maximum of **15 minutes** to debate the petition.

Petitions with 750 signatures

- 13.7 If a petition has 750 signatures, the petition organiser may request that a senior Officer gives evidence at a public meeting about something for which they are responsible to explain:
- (a) the progress that has been made; and
 - (b) the advice that has been given to Members.
- 13.8 All other petitions will be referred to the Cabinet, the relevant Cabinet Member, or the relevant Committee for consideration. The relevant Cabinet Member or Committee Chair will have the opportunity to speak for up to **1 minute** to acknowledge the petition.

14. Questions

Submission of questions

- 14.1 Any resident of the Council's area, and any Member, may submit a question addressed to:
- (a) the Leader;
 - (b) a Cabinet;
 - (c) the Chair of any Committee or Sub-Committee; or
 - (d) a Member appointed to represent the Council on a Joint Committee.
- 14.2 Questions must be submitted in writing to the Monitoring Officer and must be received by Democratic Services **by 5pm at least 6 Clear Working Days before a Council meeting**⁴.

Nature of questions

- 14.3 Questions must relate to a matter which affects the Council or residents of the Council's area and in relation to which the Council has powers. They must also name the individual to whom they are addressed.
- 14.4 Questions must be concise and clearly worded and must not extend into a statement. They must relate to a single proposition and may not contain more than one part.

Number of questions

- 14.5 Members of the public may only submit **1 question** for any Council meeting and may not ask or submit questions on behalf of other members of the public.
- 14.6 Subject to Rule 16.7 below, Members may submit a **maximum of 2 questions**. Members may not ask or submit questions on behalf of other Members.

Exclusion of questions

⁴ For example, for a Council meeting on a Wednesday, the deadline for receipt of a question would be 5pm on the Monday of the week before the meeting is due to be held.

- 14.7 The Monitoring Officer will copy the question to the person to whom it is addressed and place it on the agenda for the next meeting of Council unless, in their opinion the question:
- (a) does not comply with the requirements of this Rule 16;
 - (b) is defamatory, frivolous or offensive;
 - (c) is substantially the same as a question which has been previously received and answered within the last **3 months**, and there has been no significant and relevant change of circumstances since the previous question was answered; or
 - (d) in the case of a question from a member of the public, requires the disclosure or confidential or exempt information.
- 14.8 Where a question from a Member requires disclosure of confidential or exempt information, the Monitoring Officer will add it to an exempt part of the meeting agenda.

Order of questions

- 14.9 Questions will be listed on the meeting agenda, and will be answered during the meeting, in the order that they are received.

Responses to questions

- 14.10 A response may take the form of:
- (a) a direct oral answer (which may be followed by a more detailed written response, if required);
 - (b) where the requested information is in a Council publication or other published work, a reference to that publication; or
 - (c) where a response cannot be conveniently given orally, for example because of the absence of the questioner, a written response.

Supplementary questions

- 14.11 Questioners attending the meeting in person may ask **1 supplementary question**. This must relate directly to the question, or the response provided. The person who answered the initial question shall respond to the supplementary question.

Withdrawal of questions

- 14.12 Members may withdraw a question they have submitted:
- (a) by giving notice in writing to the Monitoring Officer before the meeting agenda is published;
 - (b) by notice in writing to the Monitoring Officer after the meeting agenda has been published but before the meeting; or
 - (c) at the meeting before it is put to the person to whom it is addressed.

Time limit for questions

- 14.13 The time limit for all questions from members of the public is **45 minutes**.
- 14.14 The time limit for all Member questions is **45 minutes**.
- 14.15 Where a question is not dealt with at the meeting, the person to whom the question is addressed shall provide a written answer as soon as practicable and **no later than by the date of the next meeting**.

Questions without notice

14.16 Any Member may question:

- (a) the Leader;
- (b) a Cabinet Member; or
- (c) the Chair of a Committee,

about an item of report or recommendation they have presented at a Council meeting. Notice is not required for these questions.

MOTIONS

15. Motions on notice

Notice of motions

- 15.1 Except for motions which can be moved without notice under Rule 18, written notice of every motion must be delivered to the Monitoring Officer **by 5pm at least 6 Clear Working Days before the date of the meeting.**
- 15.2 Motions will be made available for public inspection by the Monitoring Officer.

Content of motions

- 15.3 A motion must relate to a matter for which the Council is responsible, or which affects the Council or the Council's area.
- 15.4 A notice of motion may be accompanied by a statement of up to **200 words** setting out the reason for the proposed motion.
- 15.5 The Monitoring Officer may reject a notice of motion if, in their opinion:
- (a) it does not comply with the requirements of Rule 17.3 above;
 - (b) it is defamatory, frivolous or offensive;
 - (c) the recommendation in the notice of motion would be illegal; or
 - (d) the notice of motion is substantially the same as a question that has been received previously and answered within the past **12 months**, and there has been no significant and relevant change of circumstances since the previous question was answered.

Motions requiring a supporting report

- 15.6 The Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure, or to contract terms, unless it has received a report from the Chief Finance Officer and/or the Monitoring Officer, as appropriate, setting out the financial and/or legal effect of the motion.
- 15.7 Where a Member submits a notice of motion which would require an accompanying report under Rule 17.6, they shall at the same time provide the Chief Finance Officer and/or the Monitoring Officer with sufficient supporting information to enable them to prepare the accompanying report.
- 15.8 Where a motion which would require an accompanying report under Rule 17.6 falls to be moved without such accompanying report being made available to all Members of Council, the motion shall stand adjourned without debate to the next available meeting of Council.

Motions set out in the agenda

- 15.9 Motions for which notice has been given will be listed on the meeting agenda in the order in which notice was received and will be dealt with in the meeting in that order, unless the

Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

- 15.10 Where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.

Time limit for motions on notice

- 15.11 Subject to the time limit set out in Rule 12, there is **no time limit** for moving and debating motions on notice.

Automatic reference of motions to Cabinet or a Committee

- 15.12 If the subject matter of a motion is within the remit of the Cabinet or a Committee, upon being moved and formally seconded, it shall stand referred without discussion to the Cabinet or relevant Committee for consideration and the relevant body will report to the Council as soon as practical. At that time, the motion shall be considered by Council with any such report, which shall include any appropriate risk assessments.

- 15.13 The Council may permit a motion to be dealt with at the meeting at which it is brought forward, provided that the subject matter is urgent or that it is appropriate to deal with the matter, subject to proper information being provided to support the motion.

- 15.14 If a motion referred to in Rule 17.12 has been moved, the mover shall be entitled to speak in introducing it when it is considered by the Council either at the same meeting (if agreed as above) or at the next meeting when the report of the Cabinet or a Committee is also submitted.

16. Motions without Notice

- 16.1 The following motions may be moved without notice:

- (a) to appoint a person to preside at the meeting at which the motion is moved;
- (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 elect a Leader or to appoint any other Member to a position of authority, i.e., Chair of a Committee, where a vacancy exists in such office⁵;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;

⁵ Rule 17.1 (e) above will apply in respect of the Leader only at the Annual Meeting following an election, or following the removal or death or incapacity or resignation of the Leader.

- (g) to receive reports or adoption of recommendations of the Cabinet, Committees or Officers and to pass any resolutions following from them;
- (h) to withdraw a motion;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to suspend a particular Council Procedure Rule for a period not exceeding the duration of that meeting;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further from a Member named under Rule 24.5 or to exclude them from the meeting under Rule 24.6; and
- (q) to move an urgent motion where the Mayor has given consent under Rule 18.2

Urgent notices of motion

- 16.2 The Mayor shall have absolute discretion, in exceptional circumstances, to accept urgent written notices of motion that cannot reasonably await the next meeting of the Council. This Rule does not apply to motions of no confidence.

Motions of No Confidence

- 16.3 Motions of no confidence in any office holder must be carried by a majority **(25)** of all Members.

Motion to remove the Leader

- 16.4 A motion to remove the Leader must be signed by **15 Members**. Such a motion must be on notice and must be approved, without amendment, by the Council.
- 16.5 If the Council passes such a resolution, a new Leader is to be elected:
- (a) at the meeting at which the Leader is removed from office; or
 - (b) at a subsequent meeting.
- 16.6 The Deputy Leader will carry out the role and duties of the Leader until a new Leader is elected.

17. Reports and recommendations

Persons entitled to make reports and recommendations

17.1 The following persons may make a report and recommendations to the Council:

- (a) the Mayor;
- (b) the Leader;
- (c) a Cabinet Member;
- (d) the Chair of Standards and Audit Committee;
- (e) the Monitoring Officer;
- (f) a Proper Officer;
- (g) any other Officer reporting in accordance with a statutory obligation; and
- (h) a Member or Officer reporting as the Council's representative on any statutory body or authority.

Delivery of reports

17.2 Except in cases of urgency, such person shall report by delivering the report and recommendation to the Monitoring Officer at least **10 Clear Working Days** before the meeting.

Presenting reports

17.3 A person presenting a report is permitted to address Council for **3 minutes** and will answer any questions from Members on the report.

18. Rules of debate

No debate until motion or amendment is seconded

18.1 A motion or an amendment may be debated only after it has been seconded by another Member. Where a report is for noting, a seconder is not required.

Right to require motion or amendment in writing

18.2 Unless notice of a motion or amendment has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

Content and length of speeches

18.3 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

- 18.4 No speech moving a motion may exceed **5 minutes** and no other speech (including on a motion to amend made by the proposer of a motion) may exceed **4 minutes** without the consent of the Mayor.
- 18.5 The Leader, a Cabinet Member, or the Chair or Vice Chair of a Committee, who is presenting a report to Council or moving the adoption of minutes or recommendations may speak for **5 minutes**.
- 18.6 At the meeting of Council at which the authority's Budget is proposed, the Leader shall be allowed **20 minutes** to set out their priorities or to propose the Budget, and a further **10 minutes** to respond to any speech. The Leader of the Opposition shall be allowed **15 minutes** to reply to a Leader's speech (but not to the response).

When a Member may speak again

- 18.7 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) to second formally a motion or amendment, having reserved the right to speak later;
 - (b) to speak once on an amendment moved by another Member;
 - (c) to move a further amendment if the motion has been amended since they last spoke;
 - (d) 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 they spoke was carried);
 - (e) in exercise of a right of reply;
 - (f) on a point of order; and
 - (g) by way of personal explanation.

Amendments to motions

- 18.8 An amendment to a motion must be relevant to the motion and may be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration; or
 - (b) to leave out words;
 - (c) to leave out words and add or insert others,
- as long as the effect of (b) or (c) is not to negate the motion.
- 18.9 An amendment must not:
- (a) be a direct negative of a motion; or

- (b) seek to introduce into the motion a new issue unrelated to the subject dealt with in the motion.
- 18.10 Any amendment must be in writing and submitted to the Monitoring Officer by no later than **12 noon on the day of the meeting**, except:
- (a) with the consent of the Mayor;
 - (b) amendments to motions which have been moved without notice; or
 - (c) amendments to recommendations arising from Officers' reports.
- 18.11 Amendments shall be taken in the order in which they have been moved (unless the Mayor determines otherwise for the efficient running of business). 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.
- 18.12 If an amendment is not carried, other amendments to the original motion may be moved.
- 18.13 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.
- 18.14 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, putting it to the vote.

Alteration of motion

- 18.15 A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 18.16 A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. If the seconder is not present, another Member may second the altered motion on their behalf. The meeting's consent will be signified without discussion.
- 18.17 Only alterations which could be made as an amendment may be made.

Withdrawal of motion

- 18.18 A motion may be withdrawn by the Member who submitted it:
- (a) by notice in writing to the Monitoring Officer before the agenda is published;
 - (b) by notice in writing to the Monitoring Officer after the agenda has been published but before the meeting; or
 - (c) at the meeting in person before it has been moved.
- 18.19 A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. If the seconder is not present, another Member may consent to the withdrawal on their behalf. 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.

Right of reply

- 18.20 The mover of a motion has a right to reply at the end of the debate on a motion immediately before it is put to the vote.
- 18.21 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.

Motions which may be moved during debate

- 18.22 When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw that motion;
 - (b) to amend that 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) to exclude the public and press in accordance with the Access to Information Rules; and
 - (h) not to hear further a Member named under Rule 24.5, or to exclude them from the meeting under Rule 24.6.

Closure motions

- 18.23 A Member may move, without comment, any one of the following motions at the end of a speech of another Member:
- (a) to proceed to the next business;
 - (b) that the question be now put;
 - (c) to adjourn a debate; or
 - (d) to adjourn a meeting.

Motion to proceed to next business

- 18.24 If a motion to proceed to next business is seconded and the Mayor considers that the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 18.25 If the procedural motion is carried, the meeting will proceed to the next item of business without any further debate.

Motion that the question be now put

- 18.26 If a motion that the question be now put is seconded and the Mayor considers that the item has been sufficiently discussed, they will put the procedural motion to the vote.
- 18.27 If the procedural motion is carried, the Mayor will give the mover of the original motion a right of reply before putting their motion to the vote.

Motion to adjourn

- 18.28 If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Mayor considers that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 18.29 A Member may raise a point of order at any time. The Mayor will hear them 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 they consider it has been broken. The ruling of the Mayor on the matter will be final.

Personal explanation

- 18.30 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 have been inaccurate or appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

19. Previous decisions and motions

Motion to rescind a previous decision

- 19.1 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past **6 months** may not be moved except:
- (a) upon a recommendation from the Leader or Cabinet for a variation of the approved Budget or Policy Framework; or
 - (b) where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law, or due to a material change of circumstances.

Motion similar to one previously rejected

- 19.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past **6 months** cannot be moved unless the notice of motion or amendment is signed by at least **5 Members**. Once the motion or amendment is dealt with, no Member may propose a similar motion or amendment for a further **6 months**.

20. Voting

Majority

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

Motions in several parts

20.2 Where a motion is in several parts, the vote shall be taken on the whole motion, unless the Mayor, at their discretion, determines that each part shall be taken separately, or the meeting so resolves.

Mayor's casting vote

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

Show of hands or electronic voting

20.4 The Mayor may choose to take a vote on a show of hands. In all other cases, they shall take a vote by use of such electronic voting system as may be available.

Recorded vote

20.5 If any **5 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.

Right to require individual vote to be recorded

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

Voting on the Budget

20.7 At a Budget decision meeting of the Council, immediately after any vote is taken, the names of Members who voted for or against the decision, and who abstained from voting, must be recorded in the minutes.

20.8 A "Budget decision meeting" is a meeting of Full Council at which it:

- (a) makes a calculation (whether original or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or
- (b) issues a precept under Chapter 4 of Part 1 of that Act.

Voting on appointments

20.9 If there are more people nominated for any position(s) than there are position(s) to be filled and there is not a clear majority of votes in favour of the required number of people, the

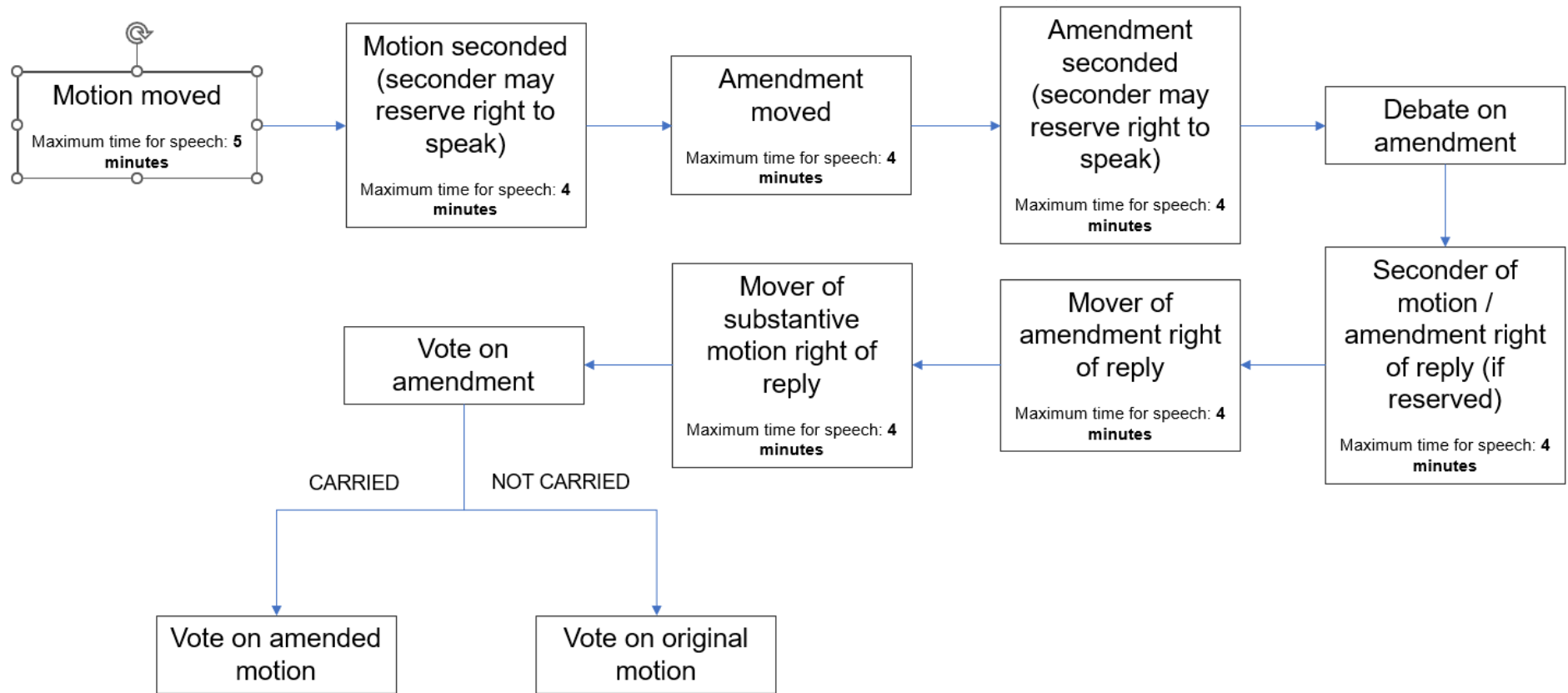
name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

- 20.10 Where there is an equality of votes for a person to continue in the appointment process, a vote shall be taken between those candidates having an equality of votes to determine which candidate shall continue in the appointment process.

Voting on changes to the electoral cycle of the Council

- 20.11 Notwithstanding Rule 22.1, two-thirds **(33)** of the Members present at an extraordinary meeting must vote in favour of a recommendation to change to whole-council elections for the resolution to be approved.

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CONDUCT OF MEETINGS

21. Exclusion of Public and Press

Members of the public and press may only be excluded either in accordance with the Access to Information Rules or Rule 25 below.

22. Members' Conduct

Order of Speeches

22.1 Subject to the rules of debate in Rule 20, the Mayor shall have absolute discretion as to the order in which they call Members to speak.

Members speaking at a meeting

22.2 When a Member speaks at a Council meeting, they shall address the meeting through the Mayor. If more than one Member wishes to speak, the Mayor shall call a specific Member to speak and all other Members shall cease speaking. Members must not speak while any Member is speaking, except a Member to signify their intention to make a point of order or a point of personal explanation

Mayor speaking

22.3 When the Mayor enters or leaves the Council Chamber, all Members shall stand if they are able to do so. When the Mayor speaks during the course of the meeting, all Members shall cease speaking.

Telephones and electronic equipment

22.4 Each Member shall ensure that their mobile telephone and other electronic equipment is silent during any meeting and that their use of such equipment does not interfere with the proper conduct of the meeting.

Member not to be heard further

22.5 If a Member disregards the ruling of the Mayor by behaving improperly or offensively or obstructs the conduct of the meeting, the Mayor may warn the Member as to their conduct. If the Member persists in behaving improperly or offensively or deliberately disrupts the conduct of the meeting despite such warning, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

Member to leave the meeting

22.6 If the Member continues to behave improperly after such a motion is carried, the Mayor 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.

General disturbance

22.7 If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

23. Disturbance by public

Removal of member of the public

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

Clearance of part of meeting room

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

24. Admission to and reporting of meetings

- 24.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:

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

- 24.2 If, at any time during the meeting, the Mayor feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in Rules 24.4, 24.7, 25.1 and 25.2 will apply.

- 24.3 In any instance where the press and public have been excluded from the meeting in accordance with the Council Procedure Rules, they must not report on the meeting using methods which:

- (a) can be used without that person's presence at the meeting, and
- (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

25. Suspension and amendment of Council Procedure Rules

Suspension of Council Procedure Rules

- 25.1 All of these Council Procedure Rules except Rules 13.2 and 21.6 (which are mandatory) may be suspended by motion on notice or without notice if at least two-thirds (**33**) of all Members are present. Any such suspension applies only for the duration of the meeting.

Rule 13.2 – No requirement to sign minutes at extraordinary meeting

Rule 21.6 – Right to require individual vote to be recorded

Amendment of Council Procedure Rules

- 25.2 Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the appropriate Committee to consider and report back to Council at the next ordinary meeting of the Council.

26. Interpretation of Council Procedure Rules

The ruling of the Mayor as to the construction or application of any of these Rules shall not further be challenged at any meeting of the Council.

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Part 3 – Responsibility for Council functions

1. Functions reserved to Full Council under statute

The following functions are reserved to Full Council under statute:

Budget and Policy Framework

- 1.1 Approving which plans and strategies shall form the Council's Policy Framework, requesting the Cabinet to prepare a draft (or draft amended) plan or strategy, and approving (or approving amendments to) the plans and strategies contained within the Policy Framework.
- (a) The Council has resolved that the following plans and strategies shall comprise the Policy Framework (as required by law):
 - (i) Crime and Disorder Reduction Strategy;
 - (ii) Local Transport Plan;
 - (iii) Licensing Authority Policy Statement under the Licensing Act 2003 and Gambling Act 2005;
 - (iv) Plans with Development Plan Document Status;
 - (v) Corporate Plan;
 - (vi) Health and Well-Being Plan; and
 - (vii) Council vision and priorities
 - (b) In addition to the above, the Council has resolved that the following plans and strategies shall comprise the Policy Framework although not required by law:
 - (i) any plan, policy or strategy that must be approved by the Council and submitted to the Secretary of State or a Minister of the Crown for approval; and
 - (ii) such other plans, policies and strategies as the Council may decide to adopt.
- 1.2 Approving the Budget, including:
- (a) approving the General Fund Budget and Capital Programme
 - (b) noting the Housing Revenue Accounts Budget;
 - (c) establishing contingency funds;
 - (d) setting the Council Tax;
 - (e) making decisions relating to the control of the Council's borrowing requirement;

- (f) approving the annual Investment Strategy and Treasury Management Strategy;
and
- (g) approving the annual MRP policy;

The technical decision of agreeing the Collection Fund Balance and Council Tax base is an Officer responsibility.

- 1.3 Subject to the urgency procedure contained in the Access to Information Procedure Rules, making any Executive decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget.

The Constitution

- 1.4 Approving and amending the Constitution.

Committees

- 1.5 Agreeing and/or amending the terms of reference for Committees including any Area or Joint Committees discharging non-Executive Functions, deciding on their composition and making appointments to them.
- 1.6 Appointing Independent Person(s) for the Standards and Audit Committee.

Members

- 1.7 Agreeing and/or amending the terms of the Local Code of Conduct for Members pursuant to the Localism Act 2011.
- 1.8 Adopting a Members' Allowances Scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 following advice from an independent remuneration advisory panel comprising up to 5 non-elected Members.

Appointments

- 1.9 Appointing and removing the Leader of the Council from office⁶.
- 1.10 Confirming the appointment or dismissal of the Head of Paid Service.

Elections

- 1.11 Appointing the Returning Officer and Electoral Registration Officer.
- 1.12 Submitting proposals to the Secretary of State under the Representation of the People Act 2000.

Local arrangements

⁶ This applies in respect of the Leader only at the Annual Meeting following an election, or following the removal or death or incapacity or resignation of the Leader.

- 1.13 Making, amending, revoking, re-enacting or adopting bylaws, or promoting or opposing the making of local legislation or personal Bills.
- 1.14 Changing the name of the area or conferring the title of Honorary Alderman or the Freedom of the Borough.

Council functions and structure

- 1.15 Making any decisions in respect of any change to the electoral arrangements for the authority.
- 1.16 Agreeing the cycle of Council meetings.
- 1.17 Exercising any function under a local Act specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Policing

- 1.18 Making arrangements under section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority. Similar arrangements in respect of enabling questions to be put on the discharge of the functions of a fire authority.
- 1.19 Making appointments to the Essex Police Authority under paragraphs 2 to 4 (appointment of Members by relevant Councils) of Schedule Two (police authorities established under Section Three) to the Police Act 1996.

2. Functions which the Council has determined shall be discharged by the Council

The following functions are functions, which the Council has discretion to allocate to Council or to the Cabinet and has determined that they shall be discharged by Full Council:

- 2.1 Determinations under the Essex Act 1987, Part VI, and any bylaws under that Act.
- 2.2 Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land, insofar as it relates to the other functions of the Council.
- 2.3 Obtaining particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976, insofar as it relates to the other functions of the Council.
- 2.4 Except insofar as the Council agrees that they are a matter for the Cabinet, appointing any individual:
 - (a) to any office other than an office in which he is employed by the Council;
 - (b) to any body other than the Council or a Joint Committee of two or more authorities; or

(c) to any committee or sub-committee of such a body,
and the revocation of any such appointment.

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**Thurrock Constitution – Chapter 2 (Council Procedure Rules)
Points for discussion for Member Constitution Working Group**

Rule	Comment
Current Rule 5.4 – Opening of the municipal year debate	<p>We propose that this is deleted as it has not been used since it was added to the Constitution, suggesting that there is no appetite for it.</p> <p>MCWG to confirm agreement to deletion.</p>
Current Rule 7 – State of Thurrock debate	<p>We propose that this is deleted as this type of meeting has never been used.</p> <p>MCWG to confirm agreement to deletion.</p>
Current Rule 8 – Themed meetings	<p>We propose that this is deleted as themed meetings have never been used. Extraordinary meetings could be used for this purpose, if required.</p> <p>MCWG to confirm agreement to deletion.</p>
Current Rule 13.4 / new Rule 12.6 – Disposal of remaining business	<p>There is an inconsistency in current Rule 13. Motions that have not been dealt with in the main part of the meeting are to be moved and voted on <u>without debate</u> (current Rule 13.2).</p> <p>Current Rule 13.4 then says that, during this process, the only motions that may be moved are:</p> <ol style="list-style-type: none"> 1. that the matter be delegated or referred; 2. that the matter be deferred; or 3. <u>motions that may be moved during debate.</u> <p>Is there a particular reason for this or should 3 be deleted?</p>
New Rule 12.9 – Guillotine	<p>We propose that there is a limit on the amount of time that can be added to a meeting for the disposal of remaining business. The time suggested is 30 minutes (meaning that the maximum length of a meeting would be 3 hours 30 minutes).</p> <p>For discussion:</p> <ul style="list-style-type: none"> - Should there be a hard stop for time allocated to disposal of remaining business?

	<ul style="list-style-type: none"> - Is 30 minutes an appropriate period of additional time? - Is 3 hours 30 minutes an appropriate maximum length for meetings?
<p>New Rule 16.11 – Supplementary questions</p>	<p>We propose that Members are limited to 1 supplementary question. This is partly from a timing perspective, and to keep questions focused. The appointment of political assistants should also help with the quality of questions.</p> <p>For discussion:</p> <ul style="list-style-type: none"> - Should Members be limited to 1 supplementary question?

1. Interpretation of the Constitution

1.1 In this Constitution, the following words and phrases have the following meanings, unless the context dictates otherwise:

“Access to Information Procedure Rules”	means the procedure rules in Chapter 8 of the Constitution, which set out rights of access to Council information;
“Annual Governance Statement”	means the Council’s annual statement setting out the effectiveness of its internal control and governance arrangements;
“Annual Meeting”	means the annual meeting of the Council that takes place in accordance with the Council Procedure Rules and makes decisions in relation to the running of the Council for the municipal year;
“Assistant Director / Director”	means an Officer who reports directly to the Chief Executive / Head of Paid Service or to an Executive Director and is designated by them to be an Assistant Director or a Director;
“Best Value”	means the duty placed on the Council to ensure best value in line with its duties under the Local Government Act 1999;
"Budget"	means the Council’s budget as set in accordance with Chapter 3, Part 3, or otherwise set by the Council;
“Budget Manager”	means an Officer who has delegated responsibility for an allocated budget;
"Cabinet"	means the Leader and Cabinet Members meeting as a body;
"Cabinet Member"	means the Leader or another Councillor appointed by the Leader to be a Cabinet Member;
“Cabinet Member for Finance”	means the Cabinet Member whose responsibilities include financial matters and who is designed by the Leader as the Cabinet Member for Finance;
“Cabinet Approval Threshold”	as defined in the Procurement Thresholds Annex;
“Call-in”	means the process by which Executive decisions which have been made but not yet implemented may be “called in” for consideration by the Council’s scrutiny function;
“Capital Programme”	means the programme identifying capital schemes and their cost over time, linked to the Council’s Capital Strategy;

"Capital Strategy"	means the strategy required by CIPFA's Prudential Code to demonstrate how the Council's capital expenditure, capital financial, and treasury management activity contribute to the provision of desired outcomes and take account of stewardship, Value for Money, prudence, sustainability and affordability;
"Chair"	means the chair of the Council or the chair of any meeting, as the context requires;
"Chief Executive"	means the Officer appointed by Council to act as its Chief Executive;
"Chief Finance Officer" / "Section 151 Officer"	means the Officer appointed by the Council to act as its Chief Finance Officer and who will also be responsible for the proper administration of the authority's financial affairs in accordance with section 151 of the Local Government Act 1972;
"Chief Officer"	means the Chief Executive / Head of the Paid Service, Statutory Chief Officers, Executive Directors and any other Officer designated by the Chief Executive / Head of the Paid Service to be a Chief Officer;
"Council-owned Company"	means a company or other entity that is wholly or partly owned by the Council and/or in relation to which the Council is a shareholder;
"Council Procedure Rules"	means the rules governing how the Council operates as set out in Part 2 of Chapter 2 of the Constitution;
"Clear Days"	means a complete period of 24 hours (including weekends and Bank Holidays), excluding the day when notice is given or deemed to be given and the day for which it is to take effect;
"Clear Working Days"	means a complete period of 24 hours (excluding weekends and Bank Holidays), excluding the day when notice is given or deemed to be given and the day for which it is to take effect;
"CIPFA"	means the Chartered Institute of Public Finance and Accountancy;
"Committee"	means any committee of the Council and/or any committee of Cabinet, as the context requires;
"Commissioners"	means the commissioners nominated by the Secretary of State under sections 15(5) and (6) of the Local Government Act 1999 to oversee the Council's functions;
"Council"	means Thurrock Council;
"Councillor"	means a person elected to the Council to represent a Ward;

<p>“Data Protection Legislation”</p>	<p>means:</p> <p>(a) the Data Protection Act 2018 (DPA 2018), the UK General Data Protection Regulation (UK GDPR) and the Privacy and Electronic Communications Regulations (PECR); and</p> <p>(b) any corresponding or equivalent national laws or regulations issued by any relevant regulator, authority, or body responsible for administering data protection (as applicable);</p>
<p>“Debt Reduction Strategy”</p>	<p>means the Council’s strategy for reducing its debt burden</p>
<p>“Decision-Taker”</p>	<p>means any body or person, whether Member or Officer, which is responsible for taking a proposed decision;</p>
<p>“Deputy Chief Officer”</p>	<p>means a deputy chief officer within the meaning of section 2(8) of the Local Government Housing Act 1989;</p>
<p>“Deputy Leader”</p>	<p>means the Cabinet Member nominated by the Leader to hold that officer and notified by the Leader to the Chief Executive in writing;</p>
<p>“Departure Decision”</p>	<p>means a decision which:</p> <p>(a) is or would be contrary to the Policy Framework;</p> <p>(b) or contrary to or not wholly in accordance with the Council’s approved Budget,</p> <p>and is not an Urgent Decision or a Very Urgent Decision;</p>
<p>“Directorate”</p>	<p>means each directorate of the Council which is managed by an Executive Director to deliver services;</p>
<p>“Directorate Scheme of Delegation”</p>	<p>means the scheme of delegation applicable to a particular Directorate, as determined by the relevant Executive Director and notified to the Chief Executive;</p>
<p>“Disciplinary Action”</p>	<p>means any action in relation to an Officer occasioned by misconduct which, if proved, would under the Council’s disciplinary policy, be recorded on the Officer’s personal file, and includes any proposal for the dismissal of an Officer for any reason other than redundancy, permanent ill health or infirmity of mind or body but does not include a failure to renew a fixed term contract unless the Council has undertaken to renew such a contract;</p>

“Executive”	means any part of the Council which is discharging Executive Functions;
“Executive Director”	means an Officer who reports directly to the Chief Executive / Head of Paid Service and is designated by them as an Executive Director;
“Executive Function”	means any function of the Council which is to be discharged by the Executive by virtue of section 13 of the Local Government 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended, or any resolution of Council;
“Executive Leader”	means the Member of the authority who is elected by the Council under sections 44A or 44B, or as may be under section 44C(2), of the Local Government Act 2000 as amended;
“External Audit”	means the independent evaluation of the Council’s financial statements by a third party “External Auditor”;
“Forward Plan”	means the statement of proposed executive Key Decisions prepared by the Executive in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as amended;
“Full Council”	means the body where all Councillors act to exercise the functions of the Council;
“Find a Tender”	means the advertising platform for notices above the PCR Threshold;
“Group”	means a group of two or more Councillors, usually but not necessarily from the same political party, who have identified themselves as a group;
“Group Leader”	means the leader of any Group within the Council;
“Head of Paid Service”	means the Officer appointed by the Council to be the Council’s Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989. The Council’s Head of Paid Service is the Chief Executive;
“Internal Audit”	means independent assurance in relation to the Council’s risk management, governance and internal controls provide by its Internal Audit function;
“Intervention”	means intervention by central government in the Council’s functions pursuant to directions issued by the Secretary of State, including the appointment of Commissioners;
“Invitation to Tender”	means an invitation to submit a Tender in the form required by the Contract Procedure Rules;

“Key Decision”	as defined in the Financial Limits Annex;
“Leader”	means the Councillor for the time being elected by the Council to be the Executive Leader;
“Leader of the Opposition”	means the leader of the largest political group in the Council of which no member is a Cabinet Member;
“Major Contract”	means a contract where a longer duration is required due to the nature of the services (for example, facilities management or processing contracts), as determined by the Head of Procurement;
“Medium Term Financial Strategy” or “MTFS”	means a rolling 3 to 5-year strategy, which considers the financial climate at both the local and national level together with available resources and budgetary pressures to set a medium-term financial strategy. The MTFS focuses on both revenue expenditure and capital expenditure, as well as setting out the Council’s overall financial strategy;
“Member”	means a Councillor, or a person chosen by the Council to serve on a Member body (called a “Co-Opted Member”);
“Minimum Revenue Position” or “MRP”	means the minimum revenue the Council must set aside to repay the principal of its debt;
“Monitoring Officer”	means the Officer designated by Council to be the authority’s Monitoring Officer in accordance with section 5 of the Local Government and Housing Act 1989. The Council’s Monitoring Officer is the Executive Director Corporate Services;
“Non-Executive Function”	means any function of the Council which is to be discharged by any part of the Council other than the Executive by virtue of section 13 of the Local Government Act 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended, and any resolution of the Council;
“Officer”	means all employees engaged by the Council to carry out its functions, including those engaged under short term, agency, contract or other non-employed situations to carry out such functions, to the extent that the Council has included conditions to that effect in any contractual arrangements under which they are working, as well as those employed by the Council on a permanent basis;
“Opposition”	means the largest political group in the Council, no member of which is a Cabinet Member;
“Outside Bodies”	means
“PCR 2015”	means the Public Contracts Regulations 2015;
“PCR Thresholds”	means the financial thresholds set out in the PCR 2015, and above which the procurement procedures set out in the PCR 2015 apply;

“Policy Framework”	means the high-level plans and strategies to be decided by Council, as set out in Chapter 2, Article 4 Paragraph 5;
“Procurement Thresholds Annex	means the Annex setting out the procurement processes and authorisations that apply to spend at certain financial thresholds (including PCR Thresholds);
“Procurement Board”	means the board appointed to review contracts entered into by the Council;
“Procurement Guide”	means the procurement handbook setting out details of the Council’s procurement procedures, as issued by the Head of Procurement from time to time;
“Proper Officer”	means an Officer appointed by the Council to discharge a particular function as set out in section 270(3) of the Local Government Act 1972;
“Prudential Indicators”	means mandatory indicators that local authorities are required to take into account when making capital expenditure plans, including for example, capital financing requirement and total external debt;
“Purchase to Pay”	means the end-to-end purchasing process adopted by the Council;
“Regulatory Provisions”	as defined in Rule 5.1 of the Contract Procedure Rules;
“Reporting on meetings”	as defined in The Openness of Local Government Bodies Regulations 2014 as: (a) filming, photographing or making an audio recording of proceedings at a meeting; (b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; and (c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present;
“Responsible Officer”	means an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council;
“Revenue Budget”	means the Council’s budget for revenue spending in any financial year;
“Scheme of Delegation”	means the Council’s scheme of delegation as set out in Chapter 6 of this Constitution;
“Section 114 Period”	means the period during which financial restrictions relating to a report under section 114 of the Local Government Finance Act 1988 are in force;

“Senior Leadership Team”	means the body comprised of the Council’s most senior officers, and which is responsible for providing strategic oversight of the Council’s operations;
“Service”	means any of the services provided by the Council;
“Service Budget”	means the budget of a particular Service, which forms part of the Budget;
“Service Cabinet Member”	means the Cabinet Member with particular responsibility for a Service area;
“Small Procurement Threshold”	as defined in the Procurement Thresholds Annex;
“Statement of Accounts”	means an annual statement of the Council’s accounts, setting out its financial position for the financial year;
“Statutory Chief Officer”	means the Council’s: <ul style="list-style-type: none"> (a) Chief Executive / Head of the Paid Service; (b) Section 151 Officer; (c) Monitoring Officer; (d) Executive Director of Children's Services; (e) Director of Public Health; and (f) Executive Director Adults, Housing and Health;
“Sub-Committee”	means any sub-committee of a Committee;
“Tender”	means a written offer made by any person (following an invitation from the Council) which can be accepted by the Council to form a binding contract;
“Treasury Management Policy Statement”	means the Council's statement setting out the policies, objectives and approach to risk management of its treasury management activities;
“Treasury Management Practices” or “TMP”	means setting out the manner in which the Council will seek to achieve its treasury management policies and objectives, and prescribing how it will manage and control those activities.
“Treasury Management Strategy”	means the Council’s strategy setting out how it manages its money and any financial risks to ensure that it has sufficient money available to manage its day-to-day business and comprises the Council’s borrowing and investment strategy, Prudential Indicators, and MRP;
“Urgent Decision”	means an executive decision the implementation of which, in the opinion of the Decision-Taker, cannot reasonably be deferred to allow for Call-In;

"Urgent Decision"	means an executive decision, which, in the opinion of the decision-taker is so urgent that it cannot reasonably await the publication of the next Forward Plan before it is taken;
"Value for Money"	means the optimum combination of whole-life cost and quality (or fitness for purpose) to meet statutory duties, which includes consideration of social value.
"Very Urgent Decision"	means an executive decision, which in the opinion of the decision-taker is so urgent that it cannot reasonably await the giving of five clear days' notice to the Chair of the relevant Overview and Scrutiny Committee before it is taken;
"Ward"	means an administrative division of Thurrock served by one or more Councillors.

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PROJECT PLAN

PROJECT TASKS					
TASK	ASSIGNED TO	START	END	DURATION	STATUS
PREPARATION		10-Jan	31-Jan	21	
Project Plan	CIPFA / Council	10-Jan	31-Jan	21	In Progress
Benchmarking	CIPFA	15-Jan	31-Jan	16	Not Started
ENGAGEMENT		29-Jan	01-Feb	3	
Member meetings	CIPFA / Members	29-Jan	01-Feb	3	Not Started
Officer meetings	CIPFA / Officers	29-Jan	29-Jan	0	Not Started
CHAPTERS 2 AND 9		02-Feb	31-Jul	180	
First draft	CIPFA	02-Feb	29-Feb	27	Not Started
OCWG	OCWG	N/A	N/A	1	Not Started
MCWG	MCWG	26-Mar	26-Mar	1	Not Started
Second draft	CIPFA	27-Mar	31-May	65	Not Started
Written comments from MCWG / informal meetings	MCWG	01-Jun	28-Jun	27	Not Started
OCWG	OCWG	24-Jun	24-Jun	1	Not Started
MCWG	MCWG	09-Jul	09-Jul	1	Not Started
Finalise	CIPFA	10-Jul	31-Jul	21	Not Started

STATUS KEY
Not Started
In Progress
Complete
On Hold
Overdue

CHAPTERS 3 AND 7		01-Jun	30-Sep	121	
First draft	CIPFA	01-May	24-May	23	Not Started
OCWG	OCWG	24-Jun	24-Jun	1	Not Started
MCWG	MCWG	09-Jul	09-Jul	1	Not Started
Second draft	CIPFA	10-Jul	26-Jul	16	Not Started
Written comments from MCWG / informal meetings	MCWG	27-Jul	23-Aug	27	Not Started
OCWG	OCWG	19-Aug	19-Aug	1	Not Started
MCWG	MCWG	04-Sep	04-Sep	1	Not Started
Finalise	CIPFA	05-Sep	30-Sep	25	Not Started
CHAPTERS 5, 8 and 12		29-Jun	31-Dec	185	
First draft	CIPFA	01-Jun	19-Jul	48	Not Started
OCWG	OCWG	19-Aug	19-Aug	1	Not Started
MCWG	MCWG	04-Sep	04-Sep	1	Not Started
Second draft	CIPFA	05-Sep	01-Nov	57	Not Started
Written comments from MCWG / informal meetings	MCWG	02-Nov	29-Nov	27	Not Started
OCWG	OCWG	11-Nov	11-Nov	1	Not Started
MCWG	MCWG	10-Dec	10-Dec	1	Not Started
Finalise	CIPFA	11-Dec	31-Dec	20	Not Started
CHAPTERS 1, 10 and 11		24-Aug	28-Feb	188	
First draft	CIPFA	20-Jul	25-Oct	97	Not Started

OCWG	OCWG	25-Nov	25-Nov	1	Not Started
MCWG	MCWG	10-Dec	10-Dec	1	Not Started
Second draft	CIPFA	11-Dec	03-Jan	23	Not Started
Written comments from MCWG / informal meetings	MCWG	04-Jan	24-Jan	20	Not Started
OCWG	OCWG	20-Jan	20-Jan	1	Not Started
MCWG	MCWG	04-Feb	04-Feb	1	Not Started
Finalise	CIPFA	05-Feb	28-Feb	23	Not Started
CONTINGENCY / OVERFLOW					
OCWG meeting	OCWG	TBC	TBC		Not Started
MCWG meeting	MCWG	TBC	TBC		Not Started
OCWG meeting	OCWG	TBC	TBC		Not Started
MCWG meeting	MCWG	TBC	TBC		Not Started

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DELIVERY RISKS

PROJECT RISKS			
RISK	DESCRIPTION	MITIGATION	RAG
Election	Possible delays due to Councillor elections taking place during the project	Election factored into project plan	Medium
Change in personnel	Makeup of MCWG may change as a result of the election	Any new members of MCWG to be brought up to speed and provided with all supporting documentation ASAP	Low
Availability of staff / members	Lack of availability / other work pressures may cause delays if focus is drawn from the project	Project plan provided in advance for staff and members to manage their time	Medium
Insufficient time for review	Staff / members may not have sufficient time to review draft documents and provide input; risk of slippage	Project plan builds in time for review and includes contingency/overflow	Medium
Buy in	Staff / members may not support changes	Engagement up front to ensure buy in; role of OCWG and MCWG built into project plan	Low
Sign off	Delays in sign off process and getting final constitution through full Council	Timing built into project plan	Medium

PRIORITY KEY
High
Medium
Low

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STAKEHOLDERS

STAKEHOLDER ENGAGEMENT			NOTES
PARTICIPANT	ROLE(S)	DESCRIPTION	NOTES
Assie Hussain	Interim MO	Council procedure rules	
Matt Boulter	Head of Democratic, Scrutiny and Member Services	Council procedure rules	Meeting 29/01/2024
Dave Smith	Chief Executive	Council procedure rules	
	Members	Council procedure rules	Meetings 29/01/2024 and 01/02/2024
Cllr Graham Snell Cllr Lynn Worrall Cllr Deborah Arnold Cllr Andrew Jefferies Cllr John Kent Cllr Jocelyn Redsell Cllr Nigel Speight Cllr Lee Watson	MCWG		Meetings: 26/03/2024 09/07/2024 10/12/2024 04/02/2024

Gina Clarke Caroline Robins Noel Filmer Peter Wright Sarah Welton Sarah Hirt Gary Staples Ruth Murdock Joanne Freeman Karen Ind [Possible changes to membership]	OWCG		Meetings: 24/06/2024 19/08/2024 25/11/2024
Gina Clarke	Corporate Governance Lawyer / Deputy MO	Engagement on ethical governance Chapter	TBC
Other specialists		E.g., Planning, Licensing, HR	As required

CONSTITUTION REVIEW - ORDER OF PRIORITY

			CONSTITUTION			NOTES	
STATUS	Present to MCWG	MCWG approval	CHAPTER	PART	DESCRIPTION	RATIONALE	STATUS KEY
Complete	12/12/2023	26/03/2024	Chapter 0		Intervention	Role of commissioners	Not Started
Complete	12/12/2023	26/03/2024	Chapter 9	Part 2	Contract procedure rules	Decision making governance	In Progress
Complete	12/12/2023	26/03/2024	Chapter 12	Part 3	Council-owned companies	Council-owned company governance	Complete
In Progress	12/12/2023	26/03/2024	Chapter 6		Scheme of delegations	Decision making governance	On Hold
In Progress	12/12/2023	26/03/2024	Chapter 9	Part 3	Finance procedure rules	Decision making governance	Overdue
In Progress	26/03/2024	09/07/2024	Chapter 9	Part 1	Rules, codes and protocols	Completion of Chapter 9	
In Progress	26/03/2024	09/07/2024	Chapter 9	Part 4	Indemnities for members and officers	Completion of Chapter 9	
In Progress	26/03/2024	09/07/2024	Chapter 9	Part 5	Protocol for recording of council, cabinet, committee and sub-committee meetings	Decision making governance	
In Progress	26/03/2024	09/07/2024	Chapter 2		The full council	Contains council procedure rules - high priority	
In Progress	09/07/2024	04/09/2024	Chapter 3		The leader and cabinet executive	Contains leader and cabinet procedure rules and budget and policy framework - high priority	
Not Started	04/09/2024	10/12/2024	Chapter 7		Ethical governance	Governance a key priority; contains codes of conduct and member/officer protocol	
Not Started	09/07/2024	04/09/2024	Chapter 5		Committees	Medium priority	
Not Started	04/09/2024	10/12/2024	Chapter 8		Access to information procedure rules	Review timetabling	
Not Started	10/12/2024	04/02/2025	Chapter 12		Partnership arrangements and outside bodies	Medium priority	
Not Started	04/09/2024	10/12/2024	Chapter 1		The constitution	Introduction to constitution - to finalise when constitution has been updated to ensure changes reflected	
Not Started	10/12/2024	04/02/2025	Chapter 10		Officer employment procedure rules	Low priority	

Not Started	10/12/2024	04/02/2025	Chapter 11		Members' allowances	Low priority
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CONSTITUTION CONTENT FOR REVIEW

CONSTITUTION					NOTES
STATUS	CHAPTER	PART	DESCRIPTION	PRIORITY	NOTES
Complete	Chapter 0		Intervention	High	NEW
Not Started	Chapter 1		The constitution		
Not Started	Chapter 1	Part 1	Summary	Low	
Not Started	Chapter 1	Part 2	Articles 1-3, 12, 13, 15, 16	Low	
In Progress	Chapter 2		The full council		
In Progress	Chapter 2	Part 1	Articles 4 and 5	Medium	
In Progress	Chapter 2	Part 2	Council procedure rules	High	
In Progress	Chapter 2	Part 3	Responsibility for council functions	High	
Not Started	Chapter 3		The leader and cabinet executive		
Not Started	Chapter 3	Part 1	Article 7	Medium	
Not Started	Chapter 3	Part 2	Leader and cabinet procedure rules	High	
Not Started	Chapter 3	Part 3	Budget and policy framework procedure rules	High	
Not Started	Chapter 3	Part 4	Functions which the Leader has allocated to the cabinet, cabinet committees or individual cabinet members	High	
	Chapter 4		Overview and scrutiny		Out of scope
	Chapter 4	Part 1	Article 6		Out of scope
	Chapter 4	Part 2	Terms of reference of overview and scrutiny committees		Out of scope
	Chapter 4	Part 3	Scrutiny procedure rules		Out of scope
Not Started	Chapter 5		Committees		

STATUS KEY
Not Started
In Progress
Complete
On Hold

PRIORITY KEY
High
Medium
Low

Not Started	Chapter 5	Part 1	Article 8	Medium	
Not Started	Chapter 5	Part 2	Committee procedure rules	Medium	
Not Started	Chapter 5	Part 3	Planning committee	Low	
Not Started	Chapter 5	Part 4	Licensing committee	Low	
Not Started	Chapter 5	Part 5	Terms of reference of other committees	Low	
Not Started	Chapter 6		Scheme of delegation to officers		
In Progress	Chapter 6	Part 1	Functions which are delegated to officers	High	
In Progress	Chapter 6	Part 2	Statutory functions which are allocated to officers	High	
In Progress	Chapter 6	Part 3	Investment delegations	High	NEW
Not Started	Chapter 7		Ethical governance		Some work done on this (Gina Clarke)
Not Started	Chapter 7	Part 1	Article 9	High	
Not Started	Chapter 7	Part 2	Procedure for making complaints against a councillor for breach of the code of conduct	High	
Not Started	Chapter 7	Part 3	Members' code of conduct	Medium	
Not Started	Chapter 7	Part 4	Officers' code of conduct	Medium	
Not Started	Chapter 7	Part 5	Protocol for member and officer relations	High	
Not Started	Chapter 7	Part 6	Politically restricted posts	Low	
Not Started	Chapter 8		Access to information procedure rules	Low	
Not Started	Chapter 9		Rules, codes and protocols		
Not Started	Chapter 9	Part 1	Article 14	Low	
Complete	Chapter 9	Part 2	Contract procedure rules	High	Legislative change due 2024
Complete			Procurement thresholds annex	High	NEW
In Progress	Chapter 9	Part 3	Finance procedure rules	High	
In Progress			Financial limits annex	High	NEW

Not Started	Chapter 9	Part 4	Indemnities for members and officers	Low	
Not Started	Chapter 9	Part 5	Protocol for recording of council, cabinet, committee and sub-committee meetings	Medium	
Not Started	Chapter 10		Officer employment procedure rules	Low	
Not Started	Chapter 11		Members' allowances	Low	Allowances have been updated - to feed in
Not Started	Chapter 12		Partnership arrangements and outside bodies		
Not Started	Chapter 12	Part 1	Article 10, 11	Low	
Not Started	Chapter 12	Part 2	Outside bodies	Low	
Complete	Chapter 12	Part 3	Council-owned companies	High	NEW

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