

CIPFA\

Thurrock Financial Regulations Member Constitution Working Group

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Agenda

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

Overview of the Financial Regulations

The updated Financial Regulations are comprised of the following:

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

Our approach

We have:

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

Commissioners, s114 and Intervention

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

Commissioners, s114 and Intervention

The Council can only spend on:

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

Commissioners, s114 and Intervention

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

Key decision threshold

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

NEW Intervention Chapter

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

NEW Intervention Chapter

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

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

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

Finance Procedure Rules

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

Roles and responsibilities (Section 1)

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

Roles and responsibilities (Section 1)

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

Financial planning (Section 2)

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

Financial planning (Section 2)

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

Financial management (Section 3)

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

Financial management (Section 3)

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

Accounting records and financial systems (Section 4)

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

Risk and opportunity management including insurance (Section 5)

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

Risk and opportunity management including insurance (Section 5)

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

Control of resource and asset management (Section 6)

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

Financial management (Section 7)

This section outlines the standards of financial administration, including:

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

Financial management (Section 7)

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

External arrangements (Section 8)

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

Financial Limits Annex

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

Contract Procedure Rules

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

Contract Procedure Rules

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

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

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

Scheme of Delegations

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

NEW Council-owned Companies Chapter

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

Guidance and technical notes

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