

## STANDARDS AND ETHICS COMMITTEE

Venue: Town Hall, Moorgate Street, Rotherham. S60 2TH      Date: Thursday, 12 January 2017  
Time: 2.00 p.m.

### A G E N D A

1. Apologies for Absence.
2. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Minutes of the previous meeting held on 29th September, 2016 (herewith) (Pages 1 - 5)
5. Review of Financial Regulations and Contract Standing Orders (Pages 6 - 72)
6. Resolution of Full Council following the Conviction of a Councillor (report herewith) (Pages 73 - 78)
7. Update from the Monitoring Officer regarding Complaints.
8. Review of Code of Conduct - Verbal report to include training information and the establishment of a Working Group
9. Date and Time of Next Meeting - Thursday, 9th March, 2017



**S. KEMP,**  
Chief Executive.

**STANDARDS AND ETHICS COMMITTEE**  
**29th September, 2016**

Present:- Councillor McNeely (in the Chair); Councillors Allen, Ireland, Khan, and Simpson (RMBC Members)

Councillors Bates, Rowley and Swann (Parish Council representatives).

Also Present - Ms. A. Dowdall (Co-opted Member) and Mr. P. Beavers (Independent Person).

Apologies for absence were received from Councillors Allcock, Mr. P. Edler (Co-opted Member) and Mr. D. Roper-Newman (Independent Person).

**9. TO CONSIDER WHETHER THE PRESS AND PUBLIC SHOULD BE EXCLUDED FROM THE MEETING DURING CONSIDERATION OF ANY PART OF THE AGENDA.**

It was reported that there were no items on the agenda that would require the exclusion of the press and public from the meeting.

**10. MINUTES OF THE PREVIOUS MEETING HELD ON 9 JUNE 2016**

**Resolved:-**

That the minutes of the meeting of the Standards and Ethics Committee held on 9 June 2016 be approved as a true and correct record of the proceedings.

**11. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**12. REVIEW OF THE OPERATION OF THE WHISTLEBLOWING POLICY**

Consideration was given to a report detailing a review of the operation of the Whistleblowing Policy by the Council's Internal Audit service.

It was reported that the review had found that appropriate risk registers were available for recording risks relating to whistleblowing arrangements, and consequently no significant specific risks were identified. It was also noted that appropriate assurance was in place in respect of the availability of the policy to staff and contractors.

Further assurances were provided in respect of the robustness of the policy and its application during the 2015/16 financial year. However, the review had highlighted issues in respect of the reporting of whistleblowing concerns to the Council. Members noted that a central whistleblowing log had been established within Legal Services to respond to this concern.

Consideration was given to the public availability of the Whistleblowing Policy and the Committee concluded that it would be appropriate to make the Policy publicly available with the inclusion of the following wording:

***Whistleblowing by members of the public***

*Unlike disclosures by employees, PIDA (Public Interest Disclosure Act 1998) does not offer legal protection for disclosures made by members of the public. However, the Council will take reasonable and appropriate action to protect members of the public when they make a disclosure.*

*The Council considers that any disclosure made by members of the public in respect of serious misconduct should be handled in the same way as disclosures made by employees.*

*Once a disclosure from a member of the public has been received by the Council, it will be handled in the same way as a disclosure made by an employee under PIDA and the provisions of section xx shall apply.*

**Resolved:-**

1. That the outcome of the review and the steps taken to implement the findings be noted.
2. That the Whistleblowing cases received since September 2015 be noted.
3. That the wording of the Whistleblowing Policy be amended in order for the document to be made publicly available.

**13. ROTHERHAM MBC ANNUAL COMPLAINT REPORT 2015-16**

Consideration was given to a report detailing information about complaints made to the Council between 1 April 2015 and 31 March 2016 under the Corporate Complaints Procedure, Housing Complaint Procedure and the Adult and Children's Services Complaint Regulations.

It was noted that the report provided an analysis on the particular trends in the complaints received, by Service area, and in terms of the timescales in which responses were provided; as well as about the escalation of complaints. The report also highlighted examples of key learning points from the complaints received which had been used over the year in regular reports to senior managers to address or correct any mistakes and improve services or procedures as a result.

Having queried why the report had been submitted to the Committee, it was explained that the paper referred to other work that was relevant to the Committee. Members noted the number of complaints arising from officer behaviour and conduct and queried whether training was provided to remind staff of the need to maintain the highest standards in dealings with the public. It was explained that the new values and behaviours for staff had recently been refreshed and communicated to all employees.

Members also questioned whether it would be of value for members of the Standards and Ethics Committee to attend future management team meetings to emphasise the importance placed on responding to and learning from complaints. Whilst further thought needed to be given to the idea, the initial response indicated that this approach could prove to be helpful.

**Resolved:-**

That the content and key messages of the Annual Complaint Report 2015-16 be noted.

**14. AMENDED MEMBER/OFFICER PROTOCOL**

Consideration was given to a report which outlined some suggested changes to the Member/Officer Protocol arising from discussions at the previous meeting on 9 June 2016.

It was noted that consultation had taken place with Human Resources to confirm the most appropriate term by which officers/employees should be referred to. Members were supportive of the term “officers” being used rather than employees.

The proposed amendments were considered by the Committee in detail. Specific reference was made to a protocol for decision making planning and the availability of public speaking during Planning Board meetings.

**Resolved:-**

1. That the changes identified by noted.
2. That the full Council be recommended to adopt the changes to the Member/Officer Protocol.

**15. UPDATE FROM THE MONITORING OFFICER REGARDING COMPLAINTS**

The Monitoring Officer provided an update on complaints received in respect of the conduct of town and parish councillors in the Borough. Progress in respect of each matter was detailed for Committee Members.

**Resolved:-**

That the Monitoring Officer's update in respect of complaints be noted.

**16. GIFTS AND HOSPITALITY BOOK**

The Monitoring Officer provided a brief overview of the content of the Gifts and Hospitality Book. A copy of the Members' Gifts and Hospitality Book and the Mayor's Gifts and Hospitality Book were circulated in the meeting for Committee Members to review.

In the brief discussion on the use of the book, parish council members were invited to suggest that similar arrangements be introduced at that tier of local government in the Borough when returning to their parishes.

**Resolved:-**

That the Gifts and Hospitality Book be noted.

**17. KEY UPDATES ON STANDARDS AND ETHICS**

Consideration was given to a briefing paper which provided an update on developments in respect of standards and ethics in local government.

Reference was made to two public interest reports in governance issues at Derby City Council and York City Council. The specific case at Derby City Council related to failures of governance in the management of major projects and in relation to Member conduct for the financial year ending 31 March 2014 and 31 March 2015. The issues at York City Council related to the remuneration of Council officers for work as Directors of City of York Trading Ltd. for the financial year ended 31 March 2015.

Information was also provided in respect of case law, a House of Commons Briefing Paper and the Annual Report of the Committee on Standards in Public Life from 2015-16. Reflecting on the latter, Members felt it important to make representations to the Government regarding the lack of sanctions available to local standards bodies following the reforms introduced by the Localism Act 2011. There was recognition that a different approach would be needed to influence the Secretary of State and it was proposed that the Chair seek a meeting with the Lead Commissioner at Rotherham Council, Sir Derek Myers, to request that he raise the issue specifically with the Government.

**Resolved:**

1. That the updates on standards and ethics be noted.

2. That the Chair seek to arrange a meeting with Commissioner Sir Derek Myers to request that he raise the Committee's concern over the lack of sanctions available to local standards committees following the Localism Act 2011.

**18. TO DETERMINE ANY ITEM WHICH THE CHAIRMAN IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY.**

It was noted that there no items requiring urgent consideration by the Committee.

**Summary Sheet****Council Report**

Standards and Ethics Committee – 12 January 2017

**Title**

Proposed Constitutional Amendments - Financial Regulations and Contract Standing Orders

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

Judith Badger – Strategic Director of Finance and Customer Services

**Report Author(s)**

Gary Bandy, independent consultant.

**Ward(s) Affected**

All

**Executive Summary**

A review of the Council's constitution is currently taking place and Council has already approved amendments to the constitution at its Annual meeting and at its meeting on 7 December. Financial Regulations and Contract Standing Orders are part of the constitution and are therefore also being reviewed and updated. These two components fall within the terms of reference of the Standards and Ethics Committee with the final decision on constitutional amendments being a matter for Full Council.

The attached report summarises the main changes proposed to be made. The Financial Regulations have been shortened and modernised and consequently been converted into more active language with more responsibility given to the Chief Finance Officer and Strategic Director to manage the Council's finances in line with the Council's policy framework and budget and to be accountable to Members in doing so.

The Contract Standing Orders have been updated to reflect the Public Contract Regulations 2015, the move to always using electronic tenders and the introduction of a procurement business case process for planning procurements along with a section on contract management.

### **Recommendations**

That the Standards and Ethics Committee recommend to Full Council the constitutional amendments relating to the Financial Regulations and Contract Standing Orders set out in appendices 1 and 2 to this report.

### **Background Papers**

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Yes – Full Council

### **Council Approval Required**

Yes

### **Exempt from the Press and Public**

No



## **Review of Financial Regulations and Contract Standing Orders**

### **1. Recommendations**

- 1.1 That the Standards and Ethics Committee recommend to Full Council the constitutional amendments relating to the Financial Regulations and Contract Standing Orders set out in appendices 1 and 2 to this report.

### **2. Background**

- 2.1 A review of the Council's constitution is currently taking place and Council has already approved previous amendments to the constitution at the Annual meeting of Council and at its meeting on 7 December. Financial Regulations and Contract Standing Orders are part of the constitution and are therefore also being reviewed and updated. These two components fall within the terms of references of the Standards and Ethics Committee with the final decision on constitutional amendments being a matter for Full Council.
- 2.2 The review of the existing documents and preparation of the new ones was conducted by an independent consultant, who has formerly held the post of chief finance officer in a local authority. The review involved comparing the Council's existing arrangements with five other metropolitan councils to produce proposals that are up-to-date and practical.
- 2.3 The proposed Financial Regulations are attached as appendix 1 and the proposed Contract Standing Orders are attached as appendix 2. The main changes to the Financial Regulations and Contract Standing Orders are set out in section 3.

### **3. Main Changes**

#### **Financial Regulations**

- 3.1 The Financial Regulations have been reduced in length by half, mainly by removing duplication.
- 3.2 The main changes to the Financial Regulations are set out below, with references to the regulation number:
- Changing the status of guidance notes (reg 2.5) so that they can be issued by the Chief Finance Officer at any time, and officers and members must comply with them;
  - Using definitions (para 3.1) for roles so that it is easier to make changes to the regulations if job titles and management structures change;
  - A clear statement that members and officers should seek value for money (reg 4.5);
  - A duty for officers to consult the Chief Finance Officer about financial matters (reg 5);
  - The virement rules (reg 7) have been clarified;
  - The procurement of goods and services (reg 10) now lines up with the way the financial system works by placing the key controls on the

authorisation of requisitions and certification of goods or services being received;

- A new regulation 11 has been introduced to cover grants to voluntary and community sector organisations;
- The writing-off of debts (reg 13.11) is to be done by the Chief Finance Officer, with arrangements for consultation on larger debts;
- The general assumption about overspends and underspends is that they will not carry forward to the following year's budget (reg 19);
- A new regulation 25 has been included about the settlement of claims against the Council;
- The limits for the disposal of land and buildings without separate Member approval have been increased (reg 27.11);
- Regulation 31 has been added to deal with petty cash imprests;
- Regulation 34 has been added to deal with gifts, loans and sponsorships;
- Regulation 37 has been added to deal with emergency situations.

### **Contract Standing Orders**

- 3.3 The Contract Standing Orders have been updated to reflect the Public Contract Regulations 2015, the move to always using electronic tenders and the introduction of a procurement business case process for planning procurements and a section on contract management.
- 3.4 For now they commence at number 32 but the numbering may change once they are slotted into their place in the revised constitution. That is why the cross-references in the draft Contract Standing Orders have not yet been completed.
- 3.5 The main changes to the Contract Standing Orders are set out below, with references to the standing order number:
- Using definitions (SO 32.5) for roles so that it is easier to make changes to the regulations if job titles and management structures change;
  - The guiding principles (SO 33) have been extended;
  - There is a requirement for Strategic Directors to prepare procurement business cases for each procurement (SO 37);
  - The use of approved lists of contractors has been aligned with the Public Contract Regulations 2015;
  - The tendering process (SO 42 to 46) reflects the Public Contract Regulations 2015;
  - All tendering processes for £25,000 or more should be carried out using the YORTender system and advertised on Contracts Finder (SO 46);
  - All tendering should be done electronically, using the security features and audit trail built into the YORTender system (SO 47.6);
  - A new section (SO 52 to 54) has been added to set out what is expected from officers who are appointed as the contract manager for a contract.

**4. Options considered and recommended proposal**

- 4.1 Both the Financial Regulations and Contract Standing Orders were out of date and did not reflect the systems and practices being operated in the Council. The option of making no changes was, therefore, inappropriate.

**5. Consultation**

- 5.1 Consultation took place with a range of officers who are involved in financial management or procurement to identify what the issues and problem areas were. A sub-set of those officers were then consulted on the first and subsequent drafts of new Financial Regulations and Contract Standing Orders and invited to submit comments and improvements.

**6. Timetable and Accountability for Implementing this Decision**

- 6.1 Subject to approval by this committee, the proposed new Financial Regulations and Contract Standing Orders would need to be considered and approved by Full Council on 25 January before they could be implemented.
- 6.2 The Strategic Director of Finance and Customer Services is responsible for ensuring implementation of the changes.

**7. Financial and Procurement Implications**

- 7.1 The revised Financial Regulations and Contract Standing Orders will enable quicker action and decision making whilst helping to strengthen record keeping and professional standards and also the requirement to seek advice and guidance from the Chief Finance Officer. They will assist the Council in functioning as a modern and efficient council in relation to financial and procurement matters and so help to meet one of the key Corporate Plan priorities.

**8. Legal Implications**

- 8.1 The revised regulations will be adopted into the Council's Constitution if approved.

**9. Human Resources Implications**

- 9.1 None arising from this report.

**10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 None arising from this report.

**11. Equalities and Human Rights Implications**

- 11.1 None arising from this report.

**12. Implications for Partners and Other Directorates**

- 12.1 The proposed Financial Regulations and Contract Standing Orders will have an impact on the way that Strategic Directors carry out the day to day business of the Council. It is anticipated they will be able to do things more quickly and efficiently, but there will likely be some disruption as officers adapt to the changes.

**13. Risks and Mitigation**

- 13.1 The current regulations and standing orders are out of date, in some places, and this creates potential for confusion, errors and misunderstandings. Updating the documents will attempt to deal with these issues and problems but there are risks associated with making the change.

<b>Risk</b>	<b>Mitigation</b>
Officers may be unaware of the new rules	Clear communication of the changes is needed Making them available on the intranet Consider a training programme to cover the main changes
New rules may be unclear or have ambiguities	Monitor the situation and keep notes of problem areas that arise The Chief Finance Officer to issue new/revised guidance notes to clarify the rules Review and revise the new rules within a year
New rules may have gaps	The Chief Finance Officer to issue a guidance note to fill the gap on an interim basis, until the next review can fill the gap permanently
External changes (e.g. in laws)	The Chief Finance Officer to issue new/revised guidance notes to clarify the rules in respect of the external change Review and revise the new rules within a year

**14. Accountable Officer(s)**

Approvals Obtained from:-  
Strategic Director of Finance and Customer Services, Judith Badger

Rotherham MBC – Draft Financial Regulations, January 2017

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## **1. Status and Scope of these Regulations**

- 1.1. Article 18 of the Council's Constitution says "The Council's Financial Regulations govern the financial management of the Council."
- 1.2. The Regulations shall apply to all of the Council's activities (except schools with delegated budgets) including any activities undertaken on behalf of third parties or under separate financial/funding regimes.
- 1.3. These Regulations do not apply to schools with delegated budgets in respect of the administration of those delegated budgets, and for which separate, specific, Financial Regulations shall apply.
- 1.4. These Financial Regulations shall not be changed, revoked or otherwise set aside without the prior agreement of the Council acting on a recommendation from the Cabinet or the Standards Committee. The Chief Finance Officer shall comment in writing upon any proposal to change, revoke or otherwise set aside any part of these Regulations, prior to any decision of the Council on this matter.

## **2. Interpretation**

- 2.1. These Financial Regulations and Procedures should be read in conjunction with any other instructions of the Council relating to financial matters, particularly:-
  - the Constitution;
  - the Council's Terms of Reference and Scheme of Delegation;

- the “Proper Officer” arrangements approved by the Council under the Local Government Act 1972; and
  - Contract Standing Orders.
- 2.2. The Constitution sets out the responsibilities of the Full Council, Cabinet, executive members, committees and panels, the Chief Executive, the Monitoring Officer, the Chief Finance Officer, Strategic Directors, etc.
- 2.3. Strategic Directors may delegate responsibility to officers for some aspects of financial management. Strategic Directors should maintain a written record where responsibility for financial decision making has been delegated to members of their staff, including to seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to Strategic Directors in these Financial Regulations should be read as referring to them.
- 2.4. The Chief Finance Officer, along with the Assistant Director Legal Services, shall determine any dispute as to the interpretation of these Financial Regulations.

### **Guidance Notes**

- 2.5. The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that members, officers and others acting on behalf of the Council are required to follow.
- 2.6. To assist officers and members in their roles the Chief Finance Officer may, from time to time, issue written guidance or procedure notes which set out in more detail how the Council’s financial arrangements shall operate. Officers and Members must comply with the procedures in all such guidance notes.
- 2.7. Upon issuing a new or revised guidance note the Chief Finance Officer shall ensure that it is communicated to appropriate officers and members and is made available on the Council’s intranet.

### **3. Definitions**

- 3.1. In these regulations the terms below shall be interpreted as follows:

**Strategic Director** means an officer who is a member of the Strategic Leadership Team and reports directly to the Chief Executive (irrespective of their actual job title).

**Assistant Director** means an officer who reports directly to a Strategic Director (irrespective of their actual job title).

**Budget Manager** means an officer who is given responsibility for controlling the expenditure for one or more cost centres or projects.

**Chief Finance Officer** (or CFO) means the person designated as the Section 151 Officer (currently the Strategic Director – Finance and Customer Services).

**Chief Internal Auditor** means the Head of Internal Audit.

**Financial Signatory** means an officer approved by a Strategic Director to authorise requisitions for specified service areas and within specified financial amounts.

**Monitoring Officer** means the person designated as the Monitoring Officer (currently the Assistant Director – Legal Services).

**Property Officer** means person designated as the Corporate Officer (currently the Assistant Director – Planning, Regeneration and Transport).

**Senior Information Risk Owner** (or SIRO) means the person designated as the SIRO (currently the Assistant Director – Customer, Information and Digital Services).

#### **4. General Requirements**

- 4.1. Strategic Directors shall ensure all staff in their directorates are aware of the content of these Financial Regulations and other internal regulatory documents and that staff comply with them. In particular, Strategic Directors shall ensure that staff induction processes include making new staff aware of these Financial Regulations as well as their own responsibilities for financial management.
- 4.2. All members and officers of the Council must comply with these financial regulations and all the associated guidance at all times.
- 4.3. The Council may take disciplinary or other action against anyone to whom these Regulations apply who fails to comply with them.
- 4.4. The Chief Finance Officer is responsible for reporting, where appropriate, significant breaches of Financial Regulations to the Council and/or to the executive members.
- 4.5. All Members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of the Council's resources is legal, properly authorised and provides value for money. What that means is, before spending any of the Council's money or entering into a



commitment with financial consequences, officers and members need to answer “Yes” to these three questions:

- Is this spending within the regulations?
- Can the Council afford it?
- Is it value for money?

- 4.6. The Chief Finance Officer shall be notified and receive copies of all Government or other circulars, orders, sanctions, approvals and regulations affecting finance which are received by the Authority.
- 4.7. Strategic Directors and Assistant Directors shall furnish the Chief Finance Officer with such information as he/she may from time to time require for financial administration of the Council’s affairs. In the case of any dispute or difference of opinion on whether provision of information is necessary, the decision of the Chief Finance Officer will be final.
- 4.8. It is the responsibility of each Strategic Director to ensure that a proper Scheme of Delegation has been established in their Directorate, in accordance with Standing Order 34, and is operating effectively. The Scheme of Delegation should identify staff authorised to act on the Strategic Director's behalf in respect of payments, income collection and the requisitioning of goods and services, writing off debts, together with the limits of their authority.

## **5. Duty to Consult the Chief Finance Officer**

- 5.1. Any report prepared by Strategic Directors or other officers for consideration by the Full Council, Cabinet, a Committee, Panel, Working Group or similar, which has financial implications must be prepared in consultation with the Chief Finance Officer. The Chief Finance Officer shall be consulted on the contents of the report in good time to be able to assess the financial implications and the Chief Finance Officer shall incorporate into the report such comment on the financial aspects as he/she considers necessary or appropriate. The Chief Finance Officer may delegate some or all of these duties to appropriate representatives e.g. Finance Business Partners who will carry out these duties on behalf of the Chief Finance Officer, subject to formal delegation arrangements.

## **6. Financial Planning and Budget Setting**

- 6.1. The Full Council is responsible for approving the Budget and Policy Framework which will be proposed by the Cabinet. Officers are

responsible for implementing these Budget and Policy decisions and for managing their budgets within the parameters set.

- 6.2. The Chief Finance Officer will be responsible for ensuring that a Medium Term Financial Strategy for the Authority is prepared and updated at least annually for consideration by the Cabinet and approval by the Council.
- 6.3. The Medium Term Financial Strategy will be consistent with and designed to further the achievement of the Council's priorities.

Revenue budget

- 6.4. The Chief Finance Officer will be responsible for ensuring that a Revenue Budget for the coming financial year (and as appropriate the two subsequent financial years) is prepared and brought forward for approval by the Council upon recommendation of the Cabinet, on or before the statutory date for such approval (currently 11th March). The adoption of the Budget by the Council shall be accompanied by a resolution as to the level of Council Tax required for the coming financial year in order to sustain the Budget.
- 6.5. The Chief Finance Officer shall:
  - 6.5.1 prepare and submit reports to the Cabinet on the overall prospects for the Council's income and expenditure over the medium term, including the implications of any resource constraints set or proposed by Government;
  - 6.5.2 prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied and on the level of housing rents/service charges;
  - 6.5.3 advise Cabinet and the Strategic Leadership Team on the medium term implications of spending decisions;
  - 6.5.4 encourage the best use of resources and value for money by working with Strategic Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options and in developing financial aspects of service planning;
  - 6.5.5 advise the Full Council about the credibility and sustainability of the Cabinet's Budget proposals, in accordance with his or her

responsibilities under section 151 of the Local Government Act 1972.

- 6.6. The Revenue Budget for the year will:-
- 6.6.1 be consistent with the Council's priorities as expressed in the Corporate Plan;
  - 6.6.2 reflect the content of the Medium Term Financial Strategy for the appropriate year;
  - 6.6.3 be balanced, affordable and sustainable;
  - 6.6.4 not commit the Council to unplanned or unaffordable expenditure in subsequent years;
  - 6.6.5 leave the Council with an adequate level of uncommitted balances/reserves;
  - 6.6.6 be accompanied by a prudent risk assessment of the possible implications in terms of both affordability and service delivery.
- 6.7. When the proposed Budget for the coming year is being considered by the Cabinet and the Council, the Chief Finance Officer shall advise as to what would constitute a prudent and necessary minimum level of uncommitted balances/reserves for the Council to retain and also as to whether the budget being proposed is consistent with such a requirement. In forming their professional judgement, the Chief Finance Officer will consider guidance from CIPFA or the external auditor.
- 6.8. In setting its annual Revenue Budget, the Council determines a cash-limited allocation for each Directorate, calculated at forecasted outturn prices. These cash limits may be amended subsequently through presenting a Revised Estimate to the Full Council following a recommendation from Cabinet.
- 6.9. Within the overall cash limited budget allocated by the Council to his/her Directorate, each Strategic Director will set a detailed budget. In setting the detailed budget, each Strategic Director will take account of any policies, priorities, or specific allocations prescribed by the Cabinet in the determination of the budget total, and shall ensure that all cash limited budget allocations are in accordance with the Council's declared intentions.
- 6.10. When a cash limited budget has been agreed for the year for each Directorate (as part of the Council's approved Budget) it shall be the responsibility of the Strategic Director to ensure that their budget is not overspent.

Capital programme

- 6.11. Capital schemes and projects shall be collected together into a Capital Programme for approval by Members.
- 6.12. Full Council shall approve at least annually a Capital Strategy which sets out the Council's priorities for capital investment.
- 6.13. Strategic Directors shall submit proposals for any future capital schemes by such dates, and in such form, as the Chief Finance Officer shall determine, subject to Council approval.
- 6.14. The Chief Finance Officer shall collate the proposed Capital Programme jointly with Strategic Directors and the Chief Executive and the programme will be submitted to the Cabinet for approval and recommendation to Full Council at the same time as the Revenue Budget proposal.
- 6.15. The Capital Programme will be based on the following principles:
  - 6.15.1 That all items/projects to be included in the Authority's Capital Programme will be processed through the Strategic Capital Investment Group (SCIG) and be subject to proper assessment and evaluation. A scheme and estimate, including project plan, progress targets, a clear identification of the method/source of capital funding and the associated revenue expenditure must be prepared for each capital project to enable such an evaluation.
  - 6.15.2 That the ongoing revenue consequences are identified (both in terms of capital financing costs and operational expenditure) for all capital investments. Such ongoing consequences/commitments shall be fed into the Medium Term Financial Strategy and into the Revenue Budget at the appropriate time.
  - 6.15.3 That the Programme will be updated at least annually and monitored regularly throughout the year. Monitoring shall be carried out to a timetable and in a format prescribed by the Chief Finance Officer. Any significant variance from the capital expenditure profile must be notified immediately to the Strategic Capital Investment Group and reported to Cabinet and Council if appropriate, subject to any application of the virement rules set out in section 7.
- 6.16. Each year, through the Chief Finance Officer, the Strategic Capital Investment Group shall recommend to Cabinet for approval a balanced Capital Programme which best meets the Council's objectives and

priorities and its Medium Term Financial Strategy. Cabinet may make amendments to the proposed Capital Programme provided that it remains balanced and affordable. The Cabinet will then recommend its Capital Programme proposal to Full Council in advance of each financial year.

- 6.17. Additional Capital Programme items may be added to the Capital Programme during the year subject to specific additional (new) funding being identified e.g. grant, or the funding being identified from relevant and appropriate revenue budgets. In all cases the item must be in line with the Budget and Policy Framework set by Council and must not commit the Council to future years' expenditure that is not already set within the Budget and Medium Term Financial Strategy. Any such additions to the programme should be reported to Cabinet as part of the regular financial reporting and the Executive Procedure Rules in relation to Key Decisions must be observed at all times.

## **7. Budget Virements and Supplementary Estimates**

- 7.1. Virement is the transfer of resources from one budget heading to another.
- 7.2. Strategic Directors may authorise in-year virements **within** their Directorate budgets, subject to Financial Regulation 7.5 and excluding budgets funded by:
  - 7.2.1 corporate capital resources including prudential borrowing;
  - 7.2.2 earmarked reserves.
- 7.3. Proposals for in-year virement **between** Directorates must be approved as follows (provided first that the affected Strategic Directors have been consulted):
  - 7.3.1 up to £100,000 by the Chief Finance Officer;
  - 7.3.2 £100,000 to £400,000 by the Chief Executive;
  - 7.3.3 above £400,000 by Cabinet.
- 7.4. Virement is not permitted from certain budget heads as these impact on the Council's ability to fund non-discretionary expenditure. These excluded heads may be determined from time to time by the Chief Finance Officer and shall include:
  - 7.4.1 depreciation;
  - 7.4.2 corporate recharges;
  - 7.4.3 administration and building recharges.

- 7.5. Notwithstanding the availability of the virement regulations, **no expenditure shall be incurred on any new policy or purpose, or any extension of existing policy, without the specific approval of the Council** given on the recommendation of the Executive Cabinet; and no commitment for future years shall be entered into in excess of that previously anticipated by the Full Council when approving the Revenue Budget and Capital Programme.
- 7.6. No Budget Manager will be authorised to incur expenditure in excess of his/her cash-limited budget without either:
  - 7.6.1 a virement being approved in accordance with these Regulations (which, in effect, will increase the cash limited budget for the current financial year); or
  - 7.6.2 a supplementary estimate being approved by the Council.
- 7.7. No request for a supplementary estimate may be presented to Members without prior consultation with the Strategic Leadership Team and the Chief Finance Officer, whose recommendations shall accompany any formal request.
- 7.8. Budget adjustments and realignments that relate to a transfer of responsibility or to technical accounting changes and requirements will not be deemed to be virement and will therefore not be subject to the restrictions of these regulations. These changes may only be made in consultation with the Chief Finance Officer.

## **8. Controlling Income and Expenditure (Budget Monitoring)**

- 8.1. The Chief Finance Officer shall establish an appropriate framework of budgetary monitoring and reporting that ensures:
  - 8.1.1 Budget management is exercised within annual cash limits unless the Full Council agrees otherwise;
  - 8.1.2 Each month each Budget Manager receives timely information on expenditure and income on each budget which is sufficiently detailed to enable them to fulfil their budgetary responsibilities;
  - 8.1.3 After reviewing their monthly budget information each budget manager provides to their Strategic Director a forecast of their outturn position on each service and/or project budget; and the Strategic Director will provide a consolidated forecast for their directorate to the Chief Finance Officer and relevant Cabinet Member;

- 8.1.4 A budget monitoring report, which includes an up-to-date outturn forecast, information about significant variances from approved budgets and proposals for dealing with them, is submitted to Cabinet at least 6 times a year.
- 8.2. In connection with the framework the Chief Finance Officer will issue guidance on:
  - 8.2.1 Frequency of reporting;
  - 8.2.2 The format and content of reports (including the degree of detail, risk analysis undertaken and any corrective actions taken or proposed);
  - 8.2.3 The nomination of Budget Managers.

Budget Managers

- 8.3. Strategic Directors shall ensure there is a nominated Budget Manager for each budget heading and cost centre. This applies to the budget headings and cost centres for Capital Programme projects as well as revenue account items.
- 8.4. Strategic Directors and Budget Managers are authorised to incur expenditure in accordance with the estimates that make up the budget and the Capital Programme within their delegated area of control.
- 8.5. Strategic Directors and Budget Managers must:
  - 8.5.1 Accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
  - 8.5.2 Work within the authorised cash limits and utilise the resources allocated to them in the most efficient, effective and economic way;
  - 8.5.3 Identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service or project delivery;
  - 8.5.4 Follow the approved certification process for requisitioning and authorising of all types of expenditure;
  - 8.5.5 Record all income and expenditure properly;
  - 8.5.6 Monitor performance levels/levels of service in conjunction with the budget and take necessary action to align service outputs and budget;
  - 8.5.7 Investigate budget variances and report on them to their line manager.

- 8.6. Strategic Directors shall ensure Budget Managers are appropriately trained to carry out their responsibilities.

Budget Monitoring

- 8.7. The Chief Finance Officer will ensure that appropriate financial information is available to Budget Managers to enable them to monitor their budgets effectively.
- 8.8. Budget monitoring will be carried out in accordance with guidance and requirements issued by the Chief Finance Officer.
- 8.9. In undertaking budget monitoring within their Directorate, Strategic Directors should be mindful of the overriding requirement to deliver an outturn within budget. Actions necessary within the detail of the budget in order to deliver a balanced outturn shall be brought to the attention of elected members, through the Chief Finance Officer and the Strategic Leadership Team so that any corrective action can be set in motion.
- 8.10. Where it appears that an overspending on their overall budget is unavoidable, the Strategic Director shall immediately advise the Chief Finance Officer. The Strategic Director, having consulted with the Chief Finance Officer, shall prepare a report to the Strategic Leadership Team outlining the options for recovering the overspend. After considering the report, the Strategic Leadership Team will then submit their recommendations in a report to the Cabinet.
- 8.11. Each Budget Manager shall keep under constant review the programme of capital payments on capital projects under their control and the Chief Finance Officer shall provide such information on capital costs and payments as is necessary for this purpose.
- 8.12. If a Strategic Director has reason to think that the estimated cost of any Capital Programme item will be exceeded by more than the lesser of 10% or £100,000, he/she should immediately report the matter to the appropriate Executive Member and the Chief Finance Officer along with any options available to mitigate the position.

**9. Staffing, Remuneration and Payroll**

- 9.1. The Chief Executive is responsible for providing overall management of staff. He or she will also be responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 9.2. Strategic Directors are responsible for controlling total staff numbers by:



- 9.2.1 advising the Executive on the budget necessary in any given year to cover estimated staffing levels;
  - 9.2.2 adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs.
- 9.3. The Assistant Chief Executive will ensure the operation and maintenance of effective and efficient systems for the payment and recording of staff salaries, wages, pensions and other emoluments and payments of Members' allowances.
- 9.4. Each Strategic Director shall notify the Assistant Chief Executive as required and in the form prescribed by him/her, of all matters affecting the payment of such emolument, and in particular:
  - 9.4.1 appointments, resignations, dismissals, suspensions, secondments, and transfers;
  - 9.4.2 absence from duty for sickness or other reason, apart from approved leave;
  - 9.4.3 changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - 9.4.4 information necessary to maintain records or service for pensions, income tax, national insurance and the like.

## **10. Procurement of Works, Goods and Services**

- 10.1. Strategic Directors shall be responsible for all procurement originating from their Service for the execution of any works, the supply of goods, materials or services and shall:-
  - 10.1.1 ensure that Contract Standing Orders, and UK and EU legislation are adhered to in relation to procurements;
  - 10.1.2 make full use of contracts, frameworks, and purchasing consortium arrangements available to the Council (the corporate procurement team will be able to advise on what is available for any given procurement);
  - 10.1.3 enter details of all contracts and partnerships in the corporate contract register.
- 10.2. All purchases of goods and services shall be initiated by the creation and authorisation of a requisition, which should state, as a minimum:

- 10.2.1 the nature, quantity, and agreed or estimated costs of the works, goods or services being requisitioned; and
- 10.2.2 the address for deliveries.
- 10.3. Strategic Directors shall keep the Chief Finance Officer informed of the names of their Financial Signatories and the limits of each Financial Signatory's authority.
- 10.4. The authorising of a requisition by a Financial Signatory shall signify:
  - 10.4.1 the goods or services are necessary for the discharge of the functions of the Council;
  - 10.4.2 there is sufficient budget provision for the goods or services; and
  - 10.4.3 Financial Regulations and Contract Standing Orders have been complied with.
- 10.5. Official purchase orders, with unique purchase order numbers, shall be created (in an electronic format approved by the Chief Finance Officer) and despatched centrally.
- 10.6. Verbal orders must be restricted to absolutely urgent matters, must be followed immediately by an official order marked 'Confirmation'.
- 10.7. The use of corporate purchasing cards is restricted to authorised staff who have been issued with guidelines and signed to confirm their understanding of them. Holders of purchasing cards must comply with instructions and guidance on the use of purchasing cards issued by the Chief Finance Officer from time to time.

## **11. Grants to Voluntary and Community Sector Organisations**

- 11.1. Often when the Council wishes to commission services to be provided by third parties (whether in the public, private, voluntary or community sectors) it will put in place a contract after following a procurement process in line with the requirements of Contract Standing Orders. Where a Budget Manager believes that the Council's interest will be better served by operating a grant programme and such a programme will provide value for money, then the following process may be used:
  - 11.1.1 The Budget Manager shall design a grant programme that will meet the Council's objectives and be open, transparent and accountable.
  - 11.1.2 The Budget Manager shall publicise the grant programme, including instructions for applicants, via the Council's website

and through any other channels which are appropriate in the circumstances.

- 11.1.3 There must be a reasonable period for applicants to prepare and submit their applications and the process should be designed to avoid placing onerous tasks and/or excessive costs on the applicant organisations.
- 11.1.4 The applications for grant funding shall be evaluated by an evaluation panel of three to five people using the scoring criteria previously shared with the applicants. The evaluation panel shall comprise council officers and, if appropriate, community representatives who are independent of all the applicants. Members of the Council shall not be members of evaluation panels.
- 11.2 Grants can be awarded for a maximum of three calendar years.
- 11.3 Grant recipients must provide monitoring reports to the Budget Manager with the following frequency:
  - 11.3.1 for grants of £2,000 or less, at the end of the grant programme;
  - 11.3.2 for grants between £2,001 and £10,000, at the end of each financial year during the grant programme;
  - 11.3.3 for grants over £10,000 at the end of each quarter of the financial year.
- 11.4 The level of detail required by the Budget Manager in the monitoring reports shall be proportional to the value and nature of the grant awarded.
- 11.5 The Assistant Chief Executive may, from time to time, issue guidance notes and document templates to assist Budget Managers to operate grant programmes in a consistent fashion across the Council.

## **12. Payments**

- 12.1. Apart from petty cash payments and purchases made using official purchasing cards, all payments shall be made by the Chief Finance Officer. The normal method of payment of money due from the Council shall be by BACS drawn on the Council's bank account.
- 12.2. The Chief Finance Officer will be responsible for ensuring the operation and maintenance of effective systems for the payment of invoices from creditors.

- 12.3. No creditor shall be paid other than through systems operated by the Chief Finance Officer except where specifically approved by him/her in writing.
- 12.4. A creditor's invoice will only be paid after it has been matched to a purchase order and the works, goods or services to which the invoice relates have been received, carried out, examined and accepted. The person who certifies that the works, goods or services have been received, etc. must not be the person who authorised the requisition for those works, goods or services.
- 12.5. Payments should not normally be made if goods, works or services have not been received by the Council. However, if, in exceptional circumstances, it is deemed necessary to make a payment in advance of goods, works and services being supplied, the Chief Finance Officer will require written authorisation from an approved Financial Signatory.
- 12.6. All purchasing should be carried out in accordance with guidance and procedures set out by the Head of Procurement.

### **13. Income**

- 13.1. The Chief Finance Officer will ensure that adequate systems are available, and are maintained, for the recording of all income received by, and due to, the Council.
- 13.2. Where practical income from fees and charges should be collected in advance of or at the same time as the delivery of service being charged for.
- 13.3. It will be the responsibility of every employee of the Council to ensure that all sums of money due to the Council are promptly invoiced or otherwise demanded and that all sums of money received are promptly paid into the Council's accounts.
- 13.4. All receipts, forms, books, tickets or other official acknowledgements or monies received shall be in the form approved by the Chief Finance Officer which shall be ordered and issued to departments by him/her and controlled under arrangements approved by him/her. All receipts and issues thereof shall be properly recorded and acknowledged.

#### Scales of Charges

- 13.5. All charges for services or facilities provided by the Council shall be reviewed by the relevant Strategic Director together with the relevant Executive Member not less frequently than annually and not later than September in each financial year.

- 13.6. When a Strategic Director proposes to amend any scale of charges, he/she shall consult with the relevant Cabinet Member, the Chief Finance Officer about the financial implications, and with the Monitoring Officer about any legal requirements.

Grant Income

- 13.7. Strategic Directors shall consult the relevant executive Member and the Chief Finance Officer prior to submitting applications for grant funding to government departments or other grant-giving bodies.
- 13.8. Where an application for grant funding is successful (unconditionally or conditionally), the Strategic Director shall inform the Chief Finance Officer of the details of awarded funding and provide him/her with a copy of relevant documents. If the grant funding was not contemplated when the budget for the relevant financial year was set then the Chief Finance Officer shall make the appropriate changes to the directorate cash limit and/or capital programme and these revised amounts will be used in the budget monitoring and year-end balances processes.
- 13.9. Strategic Directors will ensure that all claims for grant funding, including government grants, for which he or she is responsible, are properly authorised, meet all the grant funder's conditions and are submitted by the due date.

Service Provided to Third Parties

- 13.10. Where there are contractual arrangements (made in accordance with the Contract Standing Orders) in place for the provision of goods or services to third parties or external bodies the relevant Strategic Director:
- 13.10.1 shall ensure that fees or charges are promptly invoiced in full accordance with the terms of the contract; and
- 13.10.2 shall suspend the delivery of the goods/service if invoices are not settled in a reasonable time.

Writing off Debts

- 13.11. Only the Chief Finance Officer has the legal authority to write-off bad debts and will delegate responsibilities as necessary for debts up to £5,000.
- 13.12. For larger debts, the following arrangements apply:
- 13.12.1 bad or doubtful debts below £50,000 can be authorised by the Chief Finance Officer;
- 13.12.2 the Chief Finance Officer will consult with the executive member for finance before authorising the writing-off of debts between £50,000 and £400,000;

- 13.12.3 for the write-off of bad or doubtful debts of £400,000 or over the Chief Finance Officer will seek the approval of Cabinet.
- 13.13. Debts written-off over £50,000 will be included in financial management reports to Cabinet.
- 13.14. In all cases, debts will not be written-off unless processes for collection have proved fruitless or where the continued pursuit of the debt would prove to be poor value for money. All write-offs should be properly recorded and such records retained, with due explanation for non-collection.

#### **14. Taxation**

- 14.1. The Chief Finance Officer shall ensure that adequate procedures are in place and adequate advice is available to Directorates so as to ensure that the Authority is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 14.2. In the discharge of this responsibility, the Chief Finance Officer will maintain the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate. In appropriate circumstances (e.g. where part of this function may have been devolved to a partner organisation) the Chief Finance Officer will ensure compliance with the requirements of the particular tax regimes.
- 14.3. Each Strategic Director will at all times conduct the financial arrangements of their services in accordance with advice or instructions issued by the Chief Finance Officer with regard to taxation issues, and shall provide to the Chief Finance Officer any related information or documents upon request.

#### **15. Accounting Systems**

- 15.1. The Chief Finance Officer will be responsible for the operation of the corporate accounting systems, the form of accounts and the supporting financial records. No changes shall be made to the existing financial systems, or new systems be established, without the prior approval of the Chief Finance Officer.
- 15.2. The Chief Finance Officer shall prepare and issue such accounting and procedural instructions as he/she considers to be necessary for the financial administration of the Council's affairs.

- 15.3. Strategic Directors will be responsible for the proper operation of financial processes in their own service areas and for ensuring that their staff receive relevant financial training. If Strategic Directors wish to make changes to the financial management procedures within their directorate (for example, to improve efficiency) they must obtain the written approval of the Chief Finance Officer prior to making the changes.
- 15.4. Where directorates (with the knowledge and approval of the Chief Finance Officer) have independent financial systems that hold and/or process financial data then the Strategic Director shall ensure the systems be reconciled with the Council's main accounting system at a frequency agreed with the Chief Finance Officer. (A financial system is any system, manual or computerised, that records transactions or the value or ownership of an asset.)

## **16. Accounting Policies**

- 16.1. The Chief Finance Officer will determine suitable accounting policies to be adopted by the Authority and will ensure that they are applied consistently. Strategic Directors will ensure that they and their staff comply with all of the prevailing accounting policies and, if requested, they will assist the Chief Finance Officer in restating accounts as a result of any change in accounting policies.

## **17. Trading Accounts**

- 17.1. The Chief Finance Officer will advise Members and Strategic Directors on the establishment and operation of trading accounts within the Authority.

## **18. Statement of Accounts**

- 18.1. The Chief Finance Officer will prepare an overall outturn report for the Council each year for submission to the Strategic Leadership Team and the Cabinet. He/she will also ensure that the statutory Statement of Accounts is prepared and submitted to Members in the prescribed format and to the prescribed timetable.
- 18.2. In order to prepare the Statement of Accounts Strategic Directors shall provide all accounting information requested by the Chief Finance Officer in accordance with the accounts closedown timetable prepared by the Chief Finance Officer and in the format requested by the Chief Finance Officer. The additional accounting information may include, for example:

- 18.2.1 an outturn report of expenditure versus approved budget for their Directorate;
- 18.2.2 value of stocks, stores and work in progress at the end of each financial year and the basis of valuation including writing out of obsolete stock;
- 18.2.3 any sums due to suppliers that are currently unpaid at the end of the financial year;
- 18.2.4 any sums due to the Council that have not been credited at the end of the financial year;
- 18.2.5 income received relating to the subsequent financial year;
- 18.2.6 pre-payments made relating to the subsequent financial year;
- 18.3. The Chief Finance Officer will make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit Regulations 2011.
- 18.4. Once the external audit is complete, the Chief Finance Officer will present the Statement of Accounts to the Audit Committee for approval and, subject to that approval, will arrange for the publication of the Statement of Accounts.

## **19. Treatment of Year-end Balances**

- 19.1. The principle of cash limited budgets presupposes that, in general terms, underspendings and overspendings at the end of one financial year will be carried forward and the following year's budget allocation be adjusted accordingly.
- 19.2. In its practical application, however, it is imperative that any such carry forwards are first considered against the overall financial position of the Authority. Therefore, except where statutory requirements dictate otherwise, the following policies are to be applied.
- 19.3. Underspends and overspends will be calculated at Directorate level on the basis of the prevailing accounting policies. In general:
  - 19.3.1 any underspend on General Fund revenue budgets will go into General Fund Balances to be applied subsequently, as necessary, in accordance with Council-wide priorities.
  - 19.3.2 any overspend on General Fund revenue budgets will be financed from balances or reserves subject to any arrangements approved by Cabinet in connection with the recovery plan prepared under Financial Regulation 8.10.



- 19.3.3 any surpluses or deficits generated by trading services will be taken into account in future years' business plans.
- 19.4. In exceptional cases Cabinet may approve the carrying forward of an underspend by a specific directorate. Applications and supporting cases to carry forward any underspending are to be made to Strategic Leadership Team to recommend to Cabinet for approval.
- 19.5. Prior to the consideration of any report by the Council on the carry forward of any budget under/overspending, the Chief Finance Officer will prepare a composite outturn report, for the consideration of the Strategic Leadership Team outlining the totality of the Council's funds and balances, together with any specific commitments or known pressures which are expected to affect materially the level of those funds and balances.

## **20. Reserves**

- 20.1. The Chief Finance Officer shall advise the Cabinet and the Full Council on prudent levels of reserves for the Authority (having taken into account any advice from the external auditor).
- 20.2. The Chief Finance Officer shall maintain reserves in accordance with the relevant codes of practice on local authority accounting in the United Kingdom and agreed accounting policies.
- 20.3. For each reserve account, the purpose, usage and basis of transactions should be clearly identified and reported in the Statement of Accounts. The use of reserves to finance expenditure should be authorised by the Chief Finance Officer unless it is explicitly authorised within the approved Budget or Capital Programme.

## **21. Internal Control**

- 21.1. Internal control refers to the systems of control devised by management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- 21.2. It is the responsibility of Strategic 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. These arrangements need to ensure compliance with all applicable statutes and Regulations, and other relevant statements of

best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

- 21.3. Every transfer of monies from an officer, employee or agent of the Council to another officer, employee or agent is evidenced by an official receipt bearing the signature of the receiving officer.
- 21.4. Strategic Directors shall ensure that the staffing structure and management arrangements within their directorates separate duties such that:
  - 21.4.1 providing information about or calculating, checking and recording sums due to or from the Authority are carried out by different people from the people who have duty of collecting or disbursing the sums;
  - 21.4.2 people with the duty of examining or checking accounts, financial transactions, completion of grant claims/returns and cash balances are not themselves engaged in those transactions.

## **22. Prevention of Fraud and Corruption**

- 22.1. Strategic Directors are responsible for ensuring that efficient and effective internal controls are operated to prevent the loss of the Council's assets through any means. They therefore have the prime responsibility for preventing and detecting any loss through fraud or corruption.
- 22.2. The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- 22.3. If an instance of fraud or corruption is identified or suspected then Strategic Directors shall follow the procedures in the Council's anti-fraud and anti-corruption policy.

## **23. Risk Management**

- 23.1. The Council is responsible for approving the Authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. It is also responsible for ensuring that proper insurance arrangements exist where appropriate.
- 23.2. The Assistant Chief Executive is responsible for preparing the Authority's risk management policy statement, for promoting it throughout the

Authority and for advising the Strategic Leadership Team on proper insurance cover where appropriate.

23.3. The Strategic Leadership Team shall promote the Council's Risk Management Policy and Strategy and develop, implement and monitor risk management controls in its capacity as the Council's corporate risk management group.

23.4. Each Strategic Director shall:

23.4.1 take responsibility for risk management of their service, having regard to advice from the specialist officers e.g. Health and Safety, Risk Management and Insurance. This should include having procedures in place to identify, assess, prevent or contain material known risks.

23.4.2 undertake regular reviews of risk within their service areas to review the effectiveness of risk reduction strategies and the operation of controls.

23.4.3 prepare and maintain a business continuity plan for implementation in the event of a disaster that results in significant loss or damage to its resources.

## **24. Insurance**

24.1. The Chief Finance Officer shall ensure that the Council has appropriate insurance cover in place in respect of all its assets and risks as an employer and provider of services and facilities. All Strategic Directors will be responsible for ensuring that the Chief Finance Officer is provided with all relevant information applicable to their Directorate, and in a timely manner, as he/she may reasonably require in order to enable him to discharge effectively the responsibility.

24.2. The Chief Finance Officer shall effect and keep under constant review all insurance cover and negotiate all claims (in consultation with Strategic Directors where appropriate).

24.3. Each Strategic Director shall:

24.3.1 give prompt notification to the Chief Finance Officer of all new risks, properties or vehicles which require to be insured and, if any, alterations affecting existing risks or insurances.

24.3.2 notify in writing the Chief Finance Officer of any loss, liability, or damage or any other event likely to lead to a claim under any of the Council's insurances, together with any information or

explanation required by the Chief Finance Officer or the Council's insurers.

- 24.3.3 keep suitable records to ensure that inspections of engineering plant under their control are duly carried out by the Insurance Company within the periods prescribed and shall take any necessary action arising there from. Any failure by the Council's insurers to carry out such inspections shall be notified to the Chief Finance Officer.
- 24.3.4 ensure that employees or anyone covered by the Council's insurances, are aware that they should not admit liability or make an offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **25. Settlement of Claims Against the Council**

- 25.1. Where a claim against the Council, other than a contractual claim covered by Contract Standing Orders, is covered by an insurance policy the Chief Finance Officer shall negotiate settlement of the claims against such insurance in consultation with the appropriate Strategic Director.
- 25.2. Where a claim against the Council, other than a contractual claim covered by Contract Standing Orders, is not covered by an insurance policy (e.g. because the value is below the excess figure for the policy) the Chief Finance Officer shall negotiate settlement of the claims in consultation with the Monitoring Officer and appropriate Strategic Director.
- 25.3. Provided there is sufficient funding available and the negotiated settlement is, in the opinion of the Chief Finance Officer, a fair settlement from the Council's point of view, the Chief Finance Officer may approve the settlement of such claims.
- 25.4. If there is not sufficient funding available, or it is not possible to negotiate an acceptable settlement with the claimant, the Chief Finance Officer shall report the matter to Cabinet.

## **26. Internal Audit**

- 26.1. The Chief Internal Auditor is responsible for advising on effective systems of internal control.
- 26.2. The Chief Internal Auditor will have overall responsibility for Internal Audit throughout the Authority. Internal Auditors will operate as a managerial control by examining, evaluating and reporting upon the effectiveness of

internal financial and operational controls and the efficient use of Council resources.

26.3. The Chief Internal Auditor will:

- 26.3.1 prepare an annual plan which takes account of the characteristics and relative risks of the activities involved;
- 26.3.2 liaise with the external auditor to ensure the internal and external audit plans are complementary;
- 26.3.3 seek the approval of the Audit Committee for the annual audit plan;
- 26.3.4 ensure periodic reporting to the Audit Committee of progress against the annual audit plan;
- 26.3.5 ensure the Internal Annual Audit Annual Report (and any interim report), including outlining actual performance against the annual audit plan, is produced and approved by the Audit Committee, and duly considered by the responsible officer for production of the Annual Governance Statement;
- 26.3.6 manage the internal audit function and ensure it complies with the Public Sector Internal Audit Standards issued by the Chartered Institute of Internal Auditors and the Chartered Institute of Public Finance and Accountancy;
- 26.3.7 ensure that effective procedures are in place within the Authority to investigate promptly any fraud or irregularity. Note that this does not mean that internal auditors will conduct all investigations.

26.4. Internal auditors have the authority to:

- 26.4.1 access all Authority premises at reasonable times;
- 26.4.2 access all assets, records, documents, correspondence and control systems;
- 26.4.3 require from officers, members and suppliers any information and explanation considered necessary concerning any matter under their consideration;
- 26.4.4 require any officer of the Authority to account for cash, stores or any other authority asset under his or her control;
- 26.4.5 access records belonging to third parties, such as contractors, when required.

- 26.5. All internal audits will result in a written report. Strategic Directors shall ensure that all agreed actions are implemented in a timely and efficient manner.

## **27. Assets**

- 27.1. Each Strategic Director is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, moveable plant, machinery, vehicles, ICT equipment and devices, cash, information/data etc., under his/her control (whether owned or leased). Each Strategic Director shall also record a description of all these items in an inventory in the form required by the Chief Finance Officer.
- 27.2. As far as is considered to be necessary and practical, items appearing on the inventory shall be effectively marked as Council property.
- 27.3. Each Strategic Director shall arrange for a complete check of their inventories at least once in each financial year. Any discrepancies shall be dealt with in consultation with the Chief Finance Officer.
- 27.4. The Chief Finance Officer shall maintain a complete and up to date register of all the Authority's tangible assets under the Council's control.
- 27.5. The Chief Finance Officer shall calculate and process the appropriate capital financing charges in accordance with the prevailing accounting code of practice for local authorities.
- 27.6. Each Strategic Director and Director will inform promptly the Chief Finance Officer of all additions, deletions, enhancements/impairments or other changes to the Authority's portfolio of capital assets, such as might affect the preparation of the Council's accounts.

### Disposal of Assets (other than land and buildings)

- 27.7. Surplus plant, vehicles, furniture, equipment and stock items (owned by the Council and not leased) should be disposed of by sale via competitive tender or public auction unless the interests of the Council would be better served by disposal in some other way.
- 27.8. All IT equipment should be disposed of in accordance with the contract arrangements put in place by IT services to ensure equipment is securely and safely dealt with in line with legal requirements.

### Land and Buildings

- 27.9. All arrangements for the acquisition and disposal of land and buildings shall be robust and transparent, in accordance with prevailing legislation, and be conducted by the Property Officer, including all negotiations and the preparation and certification of valuation certificates.

27.10. In respect of the acquisition of land and property:

27.10.1 where sufficient budget provision for an acquisition exists within the total Council budget, the Property Officer may approve a purchase of land or buildings; or

27.10.2 where the land or property is to be acquired by entering into a lease as tenant, the Property Officer must ensure that there is sufficient provision in the current Council budget for the lease payments and also that the lease payments can be sustained in future budgets.

27.11. In respect of disposals of land and property the processes followed should be robust and transparent and in accordance with prevailing legislation. In all cases of planned disposal of land or property:

27.11.1 where the estimated disposal value is less than £100,000 the Property Officer, having taken financial and legal advice, may arrange for the disposal of land or property;

27.11.2 where the estimated disposal value of individual property assets is equal to or greater than £100,000, a decision of Cabinet is required;

27.11.3 in respect of disposal at less than the best consideration that can reasonably be obtained, the Property Officer shall prepare a report to Cabinet, requesting approval to proceed with the disposal in accordance with the relevant legislation (Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003).

27.12. The Property Officer shall maintain a terrier of all properties owned by the Council (except dwellings provided under the Housing Acts), recording the purpose for which the property is held, location, extent and plan reference, purchase details, nature of interest, details of all rents and other charges payable and receivable, and particulars of all tenancies granted.

27.13. The Monitoring Officer shall have custody of all title deeds for property held by the Council.

## **28. Stocks**

28.1. Where a service keeps goods or finished products in stock the relevant Strategic Director shall ensure that a proper stock control system is operated, appropriate to the value of the stock being held. The Strategic Director shall ensure that stock checks and revaluations are carried out

at regular intervals (which shall be no less frequent than yearly) and promptly inform the Accountancy team so that appropriate accounting adjustments can be made.

- 28.2. Where stock discrepancies (surpluses or deficiencies) are material the relevant Strategic Director shall investigate the discrepancy and inform the Chief Finance Officer to make appropriate changes to accounts and records. Where the Chief Finance Officer considers it to be appropriate by reason of circumstances and/or value, he/she may require the Strategic Director to report to the appropriate Executive Member.
- 28.3. Surplus or obsolete stocks should not be held. These should be disposed of at the best prices available in accordance with procedures agreed with the Chief Finance Officer.

## **29. Banking Arrangements**

- 29.1. The Chief Finance Officer will be responsible for the opening of all bank accounts in the name of, and on behalf of, the Council. No employee or member of the Council shall open any bank account (or equivalent) without the express written approval of the Chief Finance Officer.
- 29.2. The Chief Finance Officer will ensure that sound, adequate arrangements are in place for the safe and efficient operation of all Council bank accounts, and will effect, or cause to be effected, proper and timely reconciliations.

## **30. Treasury Management**

- 30.1. The Council has adopted CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), and specifically adopts the key principles as described in Section 4 of the Code.
- 30.2. Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management: -
  - 30.2.1 a treasury management policy statement, stating the policies and objectives of its treasury management activities.
  - 30.2.2 suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 30.3. The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment, where necessary, to reflect the particular



circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.

- 30.4. The Council will receive reports from the Chief Finance Officer on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the financial year, and an annual report after its close, in the form prescribed in its TMPs.
- 30.5. The Chief Finance Officer shall execute and administer treasury management decisions in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.
- 30.6. Strategic Directors shall ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Finance Officer and, if applicable, approval of the project in the Capital Programme.
- 30.7. The Audit Committee shall monitor the implementation and operation of the treasury management policies and practices. The Chief Finance Officer shall provide a report on the operation of treasury management policies and practices to the Audit Committee at least once every financial year.

### **31. Petty Cash Imprest Accounts**

- 31.1. The Chief Finance Officer shall make imprest advances of such amounts as is considered necessary for the purpose of defraying petty cash expenses.
- 31.2. Except by arrangement with the Chief Finance Officer, petty cash disbursements shall be limited to minor items of expenditure not exceeding such sums as the Chief Finance Officer may from time to time determine.
- 31.3. No cheques shall be cashed from monies held under these arrangements.
- 31.4. Receipts for petty cash disbursements shall be obtained wherever possible and the imprest holder shall obtain a signature for all reimbursements. Wherever possible a VAT invoice must be obtained for all purchases, and care taken to isolate the VAT element in any payment made.
- 31.5. An officer responsible for an imprest account shall, if so requested, give the Chief Finance Officer, a certificate as to the state of his/her imprest account.

- 31.6. On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Chief Finance Officer for the amount advanced to him/her.

## **32. Data Protection**

- 32.1. Strategic Directors must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation, and that staff are aware of their responsibilities under Freedom of Information legislation.
- 32.2. In particular, the implementation or alteration of any computerised financial system that is used to hold and/or process personal data requires the approval of the Authority's Data Protection Officer and the Senior Information Risk Owner, before being implemented.

## **33. External Arrangements and Partnerships**

- 33.1. The Authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area including to develop and achieve the furtherance of the Authority's priorities and objectives.
- 33.2. The Chief Executive, or other properly authorised individual, who represents the Council on a partnership or external body, in accordance with the Scheme of Delegation, shall carry out their duties in a financially responsible way.
- 33.3. The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. In conjunction with the Monitoring Officer, he/she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 33.4. Where the Council undertakes to carry out any work for third parties:
- 33.4.1 arrangements should be in place to ensure that any risks associated with third party work is minimised and that such work is within the powers of the Council;
  - 33.4.2 The Monitoring Officer should approve the contractual arrangements for any work for third parties or external bodies;

- 33.4.3 if the value of such work is in excess of £400,000 the contractual arrangements must be approved by Cabinet.
- 33.5. Strategic Directors and Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### **34. Gifts, Loans and Sponsorship**

- 34.1. Gifts, loans and sponsorship can be defined as the voluntary provision to the Council of non-public funds, services, equipment or other resources. In some circumstances they may be accepted from a source which has genuine and well-intentioned reasons for wishing to support specific projects.
- 34.2. For the avoidance of doubt this financial regulation does not apply to any funding received pursuant to any service delivery partnership entered into with another public body or voluntary organisation.
- 34.3. Gifts, loans and sponsorship must not be accepted where there is a risk of damaging the integrity or propriety of the Council. For example, gifts, loans and sponsorships should not be accepted:
  - 34.3.1 from sources which come under the direct scrutiny of the Council;
  - 34.3.2 where the provider seeks endorsement of a product or service in order to gain preferential treatment in supplying or contracting goods and services to the Council; or
  - 34.3.3 to influence the direction of a particular policy or operation.
- 34.4. Gifts, loans and sponsorship should only be used to support Council activities which can readily be discontinued, since the donations can be withdrawn at any time on the initiative of the donor.
- 34.5. Where gifts, loans, or sponsorship come from more than one organisation in a competing market, care must be taken to demonstrate an even handed approach in accepting or rejecting any offer.
- 34.6. In considering the offer of a gift, loan or sponsorship, priority must be given to meeting the needs of the Council rather than those of the donor/lender/sponsor, and should avoid:
  - 34.6.1 potentially sensitive associations with inappropriate donors/lenders/sponsors;
  - 34.6.2 potentially sensitive associations with organisations already in a contractual arrangement to supply goods or services to the

- Council, which could be construed by competitors as preferential treatment;
- 34.6.3 projects which could distract effort from tackling agreed priorities;
- 34.6.4 projects of dubious or limited benefit;
- 34.6.5 offers of gifts, loans, or sponsorship with conditions attached;
- 34.6.6 offers of gifts, loans, or sponsorship which could involve the Council in additional net expenditure;
- 34.6.7 offers of equipment which is incompatible with existing equipment;
- 34.6.8 inadequate contractual arrangements; and
- 34.6.9 the risk of becoming unduly dependent on a facility or item of equipment which is liable to be withdrawn.
- 34.7. Where publicity is sought by the donor/lender/sponsor, a commercial agreement should be signed.
- 34.8. Strategic Directors have discretion to accept individual gifts, loans, or sponsorship related to their directorates in accordance with the above guidelines up to a value of £25,000. Above this value, the approval of Cabinet is required.

### **35. Voluntary and Trust Funds**

- 35.1. Voluntary and Trust Funds shall include any fund other than an official fund of the Council, which is controlled wholly or partly by an officer by reason of his or her employment.
- 35.2. All such funds shall be held and operated in accordance with such accounting requirements as may be prescribed by the Chief Finance Officer and within the requirements of any Trust Deed or similar document.
- 35.3. The accounts of all such funds shall be made up annually, and audited under such arrangements as may be prescribed or approved by the Chief Finance Officer, and within the requirement of any Trust Deed or similar document.

**36. Retention of Financial Documents**

- 36.1. The Chief Finance Officer will issue guidance on the minimum periods and storage formats for retention financial documents and ensure that these formats and timescales are complied with.

**37. Emergency Arrangements**

- 37.1. Nothing in these Financial Regulations shall prevent a Strategic Director from incurring reasonable expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to Section 138 (Emergency Planning) of the Local Government Act 1972, if it becomes evident that such expenditure cannot be contained within the budget approved by Council.

**38. Suspension of a Financial Regulation**

- 38.1. In exceptional cases, the Chief Finance Officer may suspend the application of these Regulations where it is in the best interests of the Council to do so. Any decision to suspend the Regulations shall be recorded in writing along with the reason(s) for making the decision.
- 38.2. In cases of urgency the Chief Finance Officer jointly with the Chief Executive may authorise an officer to incur any lawful expenditure which would otherwise be contrary to these Regulations. The exercise of this regulation shall in every case be recorded in writing along with the reason(s) for making the decision.

# CONTRACT STANDING ORDERS

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CHAPTER I  
GENERAL

**32. Contract Standing Orders and Financial Regulations**

- 32.1. This Part IV set out the procedures that must be followed in relation to the making of council contracts and the persons empowered to determine select lists of tenderers, open tenders and enter into contracts in the Council's name.
- 32.2. The Council may take disciplinary action against anyone who fails to comply with the Standing Orders in this Part IV.
- 32.3. In procuring works, goods and services, every member of the Council and every officer and employee of the Council must have regard to the Corporate Procurement Strategy, the Forward Plan and must comply with the Standing Orders in this Part IV and the Council's Financial Regulations and the Public Contract Regulations 2015. □
- 32.4. To assist officers and members in their roles the Chief Finance Officer may, from time to time, issue written guidance notes which set out in more detail how the Council's procurement arrangements shall operate. Such Guidance Notes are not formally part of the Contract Standing Orders and can be issued by the Chief Finance Officer at any time.
- 32.5. In this Part IV of Standing Orders the terms below shall be interpreted as follows:

**Assistant Director** means an officer who reports directly to a Strategic Director (irrespective of their actual job title)

**Approved List** means a list of suppliers who are assessed as suitable to provide specified goods or services

**Authorised Officer** any officer who is designated as such in accordance with Standing Order [•]

**Budget Manager** means an officer who is given responsibility for controlling the expenditure for one or more cost centre or project

**Chief Finance Officer** means the person designated as the Section 151 Officer (currently the Strategic Director – Finance and Customer Services)

**Chief Procurement Officer** Head of Procurement

**Contract Manager** means the officer designated by a Strategic Director as such in respect of a specified contract in accordance with Standing Order [•]



**Contracts Finder** means the government web service which allows businesses to find contract opportunities with the UK government and its agencies

**Dynamic Procurement System** means a procurement tool available for contracts for works, services and goods commonly available on the market, procurement in line with Regulation 34 of the Public Contracts Regulations 2015

**EU Threshold** means the financial threshold from time to time at which the EU procurement directives are applicable to a procurement of works, goods or services (different thresholds apply to works, goods and services)

**Framework Agreement** means an agreement between the Council and one or more suppliers which set out the terms and standards for the supply of goods or services (but not the volume) and the method for calling off orders

**Monitoring Officer** means the Assistant Director – Legal Services

**Procurement Business Case** means the business case prepared in accordance with Standing Order [•]

**Professional Buying Organisation (PBO)** means an organisation which runs purchases goods and/or services on behalf of other organisations

**Property Officer** means Assistant Director – Planning, Regeneration and Transport

**YORtender** means the on-line supplier and contract management system used by the Council to operate e-tenders and for the online management of suppliers and contracts and to advertise contracts.

**Standing Guide** means CIPFA's Commissioning Joint Committee's *Standing Guide to the Commissioning of Local Authority Work and Services*

**Strategic Director** means an officer who is a member of the Strategic Leadership Team and reports directly to the Chief Executive

### 33. Guiding principles

- 33.1. The Standing Orders in this Part IV are founded on the principle that the making of council contracts, and the entering into of contracts under Standing Order 37.8 (functions carried out by the Council on behalf of a person, body or organisation), will be done in a business-like manner, with reasonable care, skill and caution and with due and alert regard to

the interests of local communities and council taxpayers in the Council's area.

- 33.2. Contracts will, in general, be awarded following a competitive exercise designed to identify the supplier who will provide the goods, services or works to the Council in the most value for money way.
- 33.3. Contract documentation shall reflect the following ten principles of good contract management:
  - 33.3.1. there should be clearly defined contract governance and assurance from the outset including:
    - 33.3.1.1. clarity about roles and responsibilities;
    - 33.3.1.2. agreed reporting requirements and assurance plan; and
    - 33.3.1.3. clear escalation procedures.
  - 33.3.2. the contract should include robust and appropriate key performance indicators (KPIs) and set out the requirement for the supplier to report their performance regularly and transparently;
  - 33.3.3. there should be a payment mechanism which is results-driven so that the supplier is paid in full only if they provide the goods, works, or services in full, on time and to the right quality;
  - 33.3.4. there should be an agreed process for managing changes to the contract, where the implications (in terms of price, KPIs, risks, benefits) are documented and approvals are sought;
  - 33.3.5. the allocation of risks between the Council and the supplier are documented and actively managed;
  - 33.3.6. there should be a benefits log developed from the original Procurement Business Case and the achievement of the benefits managed by the Contract Manager;
  - 33.3.7. the contract should be designed to incentivise and encourage the supplier to meet the Council's requirements;
  - 33.3.8. there should be suitable arrangements for communication between the Council and the supplier;
  - 33.3.9. there should be regular performance reviews capturing lessons learnt from all parties that should be addressed for remaining contract life and/or included in future procurement projects; and
  - 33.3.10. there should be arrangements put in place to encourage continuous improvement.

**34. Delegation arrangements**

- 34.1. The Cabinet has a general power to make council contracts.
- 34.2. In relation to their directorates, each Strategic Director has a general power to make council contracts, including power to determine select lists of tenderers, to accept tenders and to award contracts.
- 34.3. In the case of contracts not attributable to a particular directorate, the Chief Finance Officer and Chief Executive have the same general power to make council contracts as the other Strategic Directors.
- 34.4. Each Strategic Director has the power, in relation to their respective directorate and subject to consultation with the relevant Cabinet Member and Chief Finance Officer –
  - 34.4.1. to authorise the submission of a tender for a contract for –
    - 34.4.1.1. the supply of goods or materials to,
    - 34.4.1.2. the provision of administrative, professional or technical services to,
    - 34.4.1.3. the hire of vehicles or plant to, or
    - 34.4.1.4. the maintenance of buildings and land commissioned by,  
  
another local authority or body designated as a public body under the Local Authorities (Goods and Services) Act 1970;
  - 34.4.2. to authorise the submission of a tender for a contract for a work or for the supply of goods, materials or services commissioned by a person, body or organisation for whom the Council is empowered to act as the agent; and
  - 34.4.3. to authorise the submission of a tender for a contract for work or the supply of goods, materials or services to a person, body or organisation in the private sector, where the Monitoring Officer's advice on the powers of the Council to undertake the work or supply the goods, materials or services has been obtained.
- 34.5. The Property Officer has the power –
  - 34.5.1. to agree the terms and conditions of any disposal or acquisition of land and buildings;

- 34.5.2. to approve the terms and settlement of rent reviews, assignments, lease renewals, licences, tenancies and consents both as landlord and tenant;
  - 34.5.3. to approve the terms and conditions of new leases;
  - 34.5.4. to grant or refuse consent to the assignment of leases, sub-lettings, ground landlord approval, variations to user clauses, the release of restrictive covenants, variations to, or the extinguishment of, easements or wayleaves, as grantor or grantee;
  - 34.5.5. to assign leases, approve sub-lettings, change user clauses and grant landlord's approvals;
  - 34.5.6. to approve the grant, refusal or seek consent to the assignment of leases, sub-lettings, ground landlord approval, variations to user clauses, the release of restrictive covenants, variations to, or the extinguishment of, easements or wayleaves as landlord or tenant;
  - 34.5.7. to approve the granting, taking and extinguishments of wayleaves, easements and access agreements as grantor or grantee;
  - 34.5.8. to determine the method of disposal of land and buildings, and to establish the appropriate price to be paid, including the appropriate guide and reserve price for disposal by auction;
  - 34.5.9. to authorise the entering into of leases and licences as tenant;
  - 34.5.10. to authorise the certification of valuations for insurance reinstatement, financial accounting purposes, statutory compensation, acquisition, disposal or letting of land and property;
  - 34.5.11. to determine applications to place land and property on the schedule of Assets of Community Value;
  - 34.5.12. to authorise the letting of land and property under the terms of the Council's adopted Asset Transfer Policy.
- 34.6. The Property Officer may approve the terms and conditions of any disposal or acquisition of land and buildings.

**35. Compliance with Standing Orders, legislation and the adoption of the Standing Guide**

- 35.1. Every contract made by the Council or on its behalf shall comply with this Part IV, the Council's Financial Regulations and applicable European and domestic law.
- 35.2. In conjunction with the application of this Part IV, the Council has adopted the Standing Guide.
- 35.3. The Standing Guide covers –
- commissioning strategy – deciding how projected work and services should be commissioned;
  - procurement, and the many other options available for carrying out work and services, including delegation, decentralisation, and the outright transfer of functions and activities to third parties;
  - managing and updating contracts once they have been completed.
- 35.4. In the case of building and construction-related contracts, the provisions of this Part IV shall apply to the nomination by the Council of a sub-contractor or supplier to carry out works or supply goods, materials or services to a main contractor appointed by the Council.
- 35.5. It shall be a condition of any contract between the Council and any person who is not an officer of the Council but who is authorised to carry out any of the Council's contracts functions that that person complies with this Part IV and the Council's Financial Regulations.
- 35.6. Subject to Standing Orders [•] (contract Standing Orders and financial regulations), Standing Order [•] (delegation arrangements) and Standing Order [•] (guiding principle in making contracts), the provisions of this Part IV do not apply to contracts in which the Council acts for –
- 35.6.1. another local authority or body designated as a public body under the Local Authorities (Goods and Services) Act 1970 or regulations made under the 1970 Act; or
- 35.6.2. a person, body or organisation for whom the Council is empowered to act as the agent,
- unless the agreement with the local authority, public body, person, body or organisation, stipulates that any or all of the provisions of this Part IV are to apply to the contract.

**36. Authorised Officers**

- 36.1. Each Strategic Director shall –

- 36.1.1. compile and maintain a scheme of delegation for his/her service area; and
- 36.1.2. supply and agree the scheme of delegation with the Chief Finance Officer before the start of each financial year and on making any amendments to it.
- 36.2. Each Strategic Director's scheme of delegation must specify –
  - 36.2.1. the names, grades, post references and job titles of Authorised Officers for the purposes of –
    - 36.2.1.1. approving Procurement Business Cases;
    - 36.2.1.2. managing procurement projects; and
    - 36.2.1.3. entering into contracts
  - 36.2.2. the maximum contract value allocated to each Authorised Officer for those purposes.
- 36.3. The Chief Finance Officer shall keep a register of all schemes of delegation.
- 36.4. Authorised Officers shall –
  - 36.4.1. always seek value for money;
  - 36.4.2. act impartially towards contractors and ensure that contractors from other European Community states are not discriminated against;
  - 36.4.3. conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information whilst complying with freedom of information legislation);
  - 36.4.4. do nothing that contravenes European or domestic law; and
  - 36.4.5. ensure that comprehensive contract files are kept for all contracts upon which they are engaged.

## CHAPTER II

### PREPARING FOR A PROCUREMENT

#### **37. Procurement Business Cases**

- 37.1. A Procurement Business Case should be developed for every procurement project. In preparing a Procurement Business Case an officer should take appropriate legal, procurement and financial advice.

- 37.2. A Procurement Business Case should explain, to the level of detail that is proportionate to the value of the works, goods or services being procured:
- 37.2.1. the background and purpose of the procurement project;
  - 37.2.2. the strategic context (including the fit with the Council's policy framework and budget);
  - 37.2.3. details of the research undertaken in connection with the procurement, including an assessment of the relevant marketplace;
  - 37.2.4. the views of stakeholders;
  - 37.2.5. the available options in terms of variable such as service levels, contract duration, type of contract;
  - 37.2.6. the preferred option;
  - 37.2.7. the procurement route to be followed;
  - 37.2.8. risk assessment (including consideration of the need for the Council to seek additional security from the supplier);
  - 37.2.9. financial implications (including estimated costs, available funding and affordability);
  - 37.2.10. proposed management arrangements (for the procurement and the subsequent contract);
  - 37.2.11. proposed exit arrangements at the end of the contract.
- 37.3. Strategic Directors and Authorised Officers are empowered to carry out the procurement process and to award contracts in accordance with these Standing Orders, subject to consideration of any other rules set within the Constitution - in particular that the procurement is in line with the Budget and Policy Framework and that there is sufficient provision in the Revenue Budget or Capital Programme (as the case may be). Otherwise Cabinet approval must be sought.
- 37.4. For additional clarity, if the expenditure and procurement is part of day to day delivery of services, does not involve substantial service change (e.g. is simply a re-procurement of an expiring contractual arrangement and is part of normal business) and was in the reasonable contemplation of the Council when the Revenue Budget or Capital Programme was approved (in other words the procurement activity itself is not a Key Decision) then it does not require further Cabinet approval. If in doubt the advice of the Chief Finance Officer and the Monitoring Officer should be sought.

- 37.5. For all procurements in excess of £250,000 the decision to award a contract must be recorded and published in accordance with the Access to Information Rules and the Executive Procedure Rules.

### **38. Approved Lists**

*The Standing Guide contains guidance on approved and standing lists.*

- 38.1. Where appropriate and with the agreement of the Chief Procurement Officer, Strategic Directors shall compile and maintain an Approved List for their the supply of specified works, goods or services.
- 38.2. Approved Lists shall be reviewed at regular intervals and agreed with the Chief Procurement Officer.
- 38.3. An Approved List shall–
- 38.3.1. set out the criteria for inclusion, suspension and exclusion from the list, including but not by way of limitation –
    - 38.3.1.1. economic and financial standing,
    - 38.3.1.2. technical ability and capacity,
    - 38.3.1.3. insurance arrangements,
    - 38.3.1.4. quality systems,
    - 38.3.1.5. health and safety record,
    - 38.3.1.6. environmental performance and compliance with environmental legislation,
    - 38.3.1.7. compliance with age discrimination, sex discrimination, race relations and all other relevant legislation, and
    - 38.3.1.8. transparency/basis of appointment;
  - 38.3.2. indicate the categories of contracts for which the contractors listed may be invited to tender; and
  - 38.3.3. contain the names and addresses of the contractors who have met the criteria for inclusion on the list and who wish to be included on it.
- 38.4. At least four weeks before an approved list is compiled or reviewed, notices inviting applications for inclusion in the list shall be published in one or more newspapers circulating in the borough and in one or more technical journals published nationally.



- 38.5. Approved Lists must be operated so as to ensure that all contractors on the list are given a reasonable opportunity of submitting tenders for appropriate contracts let by the Council from time to time.
- 38.6. Approved Lists must not be used for any procurement exercise over the EU Threshold.

### **39. Open competition for contracts**

- 39.1. Notwithstanding Standing Orders Standing Order [•] (approved lists of contractors) and Standing Order [•] (Authorised Officers' lists of contractors), this Standing Order shall apply where the Cabinet or the Strategic Director for the service area concerned has decided that tenders for a particular contract are to be obtained by inviting tenders for the contract on the open market.
- 39.2. Notice of all procurement competitions shall be advertised through YORtender, and where the procurement value is £25,000 or more, it shall also be advertised on Contracts Finder.
- 39.3. The notice shall –
  - 39.3.1. specify the nature and purpose of the contract, including where further details may be obtained;
  - 39.3.2. invite tenders for the contract; and
  - 39.3.3. state the last date and time when tenders for the contract will be accepted.
- 39.4. The suitability of contractors who respond to a notice issued under Standing Order Standing Order [•] to perform the contract shall be assessed using the criteria for inclusion, suspension and exclusion from an approved list, in accordance with the procurement procedure chosen for the procurement project.

## CHAPTER III ASCERTAINING THE VALUE OF CONTRACTS

### **40. Contract value and aggregation**

*The Standing Guide contains guidance on whether the EU procurement rules apply and packaging contracts.*

- 40.1. An Authorised Officer must estimate and record the net value of a proposed contract excluding value added tax.

- 40.2. Where a requirement for a work, service or supply of goods or materials is subdivided into several elements, the estimated value of each element must be aggregated to calculate the total overall estimated value of the contract.
- 40.3. A contract must not be –
  - 40.3.1. artificially divided into two or more separate contracts; or
  - 40.3.2. valued using a valuation method selected with the intention of avoiding the application of any of this Part IV.

#### **41. Pre-tender quotations and enquiries**

*Part 41 of the Standing Guide contains guidance on selecting tenderers.*

- 41.1. An Authorised Officer may make general enquiries of contractors before tenders or quotations are invited in order to –
  - 41.1.1. establish whether the work, goods, materials or services that the Council wishes to procure are available and at what price;
  - 41.1.2. prepare tender documents, price estimates and contracts; and
  - 41.1.3. for contracts under £25,000, ascertain which contractors wish to be invited to tender or quote for a particular contract.
- 41.2. In making enquiries –
  - 41.2.1. an Authorised Officer shall not disclose to one contractor information which is not also disclosed to all those of whom enquiries are made or who are subsequently invited to submit a tender or quote;
  - 41.2.2. no contractor shall be led to believe that the information he/she offers will necessarily lead to him/her being invited to submit a tender or quote or being awarded a contract; and
  - 41.2.3. a comprehensive written record, including notes of any meetings held, the responses made and the names of all individuals present shall be kept by the Authorised Officer on the contract file.

### **CHAPTER IV THE TENDERING PROCESS**

#### **42. Contracts not requiring tendering**

- 42.1. A contract need not be tendered if –

- 42.1.1. it is valued at less than £25,000 and the requirements of Standing Order Standing Order [•] (contracts valued at less than £50,000) are met, except where, notwithstanding Standing Order Standing Order [•], the contract must be tendered by law;
- 42.1.2. an exemption from tendering has been granted in respect of that contract under Standing Order Standing Order [•] (exemption from competition);
- 42.1.3. it is a contract entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the lead authority or organisation and European and domestic law;
- 42.1.4. it is a contract made under one of the suite of framework agreement or contracts that a public sector Professional Buying Organisations (PBO) has with suppliers of works, goods and services, except where the terms and conditions of the PBO's agreement include a requirement to undertake competition between providers under the agreement in which event a tendering exercise must be conducted in compliance with the requirement;
- 42.1.5. it is a social care contract, being the provision of individual care and support services to a client or group of clients that is not obtainable under any framework agreement or contract that the Council has with a provider of such services and enquiries have established that there is only one external provider of the required individual care and support services at the time the need arises;
- 42.1.6. it is for the purpose of formalising the funding of particular voluntary or community sector bodies where the purpose of the contract is to establish the general conditions which will apply to the funding from the Council;
- 42.1.7. it is for the engagement of counsel or the provision of specialist legal advice; or
- 42.1.8. it is for the appointment of an expert witness in connection with court proceedings, tribunal proceedings, statutory inquiries, or any other proceedings in which the Council is a party; or
- 42.1.9. it is for the renewal of an ICT or property support or maintenance contract within 5 years of the original contract having been made.

**43. Exemption from competition**

44. The Strategic Director has power to waive any requirements within these contract procedure rules for specific projects, and any such decision may be a Key Decision, except where the said decision would constitute a breach of EU Legislation.
- 44.1. Subject to statutory requirements and Public Contract Regulations, quotations or tenders need not be invited in accordance with these Standing Orders in the following cases:
- 44.1.1. where the technical characteristics of the goods are only compatible with an existing supply or installation, such that procurement of another product other than one available from the original Contractor would result in incompatibility and/or disproportionate technical difficulties. The duration of a contract negotiated in accordance with this exemption shall not exceed 3 years;
  - 44.1.2. the procurement of a unique work of art or artistic performance;
  - 44.1.3. where competition is absent for technical reasons where no reasonable alternative or substitute exists;
  - 44.1.4. where due to exclusive rights, including but not limited to intellectual property rights, no reasonable alternative or substitute exists;
  - 44.1.5. where the price of the goods, services or works that are to be procured is controlled by statutory bodies, trade organisations or legislation and in the opinion of the appropriate Strategic Director no reasonable satisfactory alternative is available;
  - 44.1.6. Where the contract is for the execution of work or the supply of goods or services that are required so urgently (the urgency not being due to the action or inaction of the Council or its officers) that compliance with any competitive process prescribed by these Standing Orders cannot be achieved;
  - 44.1.7. Where the contract relates to goods, services or works in circumstances where the publication of documents detailing the Council's requirements could reasonably be considered to prejudice the security of the activity to be undertaken and the Council have considered the use of reasonable measures that would protect such security and allow the normal procurement process to be followed (e.g. the use of confidentiality agreements);

- 44.1.8. to allow for the continuation of a contract beyond its contractual term, in exceptional circumstances and where the term of such an extension is determined in accordance with the timescales required to complete a re- procurement or decommission the existing arrangement;
  - 44.1.9. in any case where works are to be executed or goods or services are to be supplied, the Strategic Director believes there can be no genuine competition;
  - 44.1.10. an alternative, competitive process to that prescribed by these Standing Orders may be approved for contracts with a value between £50,000 and the EU Threshold subject to reasonable justifications for such a request.
- 44.2. All exemptions require the approval of the Chief Finance Officer (in consultation with the Monitoring Officer) who is ultimately responsible for procurement within the Council, as well as the approval of the relevant Strategic Director for the service concerned.
- 44.3. An exemption request form must be completed for every instance of an exception with a total value of £10,000 or more to inform the Chief Finance Officer and the relevant Strategic Director for the service of all the relevant implications associated with the proposed course of action and aid their decision making. The request must clearly document the exemption to be applied, along with the justifications and all necessary procurement, legal and financial risks.
- 44.4. A copy of all approved exemption requests must be provided to the Corporate Procurement Team, where a record of all approved exemptions will be maintained. The relevant Strategic Director is responsible for ensuring the appropriate Cabinet Member is kept informed.
- 44.5. Where an exemption has been approved, the Authorised Officer must ensure that the best possible balance of value for money and quality is obtained for the Council. A specification and Terms and Conditions must be developed and a formal quote/tender must be requested from the chosen supplier. The supplier must not be told that they are the only company submitting a bid. A copy of the final Contract must be uploaded to the YORtender and managed in line with the requirements of these Standing Orders.

**45. Framework Agreements and Dynamic Purchasing Systems**

- 45.1. Officers must use a third party Framework Agreements and Dynamic Purchasing Systems procured by another public sector body or Professional Buying Organisation where these are available to the Council for the goods or services that are required.
- 45.2. The Chief Procurement Officer shall maintain a list of such Framework Agreements and Dynamic Purchasing Systems which officers are permitted to use and make the list available to officers.
- 45.3. Framework Agreements may also be procured and used by Strategic Directors, subject to legislative requirements and advice from the Chief Procurement Officer, as a procurement tool to manage the process of competition and sourcing of suppliers in an efficient way.
- 45.4. Where the relevant Strategic Director is satisfied that a requirement for works or services falls outside any Framework Agreement or contract that the Council has with a provider of such works or services, the particular works or services shall be procured in accordance with these Standing Orders.
- 45.5. Contracts based on Framework Agreements may be awarded by either –
  - 45.5.1. applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without re-opening competition; or
  - 45.5.2. where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini-competition in accordance with the following procedure –
    - 45.5.2.1. inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written tenders;
    - 45.5.2.2. fixing a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract;
    - 45.5.2.3. awarding each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specification of the framework agreement.

**46. Contracts valued at less than £25,000**

- 46.1. This Standing Order is predicated on the presumption that the provision of works, services or supplies of goods or materials by internal trading organisations employed by the Council for that purpose is more economically efficient than inviting tenders for each contract.
- 46.2. This Standing Order applies to any internal trading organisation of the Council.
- 46.3. Where a contract for a work, service or supply of goods or materials is valued at less than £25,000 the order shall be placed with an internal trading organisation if the internal trading organisation can perform the work, carry out services or supply goods or materials and achieve value for money, after taking into consideration as appropriate –
  - 46.3.1. cost effectiveness;
  - 46.3.2. quality, aesthetics and functional characteristics;
  - 46.3.3. technical assistance and technical merit;
  - 46.3.4. the period for completion or delivery;
  - 46.3.5. running costs;
  - 46.3.6. after sales service; and
  - 46.3.7. profitability.
- 46.4. A contract should be made with an external contractor on an Authorised Officer's list if but only if the condition specified in Standing Order [•] is not met.
- 46.5. Except as required by law and subject to Standing Orders Standing Order [•] (frameworks) Standing Order [•] (prohibition on artificial division of a requirement for a work, goods, material or services into two or more contracts) and Standing Order [•], a contract made under Standing Order [•] where the estimated value is –
  - 46.5.1. less than £5,000 may be made without seeking competitive, written quotations;
  - 46.5.2. £5,000 but less than £25,000 may be made after inviting at least two written quotations.
- 46.6. Authorised Officers must keep a written record of all quotations sought, including the full name and address of the contractor, details of the contract and the contractor's price for its performance.

- 46.7. A written quotation must be obtained before an order is placed or a contract made in accordance with this Standing Order.

**47. Contracts valued at £25,000 or more**

- 47.1. Where a contract for a work, service or supply of goods or materials is valued between £25,000 and the EU Threshold it should be let on a competitive basis, advertised to the open market on YORtender and Contracts Finder.
- 47.2. a sufficient (but not disproportionate) time limit is applied to allow potential bidders to respond. This therefore needs to be considered on a case by case basis, dependent upon any prior market engagement undertaken, the complexities of the specification and the level/amount of detail required within the tender response.
- 47.3. Tenders undertaken for procurements between these thresholds must not include a pre-qualification stage or a stage in the procurement process where the authority can assess the suitability of a candidate for the purpose of reducing the number of candidates to a smaller number who will proceed to a later stage of the process.
- 47.4. Suitability questions may be included within a procurement exercise, where they are relevant to the subject matter of the procurement and proportionate, and must be considered as part of the wider overall quality evaluation.
- 47.5. Where there is a need to determine the financial standing of a potential supplier as part of the evaluation process, this should be done through due diligence with the top scoring bidder only.
- 47.6. Where the value of the proposed Contract exceeds the EU Threshold (taking account of aggregation), it must be tendered in accordance with the Public Contracts Regulations 2015, i.e. using one of the following permitted procedures:
- 47.6.1. open tender;
  - 47.6.2. restricted tender;
  - 47.6.3. competitive procedure with negotiation;
  - 47.6.4. competitive dialogue;
  - 47.6.5. innovation partnership.
- 47.7. The Procurement Business Case should have identified which of the permitted procurement procedures would be most suitable for the



procurement project and taken into account the resources and timescale needs to complete the procurement.

- 47.8. All tenders above the EU Threshold must be advertised in *the Official Journal of the European Union* (OJEU) using the YORtender portal.
- 47.9. All OJEU notices for non-routine procurements shall be referred in advance of sending to the OJEU, to the Chief Procurement Officer for advice on its wording.

#### **48. Tender invitation and receipt of tenders**

*The Standing Guide contains guidance on e-procurement and e-auctions.*

- 48.1. All tenderers invited to tender must be issued with the same information at the same time and subject to the same conditions and any supplementary information must be given on the same basis.
- 48.2. All invitations to tender must state that the Council is not bound to accept any tender submitted for the contract and should include the following –
  - 48.2.1. a specification that describes the works, goods or services in sufficient detail for the tenderers to provide robust, competitive tenders which can be relied upon by the Council to be a sound basis for the subsequent contract;
  - 48.2.2. the conditions of contract that will apply;
  - 48.2.3. a requirement for tenderers to declare that the contents of their tender, including the price or any other figure or particulars, have not been disclosed by the tenderer to any other party (except where the disclosure is made in confidence for a necessary purpose);
  - 48.2.4. a requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion;
  - 48.2.5. notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense;
  - 48.2.6. a description of the award procedure and, unless defined in a prior advertisement, a definition of the Council's tender evaluation criteria in objective terms and if possible in descending order of importance;
  - 48.2.7. the method by which any arithmetical error discovered in the submitted tenders is to be dealt with and, in particular, whether

the overall price prevails over the rates in the tender or vice versa.

- 48.3. All invitations to tender should include any other information or instructions that the Monitoring Officer and Chief Finance Officer may require.
- 48.4. The Council uses an electronic supplier and contract management system (YORtender) which is designed to give suppliers, contractors, consultants and service providers direct access to procurement opportunities with the Council and other local authorities across the region. Tenderers shall be invited to submit tenders electronically.
- 48.5. The YORtender system shall be administered and managed by the corporate procurement team.
- 48.6. All tendering exercises for contracts valued at £25,000 or more shall be conducted using the YORtender system.
- 48.7. Tenderers must submit all of the tender documents electronically into the YORtender system prior to the deadline for the close of tenders otherwise the tender will be rejected.
- 48.8. The successful tenderers' details will be listed on the Council's contracts register.

#### **49. Evaluation of tenders**

- 49.1. Tenders shall be opened using the secure, auditable functionality of the YORtender system.
- 49.2. An evaluation panel must be convened for the evaluation of tenders. Representation on the panel must be from people who have knowledge of the subject area and be proportionate to the size and value of the procurement being undertaken.
- 49.3. For all Contracts, regardless of value, no person with a personal or financial interest in any of the tenderers invited to submit a quote/tender should be involved in evaluating quotations or tenders or involved in any way in influencing the decision as to which tenderer is to be awarded the Contract. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer. No access to the tender responses should be granted until this declaration of interest form has been received.
- 49.4. It is essential that during the evaluation process the principles of Public Contract Regulations are applied, i.e:

- 49.4.1. non-discrimination
  - 49.4.2. equal treatment
  - 49.4.3. transparency
  - 49.4.4. proportionality
  - 49.4.5. open competition and
  - 49.4.6. free movement of trade within Europe.
- 49.5. The evaluation of quotations/tenders must be in accordance with the evaluation criteria specified in the original request for quotation/tender documents. Under no circumstances should there be a deviation away from this.
- 49.6. The evaluation panel must keep detailed notes on the decision making process.
- 49.7. Where a tenderer submits a qualified or conditional quotation/tender, they must be given the opportunity to withdraw the qualification or condition without amendment to the bid submitted. If the tenderer fails to do so their bid must be rejected unless it is dealt with as an alteration to their submission in accordance with Standing Order [•].
- 49.8. Identifying and dealing with abnormally low bids shall be the responsibility of the Authorised Officer. Where a tender/quote appears to be abnormally low, the Council are under a statutory duty to request that the Contractor concerned provides a full and detailed response to explain the price/cost proposed. The Council may reject an abnormally low bid, where the justification does not satisfactorily account for the low level of price. Where consideration is being made to the rejection of a bid on these grounds advice must be sought from the Chief Procurement Officer.
- 49.9. Post-tender negotiation is only permissible in limited circumstances. The advice of the Monitoring Officer and Chief Procurement Officer must be followed if an Authorised Officer considers there are issues which *might* be addressed in post-tender negotiations.

## **50. Form and content of contracts**

- 50.1. Every contract must be in writing in some form.
- 50.2. As appropriate, a contract must specify –
- 50.2.1. the parties to the contract, including any surety or guarantor;

- 50.2.2. the goods, materials or services to be supplied or the work to be performed;
  - 50.2.3. the price to be paid together with a statement as to the amounts of any discounts or other deductions;
  - 50.2.4. the period within which the contract is to be performed;
  - 50.2.5. the conditions and terms agreed between the Council and the contractor;
  - 50.2.6. in the case of a contract for building or construction-related works, a term requiring the contractor to retain and produce at the Council's reasonable request all accounts, vouchers and documents in the contractor's possession, until the Council's accounts for the contract have been audited; and
  - 50.2.7. any other terms and conditions stipulated by the Monitoring Officer (who has general powers to set standard and particular contract conditions), including a condition that –
    - 50.2.7.1. the contract may not be assigned without the prior written consent of the Council, and
    - 50.2.7.2. the Council shall be entitled to cancel the contract with immediate effect and recover any loss it has suffered as a result of the contractor offering or agreeing to give an inducement or reward to anyone in order to obtain the contract or another contract with the Council, committing an offence under the Bribery Act 2010 or giving any fee or reward the receipt of which is an offence under section 117 (disclosure by officers of interest in contracts) of the Local Government Act 1972.
- 50.3. Where appropriate, a contract with an estimated value of £50,000 or more should include standard terms and conditions, in the form approved from time to time by the Monitoring Officer, in respect of –
- 50.3.1. a right of access to relevant documentation and records of the contractor for monitoring and audit purposes;
  - 50.3.2. data protection requirements;
  - 50.3.3. discrimination and equalities requirements;
  - 50.3.4. freedom of Information Act requirements;
  - 50.3.5. health and safety requirements;
  - 50.3.6. human rights requirements;

- 50.3.7. insurance requirements;
  - 50.3.8. indemnification of the Council;
  - 50.3.9. ombudsman requirements.
- 50.4. Where appropriate, a contract with an estimated value of £50,000 or more must provide for the contractor to pay liquidated damages (where these can be assessed and ascertained) or other damages to the Council if the terms of the contract are not carried out properly, including the method by which such damages are to be calculated and the circumstances in which they will be payable.

## **51. Security for performance of contract**

*The Standing Guide contains guidance on performance bonds.*

- 51.1. Prior to the award of a contract with an estimated value of £100,000 or more, the Authorised Officer must consider whether the successful contractor should be required to provide security for the performance of the contract, in the form of a parent company guarantee or performance bond.
- 51.2. In considering the need for either form of security, the Authorised Officer must –
- 51.2.1. estimate the increase in the contract price that would result from requiring the contractor to provide security for the performance of the contract; and
  - 51.2.2. identify and assess the risks to which the Council could be exposed should the contractor fail to perform satisfactorily the contract.
- 51.3. In identifying and assessing the risks, the Authorised Officer must have regard to any guidance issued from time to time by the Chief Finance Officer and –
- 51.3.1. to any advice from the Chief Finance Officer on the contractor's financial standing;
  - 51.3.2. to the value of the contract, particularly where this is significantly higher in value than contracts for similar works, goods or services let by the Council;
  - 51.3.3. to the complexity or degree of technical difficulty of the subject matter of the contract;

- 51.3.4. to any technical or financial evaluation undertaken prior to the letting of the contract and whether this was based on an evaluation of the contractor or the contractor's parent company;
- 51.3.5. to any concerns about the contractor's stability or financial standing or both, particularly where the contract provides for staged or other payments in advance of receiving the whole of the subject matter of the contract; and
- 51.3.6. to the need to repeat periodically any financial checks that were conducted prior to the award of the contract, particularly in the case of long-term contracts such as partnering contracts.

## **52. Signing contracts and the Common Seal**

### **Contracts under seal**

- 52.1. The Common Seal of the Council must be affixed to any building contract or construction-related contract with an estimated value of £100,000 or more and to any contract, instrument or other document that is required by law to be made by deed.
- 52.2. Contracts that are required to be made by deed include contracts made without valuable consideration, conveyances or transfers of land or any interest in land and transfers of shares in certain companies.
- 52.3. The affixing of the Common Seal of the Council to any contract, instrument or document shall be deemed to be duly authenticated if but only if the impress of the Seal is accompanied by the signature of –
  - 52.3.1. the Chief Executive; or
  - 52.3.2. the following officers in Legal and Democratic Services, namely the Director of Legal and Democratic Services, the deputy Monitoring Officer, the Service Manager of the Litigation and Social Care Teams, the Service Manager of the Property, Commercial and Information Governance Teams or the Team Manager of the Commercial Team (including any temporary appointment to any of those positions to cover a vacancy or long- term absence),

whether or not, in the case of a contract that relates to the discharge of an executive function, a member of the Cabinet also attests the Seal.

### **Contracts under hand**

- 52.4. Strategic Directors have the power to sign contracts and agreements that are not required to be made by deed and, in accordance with their internal schemes of delegation, to authorise specified officers to sign such contracts on their behalf.

## CHAPTER V CONTRACT MANAGEMENT

### **53. The role of Contract Manager**

- 53.1. The arrangements for managing Council contracts should be in line with the National Audit Office's *Good Practice Contract Management Framework*.
- 53.2. For every contract the relevant Strategic Director shall appoint a suitably qualified, experienced and trained officer to be the Contract Manager.
- 53.3. The Contract Manager shall, as a minimum:
- 53.3.1. regularly review management information and supplier performance (as detailed in the tender and contract documentation);
  - 53.3.2. for contracts valued at £50,000 or more, use the YORtender to record key information about the contract throughout its lifetime;
  - 53.3.3. meet with the supplier at a frequency appropriate to the contract value (but no less frequent than annually) to discuss contract compliance, , performance, service development, innovation, etc.;
  - 53.3.4. deal with instances of off-contract and non-contract spend within the Council;
  - 53.3.5. benchmarking the contract to ensure it continues to be good value for money;
  - 53.3.6. monitoring any ongoing efficiency savings and reporting these to the Chief Procurement Officer;
  - 53.3.7. monitor that all promised outputs and outcomes, including social outcomes, are achieved;
  - 53.3.8. prepare a report for the Strategic Director at least annually on the supplier's performance, and the contract's value for money;
  - 53.3.9. make recommendations about options for future procurements/extensions to the contract.

**54. Contract variations and modifications**

- 54.1. During the term of a contract, variations or modifications may be proposed, which if adopted would result in changes to the volume and/or nature of the works, goods and/or services being supplied to the Council. To the extent that such changes were anticipated in the tendering process and a change mechanism exists in the contract then the relevant Strategic Director may approve the variation/modification subject to it being value for money and there being sufficient budget provision for it.
- 54.2. Where variations or modifications are proposed (either by the Council or the supplier) which were not considered when the original procurement took place then there are significant limitations upon the Council being able to make such modifications, When considering an un-anticipated variation/modification to an existing contract, advice must be sought from the Chief Procurement Officer and Monitoring Officer.

**55. Contract extensions**

- 55.1. An extension to a contract may only be permitted where the details of any extension provisions were included within terms and conditions of the contract, tender/quotations documents and OJEU notice (where relevant).
- 55.2. If there is not a provision in the contract for an extension an exception to these Standing Orders must be identified and dealt with in accordance with Standing Order [•].
- 55.3. Prior to extending a contract, the Authorised Officer must ensure that an options appraisal is undertaken to determine if it is in the best interest of the Council to extend the current arrangement and then seek approval of the recommended option from the appropriate Strategic Director and the Chief Finance Officer.
- 55.4. When negotiating the terms of a contract extension (if such terms are not set out in the contract documentation) the Authorised Officer must make every effort to negotiate improved contract terms with regards to cost and/or quality of the goods, services and/or works being delivered.
- 55.5. Once a contract extension has been agreed with the supplier the Authorised Officer shall update the details of the contract held in YORtender.

**CHAPTER VI  
MISCELLANEOUS PROVISIONS**



**56. Community representatives**

- 56.1. The Cabinet or the member of the Cabinet for the service area concerned may invite community representatives to appoint persons (who may not be members of the Council) to participate in the drawing up of specifications for council contracts, interviewing contractors and monitoring council contracts.
- 56.2. Community representatives are not Authorised Officers and, except where the law specifically allows, shall be observers with speaking rights at the discretion of the Authorised Officer.
- 56.3. Community representatives may advise Authorised Officers where appropriate, but all decisions must be taken within the framework of the Council's Delegation Scheme for Members and Officers.
- 56.4. Authorised Officers must ensure community representatives give a written undertaking to treat all information confidentially throughout the tender process and the life of the contract.

## **Summary Sheet**

### **Standards and Ethics Committee Report**

Standards and Ethics Committee - 12<sup>th</sup> January, 2017

#### **Title**

Resolution of Full Council Following the Conviction of a Councillor

#### **Is this a Key Decision and has it been included on the Forward Plan?**

No

#### **Strategic Director Approving Submission of the Report**

N/A

#### **Report Author(s)**

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Riverside House, Main Street, Rotherham S60 1AE

Dermot Pearson, Assistant Director, Legal Services, Riverside House, Main Street,  
Rotherham S60 1AE

#### **Ward(s) Affected**

All

#### **Executive Summary**

The report sets out the action taken following the recent conviction of former Councillor A Roddison.

#### **Recommendations**

- (i) That the Committee notes the content of the letter sent to the Department of Communities and Local Government dated 9<sup>th</sup> December, 2016.

#### **List of Appendices Included**

- (i) Letter sent to Department of Communities and Local Government dated 9<sup>th</sup> December, 2016.

**Background Papers**

N/A

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Council

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## Title

Resolution of Full Council Following the Conviction of a Councillor

### 1. Recommendations

- 1.1 That the Committee notes the content of the letter sent to the Department of Communities and Local Government dated 9<sup>th</sup> December, 2016.

### 2. Background

- 2.1 The circumstances relating to former Councillor Roddison's conviction are set out in the letter to the Department of Communities and Local Government dated 9<sup>th</sup> December, 2016, at Appendix 1.
- 2.2 A Resolution was passed at the Full Council meeting on 7<sup>th</sup> December, 2016, as follows:-

#### ***Resolved:-***

*This Council notes that:-*

*Councillor Roddison, by his conduct in:-*

- *Breaking the law by committing a sexual assault;*
- *Continuing to take public money without making any attempt to participate in his council duties; and;*
- *By his grubby action in sneaking in the side entrance to the last council meeting in order to comply with council rules on attendance to enable him to continue to take public money.*

*has brought this council into disrepute in the eyes of the public.*

*Council further notes the current legal limitations with regards to enforcement of councils' standards regimes, meaning that Councillors cannot be expelled from office unless they have been convicted of a criminal offence and been sentenced to a term of imprisonment [whether suspended or not] of three months or longer without the option of a fine.*

*This Council therefore resolves that Councillor Roddison be censured for his conduct and requests that the Chief Executive raise the concerns of this Council about the limitations of the current national Standards regime with the Government, as illustrated by this case.*

- 2.3 As such, the Chief Executive wrote to the Department of Communities and Local Government on 9<sup>th</sup> December, 2016. The letter from the Chief Executive to the Department of Communities and Local Government is attached at Appendix 1. Any response received from the Department of Communities and Local Government will be reported back to the Standards and Ethics Committee.

**3. Key Issues**

3.1 The relevant issues are set out above.

**4. Options considered and recommended proposal**

4.1 As stated above it is recommended that the Committee note the action taken.

**5. Consultation**

5.1 N/A

**6. Timetable and Accountability for Implementing this Decision**

6.1 N/A

**7. Financial and Procurement Implications**

7.1 N/A

**8. Legal Implications**

8.1 The Council has a duty to ensure that the relevant provisions of the Localism Act 2011 are applied in relation to the conduct of Members.

**9. Human Resources Implications**

9.1 None.

**10. Implications for Children and Young People and Vulnerable Adults**

10.1 None.

**11. Equalities and Human Rights Implications**

11.1 N/A

**12. Implications for Partners and Other Directorates**

12.1 None.

**13. Risks and Mitigation**

13.1 There is a risk of public confidence being eroded if appropriate sanctions are not available in relation to the conduct of Members.

**14. Accountable Officer(s)**

Dermot Pearson, Assistant Director, Legal Services

## Chief Executive's Office

Riverside House  
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S60 1AE  
Tel: (01709) 822770  
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*Email the Council for **free** @ your local library!*

<b>Our Ref:</b>	<b>Direct Line:</b>	<b>Extension:</b>	<b>Please Contact:</b>
SK/LH	(01709) 822770	22770	Sharon Kemp

9<sup>th</sup> December 2016

Mr Steve McAllister  
Department for Communities and Local Government  
2<sup>nd</sup> Floor North East  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF

Dear Mr McAllister

At its meeting on 7 December 2016 the Council resolved that I should raise with you its concerns about the limitations of the current national standards regime in the context of the recent resignation of Councillor Andrew Roddison.

Councillor Roddison was re-elected as a district councillor in the May 2016 local elections. Following an incident at a formal Council event later that month he was charged with an indecent assault on a female aged over 16. He was convicted of the offence on 22 November 2016, was sentenced on 1 December 2016 to a Community Order with a curfew and resigned on 5 December 2016. Due to the circumstances of the case the court did not require his name to be placed on the Sex Offenders' Register.

The issue which concerned councillors was that the Council would have had no ability to remove him as a councillor had he not chosen to resign. As he did not receive a custodial sentence of three months or more, the provisions of section 80 of the Local Government Act 1972 would not have applied to disqualify him automatically. This could have resulted in a person convicted of a sexual offence, whose offence was committed while on duty as a councillor, continuing to hold the office of councillor until the local elections in May 2020. Given the history of this Council that would have been particularly damaging.

In order for a councillor to remain in office and to continue to receive their Basic Allowance under the Local Authorities (Members' Allowances) (England) Regulations 2003 all that is required is that they attend one meeting every six months in order to avoid disqualification under section 85 of the Local Government Act 1972. Again the likely public perception were a councillor convicted of a sexual offence continued to receive public money merely by attending one meeting every six months would have been entirely negative and damaging to the reputation of the Council.

The underlying issue is that while Part 1, Chapter 7 of the Localism Act 2011 creates various criminal offences relating to disclosable pecuniary interests, it makes no provision for sanctions for other breaches of the relevant code of conduct. This means that where a councillor is found to be in breach of the code of conduct the options available to the Council are limited to censuring the councillor or using its administrative powers to remove a councillor from a committee, panel or outside body or recommending to the Leader of the Council that a councillor who is a member of the Executive be removed from that role.

There may be a wide range of councillor misconduct which would not warrant sanctions but the current regime, by removing the possibility of sanctions for breaches of the code which do not involve disclosable pecuniary interests, creates a gap which could be exploited by councillors who commit criminal offences which do not attract the term of imprisonment required for automatic disqualification but which are of a nature or seriousness that the public would regard them as incompatible with public office.

I would therefore request that you consider whether the Localism Act regime for standards should be reviewed to see what could be done to avoid circumstances in which an individual convicted of a sexual offence could remain in office as a councillor.

Yours sincerely



**Sharon Kemp**  
Chief Executive