

# FINANCIAL AND PROCUREMENT PROCEDURE RULES

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## **PART I FINANCIAL REGULATIONS**

### **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 & Ethics 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
  - Procurement Procedure Rules.
- 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) and other than a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services.

**Assistant Director** means an officer who reports directly to a Strategic Director (irrespective of their actual job title) and other than a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services.

**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 as set out in the Scheme of Delegation.

**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?

If in doubt, advice should be sought from the Chief Finance Officer.

- 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 Contract Procedure Rule 41, 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. Heads of Finance who will carry out these duties on behalf of the Chief Finance Officer, subject to formal delegation arrangements.

## **6. Submission of Grant Bids**

- 6.1. In order to regularise the approvals process and to ensure consistency of approach, approval to submit a grant bid is required before a Service submits an application for grant funding. This ensures that the approval is documented and is retained along with other documentation related to the grant.
- 6.2. A pro-forma to record the approvals must be completed, Corporate Finance will maintain the pro-forma that services must complete. The approvals are set out in the sequence to which they need to be obtained, although simultaneous seeking of approvals may be appropriate in some circumstances. Services will need to plan for the timescale of approvals within their overall timeline plans for submitting an application for grant funding.
- 6.3. It is important for the service to ensure that they make their Head of Finance aware of the proposed bid so that any potential financial implications on the Councils budgets can be considered. In addition, all bids must have S151 approval before submission and this approval must be obtained via the Head of Finance for the service.
- 6.4. All bids should demonstrate how they contribute towards the Council Plan and how the bid meets an existing priority.
- 6.5. S151 approval for the submission of grant applications can only be given by one of the following 3 people:
- Strategic Director – Finance & Customer Services
  - Assistant Director – Financial Services

- Head of Corporate Finance

6.6. With regard to S151 approval, it is important to note that the need for this approval before any application for grant funding is submitted is the Council's own requirement. It is not relevant whether or not a grant funding body requires S151 approval for a particular grant application.

## **7. Financial Planning and Revenue and Capital Budget Setting**

7.1. 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.

7.2. 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.

7.3. The Medium Term Financial Strategy will be consistent with and designed to further the achievement of the Council's priorities.

### **Revenue budget**

7.4. The Chief Finance Officer will be responsible for ensuring that a Revenue Budget for the coming financial year (and as appropriate a budget and medium term financial strategy for 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), in accordance with the Local Government Act 1992. 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.

7.5. The Chief Finance Officer shall:

7.5.1. 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;

7.5.2. 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;

7.5.3. advise Cabinet and the Strategic Leadership Team on the medium term implications of spending decisions;

7.5.4. 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;

- 7.5.5. 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.

7.6. The Revenue Budget for the year will:-

- 7.6.1. be consistent with the Council's priorities as expressed in the Council Plan;
- 7.6.2. reflect the content of the Medium Term Financial Strategy for the appropriate year;
- 7.6.3. be balanced, affordable and sustainable;
- 7.6.4. not commit the Council to unplanned or unaffordable expenditure in subsequent years;
- 7.6.5. leave the Council with an adequate level of uncommitted balances/reserves;
- 7.6.6. be accompanied by a prudent risk assessment of the possible implications in terms of both affordability and service delivery.
- 7.6.7. 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.
- 7.6.8. 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.
- 7.6.9. Within the overall cash limited budget allocated by the Council to their 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.
- 7.6.10. 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**

- 7.7. Capital schemes and projects shall be collected together into a Capital Programme for approval by Members. The proposed Capital Programme and Capital Strategy will be presented annually to Cabinet and approved by Council.
- 7.8. Council shall approve at least annually a Capital Strategy which sets out the Council's priorities for capital investment.
- 7.9. 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.
- 7.10. 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 Council at the same time as the Revenue Budget proposal.
- 7.11. The Capital Programme will be based on the following principles and the governance arrangements indicated within the Capital Governance Principles
  - 7.11.1. That all projects to be included in the authority's Capital Programme will be considered by officers and Members in accordance with the authority's capital governance principles and shall 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. The project plan should be agreed with procurement (where appropriate) in advance of any proposal being submitted, to ensure the feasibility of any proposed plan.
  - 7.11.2. Project management documentation such as an internal business case, external business case or business plan must be approved prior to any expenditure being incurred, as indicated within the Capital Governance Principles.
  - 7.11.3. The use of corporate resources will be robustly controlled, to ensure that this finite resource can be effectively managed and focussed on the Council's key priorities. The impact on other policies will be considered, such as the Treasury Management Strategy, to ascertain the impact of corporate borrowing. Any additional inclusion of corporate resources into the capital programme must be approved by Council. Strategic Directors and the Chief Finance Officer may vire corporate resources between projects subject to the virement levels indicated within the Capital Governance Principles.
  - 7.11.4. The use of corporate resources as match funding for a project must be approved by Council.

- 7.11.5. Annual capital grant allocations will be added to the capital programme as part of the Council's budget setting process, with estimate values added for latter years where the specific allocation is yet to be confirmed. Officers will be expected to consult with the relevant member on the use of the allocation and follow the rules within the Capital Governance Principles to gain approval to utilise the allocation.
- 7.11.6. Those projects fully funded by a grant allocation will be added to the Capital Programme once the grant allocation has been formally confirmed by the grant provider.
- 7.11.7. Those projects that are within the HRA Programme will be approved via the processes indicated within the Capital Governance Principles.
- 7.11.8. Where projects have been approved on the basis that the financing costs will be funded by the service will be charged at the rates indicated within the Capital Governance Principles. There may be occasions where it is financially prudent to allow an alternative rate due to a specific circumstance but this is down to the discretion of the Chief Finance Officer.
- 7.11.9. All grant Bids should be prepared by the service in conjunction with Finance. For capital bids these should have initial review by the Head of Finance for the relevant directorate, with the capital implications reviewed by the Capital Finance Team. If required by the terms and conditions of the grant the Head of Finance will arrange for authorisation of the bid by the Chief Finance Officer. All grant bids should also be signed off by the Cabinet Member for the service area and the Leader. This process is also required for grant acceptance. The process and documentation required are outlined in the Capital Governance Principles.
- 7.11.10. 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 reflected in the Medium Term Financial Strategy and the Revenue Budget at the appropriate time.
- 7.11.11. 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 as specified in the Council's Capital Governance Principles. Initially, a forecast variance in excess of £100,000 will need to be identified through the monthly monitoring cycle, if the service area cannot resolve the issue it should be escalated to the Directorate Leadership Team, if the wider directorate are unable to find a resolution then the issue should be reported through to the Senior Leadership Team.
- 7.11.12. Each year, through the Chief Finance Officer and appropriate capital governance arrangements, a recommendation will be made to Cabinet for approval of 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. Cabinet will then recommend its Capital Programme proposal to Full Council in advance of each financial year.

## 8. Budget Virements and Supplementary Estimates

### Revenue Virements

- 8.1. Virement is the transfer of resources from one budget heading to another.
- 8.2. Strategic Directors may authorise in-year virements *within* their Directorate budgets, subject to Financial Procurement and Procedure Rules 8.7.
- 8.3. Proposals for in-year virement **between** Directorates must be approved as follows (provided first that the affected Strategic Directors have been consulted):
  - 8.3.1. up to £100,000 by the Chief Finance Officer;
  - 8.3.2. £100,000 to less than £400,000 by the Chief Finance Officer in consultation with the CEX and Leader;
  - 8.3.3. £400,000 or more by Cabinet.
- 8.4. 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:
  - 8.4.1. depreciation;
  - 8.4.2. corporate recharges;
  - 8.4.3. administration and building recharges.
- 8.5. All virements in excess of £100,000 will be reported within financial monitoring reports.
- 8.6. No virement is allowed from budgets that are funded from specific, ringfenced or restricted resources.
- 8.7. 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 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.

- 8.8. No Budget Manager will be authorised to incur expenditure in excess of their cash-limited budget without either:
- a virement being approved in accordance with these Regulations (which, in effect, will increase the cash limited budget for the current financial year); or
  - a supplementary estimate being approved by the Council.
- 8.9. 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.
- 8.10. 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.
- 8.11. All virements will be reported to the Chief Finance Officer as part of the financial monitoring assurance framework.

### **Capital Virements**

- 8.12. Capital budget virements are governed by the same principles as Revenue Virements and shall be dealt with by the processes described within the Capital Governance Principles.

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

- 9.1. The Chief Finance Officer shall establish an appropriate framework of budgetary monitoring and reporting that ensures:
- 9.2. Budget management is exercised within annual cash limits unless the Full Council agrees otherwise;
- 9.3. 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;
- 9.4. 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;
- 9.5. 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 5 times a year. A full outturn report will be submitted to Cabinet following closure of the final accounts.

- 9.6. In connection with the framework the Chief Finance Officer will issue guidance on:
- 9.6.1. Frequency of reporting;
  - 9.6.2. The format and content of reports (including the degree of detail, risk analysis undertaken and any corrective actions taken or proposed);
  - 9.6.3. The nomination of Budget Managers.

### **Budget Managers**

- 9.7. 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.
- 9.8. 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.
- 9.9. Strategic Directors and Budget Managers must:
- 9.9.1. Accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
  - 9.9.2. Work within the authorised cash limits and utilise the resources allocated to them in the most efficient, effective and economic way;
  - 9.9.3. Identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service or project delivery;
  - 9.9.4. Follow the approved certification process for requisitioning and authorising of all types of expenditure;
  - 9.9.5. Record all income and expenditure properly;
  - 9.9.6. Monitor performance levels/levels of service in conjunction with the budget and take necessary action to align service outputs and budget;
  - 9.9.7. Investigate budget variances and report on them to their line manager.
- 9.10. Strategic Directors and the Chief Finance Officer shall ensure Budget Managers are appropriately trained to carry out their responsibilities.

### **Budget Monitoring**

- 9.11. The Chief Finance Officer will ensure that appropriate financial information is available to Budget Managers to enable them to monitor their budgets effectively.

- 9.12. Budget monitoring will be carried out in accordance with guidance and requirements issued by the Chief Finance Officer.
- 9.13. 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.
- 9.14. Where it appears that an overspend 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.
- 9.15. 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.
- 9.16. 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.

## **10. Staffing, Remuneration and Payroll**

- 10.1. The Chief Executive is responsible for providing overall management of staff. The Chief Executive 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.
- 10.2. Strategic Directors are responsible for controlling total staff numbers by:
  - 10.2.1. advising on the budget necessary in any given year to cover estimated staffing levels;
  - 10.2.2. 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.
- 10.3. 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.

- 10.4. Each Strategic Director shall notify the Assistant Chief Executive as required and in the form prescribed, of all matters affecting the payment of such emolument, and in particular:
- 10.4.1. appointments, resignations, dismissals, suspensions, secondments, and transfers;
  - 10.4.2. absence from duty for sickness or other reason, apart from approved leave;
  - 10.4.3. changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - 10.4.4. information necessary to maintain records or service for pensions, income tax, national insurance and the like.

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

- 11.1. 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:-
- 11.1.1. ensure that Procurement Procedure Rules, and UK legislation is adhered to in relation to procurements;
  - 11.1.2. 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);
  - 11.1.3. enter details of all contracts and partnerships in the corporate contract register.
- 11.2. All purchases of goods and services shall be initiated by the creation and authorisation of a requisition, which should state, as a minimum:
- 11.2.1. the nature, quantity, and agreed or estimated costs of the works, goods or services being requisitioned; and
  - 11.2.2. the address for deliveries.
- 11.3. 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.
- 11.4. The authorising of a requisition by a Financial Signatory shall signify:
- 11.4.1. the goods or services are necessary for the discharge of the functions of the Council;
  - 11.4.2. there is sufficient budget provision for the goods or services; and

- 11.4.3. Financial and Procurement Procedure Rules have been complied with.
- 11.5. Official purchase orders, with unique purchase order numbers, shall be created (in an electronic format approved by the Chief Finance Officer) and despatched centrally.
- 11.6. Verbal orders must be restricted to absolutely urgent matters, must be followed immediately by an official order marked 'Confirmation'.
- 11.7. 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.

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

- 12.1. 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 Procurement Procedure Rules. Where a Budget Manager, in consultation with the Chief Finance Officer 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:
  - 12.1.1. The Budget Manager shall design a grant programme that will meet the Council's objectives and be open, transparent and accountable.
  - 12.1.2. 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.
  - 12.1.3. 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.
  - 12.1.4. 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.
- 12.2. Grants can be awarded for a maximum of three calendar years at a time. All values refer to the value of the full programme (over the full term) and not an annual amount.
- 12.3. Grant recipients must provide monitoring reports to the Budget Manager with the following frequency:

- 12.3.1. for grants of £2,000 or less, at the end of the grant programme;
- 12.3.2. for grants between £2,001 and £10,000, at the end of each financial year during the grant programme;
- 12.3.3. for grants over £10,000 at the end of each quarter of the financial year.
- 12.4. 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.
- 12.5. The Assistant Chief Executive and Chief Finance Officer 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.
- 12.6. A full list of grants to voluntary and community sector organisations is to be maintained and will be published on the Council's website.

### **13. Payments**

- 13.1. 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.
- 13.2. The Chief Finance Officer will be responsible for ensuring the operation and maintenance of effective systems for the payment of invoices from creditors.
- 13.3. No creditor shall be paid other than through systems operated by the Chief Finance Officer except where specifically approved by the CFO in writing.
- 13.4. 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.
- 13.5. 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.
- 13.6. All purchasing should be carried out in accordance with guidance and procedures set out by the Head of Procurement.

## **14. Income**

- 14.1. 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.
- 14.2. 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.
- 14.3. 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.
- 14.4. 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.
- 14.5. The Chief Finance Officer is responsible for ensuring that all income collected prior to banking is safeguarded in accordance with the Council's cash handling guidelines.
- 14.6. The amount to be held in a safe overnight will vary according to the particular insurance arrangements. Where the agreed limit is likely to be exceeded then arrangements must be made to bank income as soon as possible. The Chief Finance Officer and Insurance Manager will advise on best practice for cash storage and banking. The Chief Finance Officer is responsible for providing insurance cover for cash awaiting banking.
- 14.7. The raising of sundry debtor invoices should be avoided wherever possible. Invoices must only be raised where payment in advance or at the point of service delivery is inappropriate. The Chief Finance Officer is responsible for ensuring that services are provided with payment methods that support efficient and expedient income collection.

### **Scales of Fees and Charges**

- 14.8. 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. A schedule of fees and charges will be submitted to Council for approval alongside the annual revenue budget report.
- 14.9. When a Strategic Director proposes to amend any scale of charges, they shall consult with the relevant Cabinet Member, the Chief Finance Officer about the financial implications, and with the Monitoring Officer about any legal requirements.

### **External Funding/Grant Income**

- 14.10. Strategic Directors shall consult the relevant Executive Member, the Leader of the Council and the Chief Finance Officer prior to submitting applications for grant funding to government departments or other grant-giving bodies.
- 14.11. The Head of Finance is responsible for ensuring that:
- Proper processes and procedures are in place for the completion, assessment, authorisation and submission of applications for grant bids and subsequent grant claims.
  - Grant applications are accurately completed and submitted within the necessary timeframes, ensuring there is sufficient lead-in times for the Head of Finance to review the submission and the Chief Finance Officer to provide final sign-off.
  - All completed grant claims and certifications are approved by the Head of Finance for the service area and the Chief Finance Officer if required
  - All statutory returns related to the grant claim are completed within the statutory timeframes.
  - The income due from the grant claims is received and accurately recorded.
  - Records are maintained and held for reconciliation of grants due and received. The records must meet External Audit requirements.
- 14.12. 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 the CFO with a copy of relevant documents.
- 14.13. 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.
- 14.14. 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**

- 14.15. Where there are contractual arrangements (made in accordance with Procurement Procedure Rules) in place for the provision of goods or services to third parties or external bodies the relevant Strategic Director:
- 14.15.1. shall ensure that fees and charges are promptly invoiced in full accordance with the terms of the contract; and

- 14.15.2. shall suspend the delivery of the goods/service if invoices are not settled in a reasonable time.

### **Writing off Debts**

- 14.16. 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.
- 14.17. For larger debts, the following arrangements apply:
- 14.17.1. bad or doubtful debts below £50,000 can be authorised by the Chief Finance Officer;
  - 14.17.2. the Chief Finance Officer will consult with the executive member for finance before authorising the writing-off of debts between £50,000 and less than £400,000;
  - 14.17.3. for the write-off of bad or doubtful debts of £400,000 or over the Chief Finance Officer will seek the approval of Cabinet.
- 14.18. Debts written-off over £50,000 will be included in financial management reports to Cabinet.
- 14.19. 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.

## **15. Taxation**

- 15.1. 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.
- 15.2. 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.
- 15.3. 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.

## **16. Accounting Systems**

- 16.1. 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.
- 16.2. The Chief Finance Officer shall prepare and issue such accounting and procedural instructions as they consider to be necessary for the financial administration of the Council's affairs.
- 16.3. 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.
- 16.4. 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.)

## **17. Accounting Policies**

- 17.1. The Chief Finance Officer will determine suitable accounting policies to be adopted by the Authority and will ensure that they are applied consistently. The accounting policies will be set out in the Statement of Accounts which is prepared at 31 March each year. The accounting policies will be reviewed and updated accordingly, with the changes being reported to and approved by Audit Committee at least annually. 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.

## **18. Trading Accounts**

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

## **19. Statement of Accounts**

- 19.1. The Chief Finance Officer will prepare an overall outturn report for the Council each year for submission to the Strategic Leadership Team, Cabinet and Council. The CFO will also ensure that the statutory Statement of Accounts is

prepared and submitted to Members in the prescribed format and to the prescribed timetable in accordance with the Accounts and Audit Regulations 2015.

- 19.2. 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:
  - 19.2.1. an outturn report of expenditure versus approved budget for their Directorate;
  - 19.2.2. 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;
  - 19.2.3. any sums due to suppliers that are currently unpaid at the end of the financial year;
  - 19.2.4. any sums due to the Council that have not been credited at the end of the financial year;
  - 19.2.5. income received relating to the subsequent financial year;
  - 19.2.6. pre-payments made relating to the subsequent financial year;
- 19.3. The Chief Finance Officer will make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit Regulations 2015.
- 19.4. 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.

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

- 20.1. Except where statutory requirements dictate otherwise, the following policies are to be applied.
- 20.2. Underspends and overspends will be calculated at Directorate level on the basis of the prevailing accounting policies. In general:
  - 20.2.1. any underspend on General Fund revenue budgets will go into the General Fund Reserve Balance to be applied subsequently, as necessary, in accordance with Council-wide priorities.
  - 20.2.2. 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

9.10.

- 20.3. 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.
- 20.4. 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.

## **21. Reserves**

- 21.1. 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).
- 21.2. 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.
- 21.3. 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. Details of the Council's reserves will be reported in the Statement of Accounts in accordance with guidance published in the code of practice on local authority accounting.

## **22. Internal Control**

- 22.1. 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.
- 22.2. 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.
- 22.3. 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.

22.4. Strategic Directors shall ensure that the staffing structure and management arrangements within their directorates separate duties such that:

22.4.1. 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;

22.4.2. 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.

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

23.1. 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.

23.2. The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

23.3. 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 Corruption Policy.

### **24. Risk Management**

24.1. 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.

24.2. The Assistant Chief Executive is responsible for preparing the Authority's risk management policy statement, for promoting it throughout the Authority.

24.3. 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.

24.4. Each Strategic Director shall:

24.4.1. 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.

- 24.4.2. undertake regular reviews of risk within their service areas to review the effectiveness of risk reduction strategies and the operation of controls.
- 24.4.3. 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.

## **25. Insurance**

- 25.1. 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/her to discharge effectively the responsibility.
- 25.2. 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).
- 25.3. Each Strategic Director shall:
  - 25.3.1. 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.
  - 25.3.2. 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.
  - 25.3.3. 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.
  - 25.3.4. 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.

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

- 26.1. Where a claim against the Council, other than a contractual claim covered by Procurement Procedure Rules, 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.

- 26.2. Where a claim against the Council, other than a contractual claim covered by Procurement Procedure Rules, 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.
- 26.3. 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.
- 26.4. 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.

## **27. Internal Audit Requirements**

- 27.1. The Chief Internal Auditor is responsible for advising on effective systems of internal control.
- 27.2. 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.
- 27.3. The Chief Internal Auditor will:
  - 27.3.1. prepare an annual plan which takes account of the characteristics and relative risks of the activities involved;
  - 27.3.2. liaise with the external auditor to ensure the internal and external audit plans are complementary;
  - 27.3.3. seek the approval of the Audit Committee for the annual audit plan;
  - 27.3.4. ensure periodic reporting to the Audit Committee of progress against the annual audit plan;

- 27.3.5. ensure the Internal 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;
  - 27.3.6. 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;
  - 27.3.7. 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.
- 27.4. Internal auditors have the authority to:
- 27.4.1. access all Authority premises at reasonable times;
  - 27.4.2. access all assets, records, documents, correspondence and control systems;
  - 27.4.3. require from officers, members and suppliers any information and explanation considered necessary concerning any matter under their consideration;
  - 27.4.4. require any officer of the Authority to account for cash, stores or any other authority asset under his or her control;
  - 27.4.5. access records belonging to third parties, such as contractors, when required.
- 27.5. 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.
- 27.6. External auditors will be appointed to the Council to conduct, and report on the external audit of the Council in accordance with the relevant statutory code of audit practice.

## **28. External Audit**

- 28.1. The Chief Finance Officer is responsible for working with the external auditor and advising Audit Committee, Cabinet, Council and Strategic Directors of their responsibilities in relation to external audit.
- 28.2. The external auditors need to satisfy themselves that:
  - The accounts comply with the requirements of the enactments that apply to them;
  - Proper practices have been observed in the preparation of the statement

of accounts and that the statement presents a true and fair view;

- The Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

28.3. The Chief Finance Officer will ensure that external auditors are given access to those premises, employees, documents and assets which the external auditors consider necessary for the purposes of their work.

## **29. Assets**

29.1. 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.

29.2. As far as is considered to be necessary and practical, items appearing on the inventory shall be effectively marked as Council property.

29.3. 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.

29.4. 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.

29.5. 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.

29.6. 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)**

29.7. 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.

29.8. 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**

- 29.9. 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.
- 29.10. In respect of the acquisition of land and property:
- 29.10.1. where sufficient budget provision for an acquisition exists within the total Council budget, and the cost of the acquisition is less than
  - 29.10.2. £100,000 the Property Officer may approve a purchase of land or buildings in consultation with the relevant Cabinet Member; or
  - 29.10.3. 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.
- 29.11. In respect of the acquisition of land and property, where the value of acquisition is greater than £100,000, Cabinet approval must be in place prior to the completion of the purchase.
- 29.12. 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:
- 29.12.1. 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;
  - 29.12.2. where the estimated disposal value of individual property assets is equal to or greater than £100,000, a decision of Cabinet is required;
  - 29.12.3. 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).
- 29.13. 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.
- 29.14. The Monitoring Officer shall have custody of all title deeds for property held by the Council.

## **30. Stocks**

- 30.1. 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 Chief Finance Officer so that appropriate accounting adjustments can be made.
- 30.2. 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, they may require the Strategic Director to report to the appropriate Executive Member.
- 30.3. 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.

## **31. Banking Arrangements**

- 31.1. 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.
- 31.2. 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. Authorised signatories shall be determined and approved by the Chief Finance Officer.

## **32. Treasury Management**

- 32.1. 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.
- 32.2. Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:-
  - 32.2.1. a treasury management policy statement, stating the policies and objectives of its treasury management activities.
  - 32.2.2. 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.

- 32.3. 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.
- 32.4. 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, a mid-year report and an annual report after its close, in the form prescribed in its TMPs.
- 32.5. 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.
- 32.6. 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.
- 32.7. 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.
- 32.8. The Treasury Management team will make use of external brokerage firms in order to arrange for the most appropriate and prudent inter Local Authority borrowing and lending deals. This use of an external broker will be determined by having the most cost effective offer available to suit the Councils Treasury Management Strategy and Policies. The Council will, where possible look to vary its use of brokers to prevent any risks of familiarity.

### **33. Petty Cash Imprest Accounts**

- 33.1. The Chief Finance Officer shall make imprest advances of such amounts as is considered necessary for the purpose of defraying petty cash expenses.
- 33.2. 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.
- 33.3. No cheques shall be cashed from monies held under these arrangements.
- 33.4. 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.
- 33.5. An officer responsible for an imprest account shall, if so requested, give the

Chief Finance Officer, a certificate as to the state of their imprest account.

- 33.6. 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 them.

#### **34. Data Protection**

- 34.1. Strategic Directors must ensure that, where appropriate, computer and other systems are operated in accordance with Data Protection legislation, and that staff are aware of their responsibilities under Freedom of Information legislation.
- 34.2. 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.

#### **35. External Arrangements and Partnerships**

- 35.1. 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.
- 35.2. 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.
- 35.3. 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, the CFO must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. The CFO must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 35.4. Where the Council undertakes to carry out any work for third parties:
- 35.4.1. 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;
  - 35.4.2. The Monitoring Officer should approve the contractual arrangements for any work for third parties or external bodies;
  - 35.4.3. if the value of such work is £400,000 or more the contractual arrangements must be approved by Cabinet.

35.5. 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.

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

36.1. 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.

36.2. 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.

36.3. 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:

36.3.1. from sources which come under the direct scrutiny of the Council;

36.3.2. 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

36.3.3. to influence the direction of a particular policy or operation.

36.4. 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.

36.5. 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.

36.6. 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:

36.6.1. potentially sensitive associations with inappropriate donors/lenders/sponsors;

36.6.2. 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;

36.6.3. projects which could distract effort from tackling agreed priorities;

36.6.4. projects of dubious or limited benefit;

- 36.6.5. offers of gifts, loans, or sponsorship with conditions attached;
  - 36.6.6. offers of gifts, loans, or sponsorship which could involve the Council in additional net expenditure;
  - 36.6.7. offers of equipment which is incompatible with existing equipment;
  - 36.6.8. inadequate contractual arrangements; and
  - 36.6.9. the risk of becoming unduly dependent on a facility or item of equipment which is liable to be withdrawn.
- 36.7. Where publicity is sought by the donor/lender/sponsor, a commercial agreement should be signed.
- 36.8. 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.
- 36.9. These rules also apply to the Mayor.

### **37. Voluntary and Trust Funds**

- 37.1. 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.
- 37.2. 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.
- 37.3. 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.

### **38. Retention of Financial Documents**

- 38.1. 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.

### **39. Emergency Arrangements**

- 39.1. 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.

### **40. Suspension of a Financial Regulation**

- 40.1. 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.
- 40.2. 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.

### **41. Cash Handling**

- 41.1. The Council has cash handling guidance notes that should be reviewed by any members or staff involved in the handling or management of cash. The cash handling guidance note is issued in accordance with the requirements of the Council's Financial Regulations. It is intended to provide guidance to all members of staff involved in the cash handling process so that officers are fully aware of their responsibilities. It contains specific guidance on the following key areas:-

- Counterfeit Bank Notes
- Collection of Cash by Security Companies for Banking
- Credit Cards
- Cheques

- Cash Registers
- Petty Cash Imprest Floats
- Collection of Cash form Vending and Amusement Machines and Telephones

## **42. Delegation arrangements**

42.1. The Property Officer has the power –

- 42.1.1. to agree the terms and conditions of any disposal or acquisition of land and buildings;
- 42.1.2. to approve the terms and settlement of rent reviews, assignments, lease renewals, licences, tenancies and consents both as landlord and tenant;
- 42.1.3. to approve the terms and conditions of new leases;
- 42.1.4. 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;
- 42.1.5. to assign leases, approve sub-lettings, change user clauses and grant landlord's approvals;
- 42.1.6. 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;
- 42.1.7. to approve the granting, taking and extinguishments of wayleaves, easements and access agreements as grantor or grantee;

- 42.1.8. 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;
  - 42.1.9. to authorise the entering into of leases and licences as tenant;
  - 42.1.10. to authorise the certification of valuations for insurance reinstatement, financial accounting purposes, statutory compensation, acquisition, disposal or letting of land and property;
  - 42.1.11. to determine applications to place land and property on the schedule of Assets of Community Value;
  - 42.1.12. to authorise the letting of land and property under the terms of the Council's adopted Asset Transfer Policy.
- 42.2. The Property Officer may approve the terms and conditions of any disposal or acquisition of land and buildings.

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

- 43.1. 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.
- 43.2. 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.
- 43.3. 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 –
  - the Chief Executive; or
  - the following officers in Legal Services, namely the Assistant Director of Legal 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.

## PART II PROCUREMENT PROCEDURE RULES

### 44. Definitions

**‘Approved List’** means a list of suppliers who are assessed as suitable to provide specified Goods, Works or Services.

**‘Assistant Director’** means an officer who reports directly to a Strategic Director (irrespective of job title) and other than a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services.

**‘Authorised Officer’** means any officer involved in undertaking procurement activity on behalf of the Council.

**‘Authorised Signatory’** means the Chief Executive, the Section 151 Officer (or deputy), the Monitoring Officer (or deputy), the Head of Legal Services, Service Manager Property and Commercial, Service Manager of the Litigation and Social Care Teams.

**‘Best Value for Money’** means the optimum combination of cost (whole life costs), quality and benefits (including social value) to meet the Council’s requirements.

**‘Call-Off’** means a purchase from a Framework Agreement or Dynamic Purchasing System that creates a binding Contract.

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

**‘Chief Legal Officer’** means the Head of Legal Services.

**‘Chief Procurement Officer’** means Head of Procurement.

**‘Concession Contracts’** means a Contract for pecuniary interest, under which the execution of Works or the provision and management of Services is entrusted to one or more Suppliers, the consideration for which is the right to exploit the Works / Services that are the subject of the Contract. Usually this will involve a transfer of operating risk to the Supplier and then receiving payment from third parties, not wholly from the Council.

**‘Contract’** means a formal agreement between the Council and any Supplier for:

- The supply of Goods, Works or Services (including consultants)
- A Call-Off from a Framework Agreement or Dynamic Purchasing System
- An arrangement where no payment is made but there is a financial benefit to the Supplier (e.g. a Concession Contract).

**‘Contracting Authorities’** means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities, or one or more such bodies governed by public law, including central government authorities.

**‘Contract Value’** means the total monetary value over the full contract duration, including any extension options. For Concession Contracts, the total pecuniary value must be considered.

**‘Council’** means Rotherham Metropolitan Borough Council.

**‘Dynamic Purchasing System’** means an electronic procurement process for commonly used purchases that are generally available and is open through the contract period to any new suppliers to join that meet the selection criteria.

**‘Framework Agreement’** means an agreement between the Council and/or other public bodies and one or more Suppliers where the value or volume of business is not set out at the outset but the terms and standards under which the Supplier will enter into a Call-Off to provide Goods, Works or Services are established. If the Council calls-off Goods, Works or Services than a binding Contract is formed.

**‘Goods’** means all supplies and materials that the Council purchases or obtains.

**‘In-House Supplier’** means an identified internal service within the Council established to carry out Council services.

**‘Local Suppliers’** means any supplier that is located within the borough of Rotherham (or if there are no Rotherham based suppliers, the wider South Yorkshire Mayoral Combined Authority).

**‘Procurement Legislation’** means the Public Contracts Regulations 2015 (as amended) supplemented by any appropriate case law.

**‘Professional Buying Organisation’** means a buying consortia such as (but not limited to) the Yorkshire Purchasing Organisation (YPO), Crown Commercial Services (CCS) etc.

**‘Services’** means all services that the Council purchases or obtains.

**‘Social and Other Specific Services’** means those Services defined at Schedule 3 of the Procurement Legislation, that are deemed to be of lower interest to cross-border competition and as such can adopt a more flexible (‘light-touch’) regime.

**‘Social Value Portal’** means the system used for the purposes of securing social value commitments and the ongoing monitoring and measures of their delivery.

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

**‘Supplier’** means an individual or organisation that Contracts with the Council to provide Goods, Works or Services.

**‘Threshold’** means the financial threshold at which the Procurement Legislation applies. With effect from 1 January 2020 these are:

- **Works** £4,733,252
- **Goods** £189,330

- <b>Services</b>	£189,330
- <b>Social and Other Specific Services</b>	£663,540
- <b>Concession Contracts</b>	£4,733,252

These thresholds are updated every 2 years.

**'Works'** means the execution, or both design and execution, or construction works and civil engineering works including the execution of repairs in relation to those works.

## **45. Introduction**

- 45.1. Procurement is a key strategic enabler supporting all service areas / commissioning teams across the Council to acquire Goods, Works and Services.
- 45.2. These Procurement Procedure Rules set a corporate framework with clear rules and expectations by which all Authorised Officers of the Council can enter into arrangements with third party Suppliers to provide Goods, Works and Services, ranging from the purchase of low value simple day to day commodities through to multi-million-pound construction projects.

## **46. Compliance with Procurement Procedure Rules**

- 46.1. Every Contract made by or on behalf of the Council for Goods, Works or Services, and all Council employees engaged to act in any capacity to manage a Contract must comply with Procurement Legislation. This requirement cannot be waived since a failure to comply with Legislation may result in a legal challenge with consequent reputational and/or financial risk.
- 46.2. In addition, compliance with the following also applies:
- 46.2.1. All relevant statutory provisions, law and acts (including the Public Services (Social Value) Act 2012, the Care Act 2014, the Modern Slavery Act 2015, the National Procurement Policy Statement etc).
- 46.2.2. The Council's constitution including these Financial and Procurement Procedure Rules.
- 46.2.3. Relevant Council procurement policies and procedures including the Ethical Procurement policy.
- 46.2.4. The Council's strategic objectives and policies including the Social Value policy.
- 46.3. All Council officers and individuals or organisations engaged on the Council's behalf shall ensure that all procurement activity is undertaken with regard to high standards of probity and in a manner that is non-discriminatory, transparent and

fair; and which avoids conflicts of interest. The Council's Employee Code of Conduct must be followed at all times.

46.4. In applying these Procurement Procedure Rules, all officers should undertake procurement activity having due regard to the duty of Best Value for Money under the Local Government Act 1999 (as amended).

46.5. Strategic Directors may permit, with limitations, other officers to authorise orders and Contracts in their own name on behalf of the Council. Any orders or Contracts made shall remain the responsibility of the Strategic Director. Strategic Directors must maintain an up-to-date scheme of delegation, which is refreshed on an annual basis at the commencement of the financial year. The scheme of delegation must specify:

46.5.1. The names, grades, post references and job titles of Authorised Officers for the purposes of:

- a) Approving procurement business cases.
- b) Approving the award and formally entering into Contracts.
- c) Approving extensions, variations and other matters associated with the management of Contracts.

46.5.2. The maximum value allocated to each Authorised Officer for those purposes.

46.6. These Procurement Procedure Rules must be adhered to, other than in exceptional circumstances which must be authorised by either:

46.6.1. Cabinet; or

46.6.2. The Chief Finance Officer in consultation with the Chief Legal Officer.

Such requests must be made in writing.

46.7. All Strategic Directors are responsible for ensuring compliance with these Procurement Procedure Rules by their staff. Failure to comply with these Procurement Procedure Rules may result in disciplinary action against the Authorised Officer concerned.

## **47. Relevant Contracts**

47.1. All relevant Contracts must comply with these Procurement Procedure Rules.

47.2. A relevant Contract is any arrangement made by, or on behalf of, the Council for

the carrying out of Works, for the supply or provision of Goods, materials or Services.

47.3. Relevant Contracts do not include:

- 47.3.1. Contracts of employment for individual members of staff (permanent, interim or casual). For the avoidance of doubt this does not include the procurement of agencies who provide temporary labour (agency staff). The appointment of these agencies would be subject to these Procurement Procedure Rules.
  - 47.3.2. Property contracts relating to the acquisition, rental or disposal of land or buildings. Please refer to Financial Procedure Rule [42](#).
  - 47.3.3. Grant agreements. Please refer to Financial Procedure Rule [12](#). Genuine grant agreements do not fall within the scope of the Procurement Legislation. However careful consideration is needed to ensure that a grant agreement is not actually a procurement for the purposes of these Procurement Procedure Rules.
- 47.4. Broadcasting time to audio-visual or radio media suppliers. However, such Services shall not be procured without consulting the Head of Communications.
- 47.5. The procurement of legal services in respect of a specific matter which are in contemplation of:
- 47.5.1. Arbitration conciliation.
  - 47.5.2. Judicial proceedings before the courts; and
  - 47.5.3. Legal advice given in the preparation for any of the proceedings referred to above, or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings.

However, no such Services shall be procured without the approval of the Chief Legal Officer.

**48. Social, Economic, Environmental and Ethical Considerations**

- 48.1. The development of all procurement activity shall give due regard and consideration to commitments that have been made by the Council in relation to ethical standards, policies, charters and accreditations as detailed in the Council's ethical procurement policy, including the application of social value as defined in the Council's social value policy.

- 48.2. For clarity all Contracts (including Call-Offs from Framework Agreements and Dynamic Purchasing Systems procured in accordance with Procurement Procedure Rule 54) with an estimated Contract Value of £100,000 and above, must secure a social value commitment that is monitored and reported through the Social Value Portal.
- 48.3. Where appropriate and always subject to Procurement Legislation, Authorised Officers should give consideration to designing procurements which encourage participation from Local Suppliers, small and medium sized companies and voluntary, community and social enterprise organisations. This may include dividing the Contract into lots.

#### **49. Forward Procurement Plans**

- 49.1. Before commencement of the financial year the Authorised Officer must prepare and maintain forward procurement plans for the Procurement of Goods, Works and Services to be undertaken over the coming 36-month period.
- 49.2. Procurement plans must be sent to the Chief Procurement Officer no later than 28 February each year to enable a Council-wide procurement plan to be published on the Council's website prior to the start of the financial year.
- 49.3. Authorised Officers must ensure that an Officer Delegated Decision Record is published for the award of Contracts with a Contract Value greater than £250,000, and that these are placed on the forward plan for Officer Delegated Decisions in a timely manner.

#### **50. In-House Suppliers**

- 50.1. Irrespective of Contract Value, where an In-House Supplier is available the In-House Supplier must be used. Procurement outside of the In-House Supplier can only take place where the Assistant Director (or other nominated officer) for the In-House Supplier confirms that they are unable to meet the requirements on that occasion due to insufficient resources, skills or capacity.
- 50.2. The Authorised Officer must retain written confirmation where it is agreed to procure outside of the In-House Supplier.

#### **51. Council Wide Arrangements**

- 51.1. The use of corporate Contracts / Framework Agreements / Dynamic Purchasing Systems awarded by the Council shall be mandatory (irrespective of the value) for all Works, Goods and Services that have been included in the scope of those arrangements.
- 51.2. Information relating to the above arrangements are available on the Council's

intranet site.

- 51.3. Where an Authorised Officer is seeking to procure outside of these arrangements, approval must be sought from the Chief Procurement Officer and the nominated Contract Manager for the Contract with a clear justification as to why the corporate arrangement does not meet the requirements. Any alternative arrangements must be procured in accordance with these Procurement Procedure Rules.

## **52. Estimating Contract Values**

- 52.1. The Authorised Officer must estimate and record the net value of a proposed Contract excluding Value Added Tax.
- 52.2. The method for determining the estimated value of a Contract / Concession Contract should be based on the total amount (net of Value Added Tax) which the Council expects to pay / or any other forms of remuneration the Council and / or Supplier will receive by operation of the Contract over its term. Such calculation must include, where relevant any maintenance and ongoing support costs (**Example calculation:** *Estimated Contract Value = (Annual Cost + other forms of remuneration) \* Contract Length*)).
- 52.3. In determining the value of a Contract, the Council must also include the potential value of any options to extend that may be built into the Contract.
- 52.4. Where a requirement for Goods, Works or Services is sub-divided into several elements (lots), the estimated value of each lot must be aggregated to calculate the overall estimated value of the Contract.
- 52.5. When determining the value of a Framework Agreement or Dynamic Purchasing System, the anticipated value of all spend through that Framework Agreement or Dynamic Purchasing System must be taken into consideration (including the spend of any other Contracting Authorities who are able to access the Framework Agreement or Dynamic Purchasing System).
- 52.6. Authorised Officers must ensure that estimated values are **not** disaggregated in an attempt to avoid the applicability of these Procurement Procedure Rules. Requirements must be calculated based on all Council spend (i.e. the corporate requirement rather than an individual service areas need).
- 52.7. Where a proposed procurement includes two or more types of provision (i.e. Goods, Services or Works) the procedure followed shall be based on the provision that characterises the main subject matter of the Contract in question.

### **53. Approved Lists of Suppliers**

- 53.1. Where appropriate and only in exceptional circumstances approved by the Chief Procurement Officer, Authorised Officers may compile and maintain an Approved List for specified Goods, Works or Services.
- 53.2. No Approved List of suppliers must be established where the estimated aggregate value exceeds the relevant Threshold.
- 53.3. Before establishing an Approved List, it should be advertised on the Council's e-tendering portal and expressions of interest should be sought from potential suppliers wanting to be appointed.
- 53.4. The Approved List should:
  - 53.4.1. Indicate the categories of Contracts for which the Suppliers appointed may be invited to submit a bid.
  - 53.4.2. Set out the criteria for inclusion, suspension or exclusion from the list.
  - 53.4.3. Be operated in a fair, transparent manner so as to ensure that all Suppliers on the list are given a reasonable opportunity of submitting quotations or tenders for appropriate Contracts let by the Council from time to time.
  - 53.4.4. Be regularly reviewed (not less than one year or more than four) and agreed with the Chief Procurement Officer.

### **54. Framework Agreements and Dynamic Purchasing Systems**

#### **54.1. Call Off Arrangements (Third Party Agreements)**

- 54.1.1. Where a Call-Off is proposed under an existing Framework Agreement or Dynamic Purchasing System that has been established by a consortium, Professional Buying Organisation, collaboration or other public body, the Council may consider using this Framework Agreement or Dynamic Purchasing System if:
  - a) The Framework Agreement or Dynamic Purchasing System has been established by a legal entity, and via a process, which permits the Council to access those arrangements lawfully; and
  - b) It is in the best interest of the Council to access the Framework Agreement or Dynamic Purchasing System, representing clear Best Value for Money, which must be documented for audit purposes (for procurements above £100,000 this will be through the use of the Procurement Business Case – Appendix D).
- 54.1.2. Before undertaking a Call-Off under any Framework Agreement or Dynamic Purchasing System, thorough due diligence should be undertaken, and

advice sought from the Chief Procurement Officer to confirm whether it is able to be used and whether it is appropriate for use for the Goods, Works or Services required.

- 54.1.3. Subject to the due diligence confirming the suitability of the Framework Agreement or Dynamic Purchasing System, these can be used without needing to undertake one of the procedures outlined at Procurement Procedure Rule [58](#).
- 54.1.4. Call-Offs must be awarded based on the criteria and method identified in the Framework Agreement or Dynamic Purchasing System.
- 54.1.5. Where a Call-Off is undertaken via a direct award (which is permitted in the Framework Agreement), a scope of works must be prepared and the Supplier must be required to supply a written submission that is verified to confirm it can meet the requirements of the Council in accordance with the terms and conditions and pricing established in the Framework Agreement in advance of entering into a Contract unless otherwise prescribed in the Framework Agreement direct award Call-Off procedure.

## **54.2. Establishing a Framework Agreement or Dynamic Purchasing System (Council Own)**

- 54.2.1. Where the Council is establishing a Framework Agreement or Dynamic Purchasing System (which may or may not be accessed by other Contracting Authorities) the estimated Contract Value must take account of all potential work that may be awarded through the agreement and follow the relevant procedures set out in these Procurement Procedure Rules for Contracts of that value.
- 54.2.2. If the Council is establishing a Framework Agreement or Dynamic Purchasing System which allows access by other Contracting Authorities, reference must be made in the procurement documents explaining that the Framework Agreement or Dynamic Purchasing System is intended for wider use, and advice must be sought from the Chief Legal Officer to ensure the terms upon which other Contracting Authorities access those arrangements are clear and offer appropriate protection to the Council.
- 54.2.3. In establishing a Framework Agreement, where the estimated value exceeds the relevant Threshold, the total duration (including any extensions) can not exceed four years except in exceptional circumstances relating to the subject matter of the Framework Agreement. Any proposal to establish a Framework Agreement with a duration exceeding four years should be referred to the Chief Procurement Officer for advice.
- 54.2.4. Where taking into account all the above, the estimated value of the Framework Agreement or Dynamic Purchasing System is estimated to be above the relevant Threshold, and the Framework Agreement or Dynamic

Purchasing System is being left open for other Contracting Authorities to access, the Authorised Officer must ensure that the Contracting Authorities are included in the notices published via the UK e-notification service, either named individually or by an identifiable class.

54.2.5. In establishing a Framework Agreement or Dynamic Purchasing System, the Council must ensure that the terms of the Framework Agreement or Dynamic Purchasing System makes the process by which Call-Offs are entered into explicitly clear.

54.3. Call-Off's under Framework Agreements or Dynamic Purchasing Systems may be made at any value, without needing to follow Procurement Procedure Rule [58](#).

## **55. Public to Public Contracts**

55.1. Where the Authorised Officer is considering entering into a Contract with another public body, early advice must be sought from the Chief Procurement Officer and the Chief Legal Officer. It should not be assumed that arrangements entered into between the Council and other public bodies (e.g. other local authorities) are outside the scope of Procurement Legislation.

## **56. Pre-Procurement Requirements and Procurement Business Cases**

56.1. Prior to commencing procurement activity, the Authorised Officer, must have given consideration to the different commissioning options and delivery models available (make versus buy, contract versus grant etc), retain a file note documenting the justification for third party delivery through a formal contractual procurement procedure and ensure all such decisions are taken in accordance with the Council's constitution.

56.2. A procurement business case is required for all procurement activity where the estimated value of the Contract is above £100,000 using the template provided by the Chief Procurement Officer.

56.3. The detail contained in the procurement business case should be relevant and proportionate to the value of the Contract, and the nature of Works, Goods or Services being procured.

56.4. Whilst a procurement business case is not required for Contracts valued below £100,000, it is recommended best practice to ensure that the following key issues identified through the Procurement Business Case are considered.

56.5. For clarity, whilst it is recommended best practice to complete a procurement business case for Call-Off Contracts from a Framework Agreement or Dynamic Purchasing System that the Council has established (in accordance with Procurement Procedure Rule [54.2](#)) it is not a mandatory requirement as the key issues should have been considered in the original set up of the Framework

Agreement or Dynamic Purchasing System. However, where the Framework Agreement or Dynamic Purchasing System provides a range of call-off procedures, a written options appraisal, which includes the scope of the call-off, key considerations and financial implications must be undertaken to determine the recommended option for each Call-Off for transparency and audit purposes.

56.6. The Authorised Officer must consider, undertake, and document within the Procurement Business Case a range of factors, including (but not limited to):

**56.6.1. Market Engagement**

Where appropriate, undertake pre-procurement engagement with potential Suppliers, service users and other stakeholders) to understand what is available within the market, the strengths, weaknesses of the market sector and to co-design specifications.

Pre-market engagement must be done in a manner that does not distort competition and ensures that any subsequent procurement process remains open, fair and transparent. Failure to properly manage market engagement, may result in potential bidders being excluded from the opportunity to submit a tender.

**56.6.2. Identification of Risk**

A risk log for the procurement process and the event contractual relationship must be produced, maintained and updated throughout the procurement cycle by the Authorised Officer, in consultation with the relevant stakeholders identified. As a minimum the risk log should be reviewed when submitting the procurement business case for approval, before the publication of tender, following the evaluation before formal award is made, and then at regular intervals during the contract term.

**56.6.3. Governance Arrangements**

Ensure that the governance arrangements for the issuing of the tender and award of the Contract are clearly understood and established for the project.

**56.6.4. Route to Market Options Appraisal and Market Conditions**

Consideration of all known available routes to market to ensure the most successful outcome for the procurement, along with a justification for the chosen recommended option.

**56.6.5. Ethical Considerations**

An analysis of considerations applicable to the Contract from the Council's ethical procurement policy.

**56.6.6. Information Governance**

The identification of contracts involving the processing of personal data with requirements for a Privacy Impact Assessment and which may require

additional method statement questions or clauses developing with the terms and conditions.

#### **56.6.7. Financial Implications including Pricing Mechanisms**

A clear understanding of any potential requirements to satisfy financial capacity (and any financial security measures needed such as parent company guarantees), insurance requirements, as well as details of how costs are to be controlled over the Contract term, and how proposed requests for price increases are to be dealt with.

#### **56.6.8. Legal Implications**

Agreement on the form of agreement to be entered into and advice on matters such as TUPE (Transfer of Undertaking (Protection of Employment)).

56.7. All procurement business cases require approval, in accordance with the directorates scheme of delegation or other alternative Authorised Signatory before any tender is issued to market, or in the case of a direct award from a third party framework a formal award is made.

### **57. Development of Quotation / Tender Documentation**

57.1. Authorised Officers must only use standard quotation / tender template documentation available from the Chief Procurement Officer (unless the Chief Procurement Officer agrees an alternative suite of documentation may be used).

57.2. Where there are provisions included (or omitted) from the corporate documentation that the Authorised Officer feel are (in)appropriate for their particular procurement, they should seek guidance from the Chief Procurement Officer.

57.3. A clear specification of requirements (identifying outputs or outcomes rather than inputs (unless there is a demonstrable need to specify inputs) should be developed for every procurement process undertaken. The specification should incorporate (where agreed) the views of stakeholders along with details that may mitigate risks identified through the risk process referred to above.

57.4. The specification should clearly detail any ethical requirements identified through the procurement business case (i.e. safeguarding, equalities, modern slavery, social value etc).

57.5. The documentation must clearly describe the evaluation criteria / methodology to be used to determine who will be awarded a contract, including all sub-criteria. It is important to note that in accordance with the Council's Social Value Policy, all procurements in excess of £100,000 must ensure social value accounts for 20% of the decision as to who is awarded the contract, unless alternative arrangements are agreed with the relevant Strategic Director.

57.6. It is essential that all procurement documentation (including the form of agreement from the Chief Legal Officer) is finalised before the quotation / tender is issued to market, as all procurement documentation must be available at the point of advertisement.

## **58. Normal Procedure**

### **58.1. Contracts Valued up to £10,000 (inclusive)**

58.1.1. These Procurement Procedure Rules do not apply to Contracts of less than £10,000. However, Procurement Procedure Rule 50 and 51 do apply and Procurement Procedure Rule 54 may also be used.

58.1.2. The Authorised Officer must be able to demonstrate Best Value for Money and wherever possible seek to use Local Suppliers. A file note must be retained outlining any search undertaken and a justification for the decision to award the work to a given Supplier. All quotations received must be in writing.

58.1.3. To comply with the Local Government Transparency Requirements, details of all Contracts awarded over £5,000 must be reported to the Chief Procurement Officer to ensure they are recorded on the Council's centralised contracts register.

### **58.2. Contracts Valued Between £10,000 and £25,000**

58.2.1. Contracts with a value between £10,000 and £25,000 must be awarded on a competitive basis (unless the provisions of Procurement Procedure Rule 50 or 51 apply).

58.2.2. At this value, the Authorised Officer must either:

- a) Undertake a Call-Off from a third-party Framework Agreement or Dynamic Purchasing System as described in Procurement Procedure Rule 54.
- b) Use a closed procedure inviting a minimum of 2 informal quotations (based on knowledge, experience, supplier expressions of interest etc), one of which must be from a Local Supplier.

58.2.3. The Authorised Officer must be able to demonstrate Best Value for Money and wherever possible seek to use Local Suppliers. A file note must be retained outlining any search undertaken to identify potential suppliers along with a justification for the decision to award the work to a given Supplier.

58.2.4. To comply with the Local Government Transparency Requirements, details of all Contracts awarded under this procedure must be reported to the Chief Procurement Officer to ensure they are recorded on the Council's

centralised contracts register.

### **58.3. Contracts Valued Between £25,000 and £100,000**

- 58.3.1. Contracts with a value between £25,000 and £100,000 must be awarded on a competitive basis (unless the provisions of Procurement Procedure Rule [50](#) or [51](#) apply) and coordinated through the Corporate Procurement Team (unless alternative arrangements have been agreed with the Chief Procurement Officer).
- 58.3.2. At this value, the Authorised Officer must either:
- a) Undertake a Call-Off from a third-party Framework Agreement or Dynamic Purchasing System as described in Procurement Procedure Rule [54](#).
  - b) Use a closed procedure inviting a minimum of 3 formal quotations (based on knowledge, experience, supplier expressions of interest etc), one of which must be from a Local Supplier, through the Council's e-tendering portal.
- 58.3.3. Where the Authorised Officer is unsure of the market or the likely response to be received, a discussion should be held with the Chief Procurement Officer to consider whether it would be appropriate to undertake an openly advertised opportunity (as described in Procurement Procedure Rule [58.4](#)), however, the Authorised Officer must be confident this will not generate an excessive volume of responses.

### **58.4. Contracts Valued Between £100,000 and £189,330**

- 58.4.1. Contracts with a value between £100,000 and £189,330 must be awarded on a competitive basis (unless the provisions of Procurement Procedure Rule [50](#) or [51](#) apply) and coordinated through the Corporate Procurement Team (unless alternative arrangements have been agreed with the Chief Procurement Officer).
- 58.4.2. At this value, the Authorised Officer must either:
- a) Undertake a Call-Off from a third-party Framework Agreement or Dynamic Purchasing System as described in Procurement Procedure Rule [54](#).
  - b) Undertake a formal tender which is advertised to the open market, through the Council's e-tendering portal and on Contracts Finder.
- 58.4.3. 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.
- 58.4.4. Where suitability questions are relevant and proportionate to the subject matter of the Contract, they may be included within the award criteria of a

procurement, and considered as part of the wider overall quality evaluation.

#### **58.5. Social and Other Specific Service, Works and Concession Contracts Valued £189,330 to the Relevant Threshold**

- 58.5.1. For Social and Other Specific Service, Works and Concession Contract with a value between £189,330 and the relevant Threshold must be competitively tendered unless the provisions of Procurement Procedure Rule 50 or 51 apply or the Contract is being procured in accordance with Procurement Procedure Rule 54) which is coordinated through the Corporate Procurement Team, (unless alternative arrangements have been agreed with the Chief Procurement Officer).
- 58.5.2. At this threshold, Authorised Officers are not bound by defined procedures, and have the flexibility to design procedures that are relevant and proportionate for the Contract being procured but must ensure the principles of transparency and equal treatment are observed at all times.

#### **58.6. Contracts with a Value that Exceed the Relevant Threshold**

- 58.6.1. Contracts which exceed the relevant Threshold must be competitively tendered in accordance with Procurement Legislation (unless the provisions of Procurement Procedure Rule 50 or 51 apply or the Contract is being procured in accordance with Procurement Procedure Rule 54) using one of the procurement procedures detailed at Procurement Procedure Rule 59 which is coordinated through the Corporate Procurement Team (unless alternative arrangements have been agreed with the Chief Procurement Officer).
- 58.6.2. All tenders must be advertised on the Council's e-tendering portal, Contracts Finder and the UK e-notification service.
- 58.6.3. Publication of tender documents on the Council's e-tendering portal and Contracts Finder must not occur until 48 hours after the despatch of the UK e-notification notice, or the publication of the UK e-notification notice, whichever occurs first.

##### **Timelimits**

- 58.6.4. For Contracts valued above the relevant Threshold (excluding Social and Other Specific Services) there are minimum timescales to be adhered as detailed in the Procurement Legislation. The timescales stipulated are dependent upon the type of notice issued to act as a call for competition and should be treated as minimum timescales and not be relied upon as the standard. When determining timescales, the Authorised Officer must be proportionate and fair to the market and take into consideration, the complexity of the specification and tender submission requirements, along with any previous market consultation undertaken.

## **59. Procurement Procedures**

### **59.1. Open Procedure**

- 59.1.1. This is a one-stage process where all interested suppliers may respond to the advertisement by submitting a tender. This is often the most expedient procedure and enables all suppliers in the market that wish to engage in the process to submit a tender. There is no pre-qualification, selection or short-listing stage prior to invitation to tender.

### **59.2. Restricted Procedure**

- 59.2.1. This is a two-stage process under which a selection process is made of those who respond to the advertisement and those shortlisted are invited to submit a tender.

- 59.3. The following procedures apply to more strategic, complex or high value projects. If consideration is being given to any of the following procedures early consultation is required with the Chief Procurement Officer and Chief Legal Officer as there are limited circumstances under which these procedures can be utilised.

### **59.4. Competitive Dialogue**

- 59.4.1. This procedure is used where the Contract is complex, the Council is unable to specify its requirements and the solution cannot be purchased 'off the shelf'. Following a selection process of those who responded to the Council's advertisement, the Council enters into dialogue with potential bidders to develop one or more solutions on which the bidders submit a tender.

### **59.5. Competitive Procedure with Negotiation**

- 59.5.1. Following a selection process of those who responded to the Council's advertisement, bidders are invited to submit a tender. The Council may then open negotiations with bidders to refine or seek to improve the offers proposed.

### **59.6. Innovation Partnership**

- 59.6.1. Following a selection process of those who responded to the Council's advertisement, the Council uses a negotiated approach to invite suppliers to research and develop innovative proposals to meet a need where no solution currently exists within the market, which the Council may then seek to purchase.

- 59.7. For Social and Other Specific Service Contracts, Authorised Officers have the freedom to design a procurement procedure that is relevant and proportionate to the Services being procured, whilst ensuring the principles of transparency and equal treatment are observed.

## **60. Tender / Quotation Submission, Receipt and Opening**

### **60.1. Contracts Valued up to £25,000**

- 60.1.1. All requests for quotation must state that it will only be considered if it is received by the specified closing date and time.
  
- 60.1.2. The Authorised Officer may receive quotations up to the value of £25,000 directly, but wherever possible this must be electronic (i.e. via email) to ensure auditability.
  
- 60.1.3. The Authorised Officer must keep a record of all quotations received.

### **60.2. Contracts Valued over £25,000**

- 60.2.1. All quotations / tenders valued above £25,000 must be received electronically through the Council's e-tendering portal (unless alternative arrangements are agreed with the Chief Procurement Officer), as this ensures bids remain anonymous until after the deadline has passed.
  
- 60.2.2. All quotations / tenders received above £25,000 through the Council's e-tendering portal shall be opened and released by an independent officer within the Corporate Procurement Team who is not involved in the procurement process.

## **61. Evaluation**

- 61.1. An evaluation panel must be convened for all evaluation processes undertaken. Representation on the panel must be from people who have knowledge of the subject area and proportionate to the size and value of the procurement being undertaken. For Contracts below £25,000 it is acceptable for only 1 person to review the quotations returned so long as any resulting order created is approved by someone independent.
  
- 61.2. For all Contracts regardless of value, no person with a personal or financial interest in any of the bidders submitting a proposal should be involved in evaluating tenders or involved in any way in influencing the decision as to which bidder is to be awarded a Contract. A declaration of interest form must be completed prior to the commencement of the evaluation process and held on file by the Authorised Officer (for Contracts below £25,000) or within the Corporate Procurement Team (for Contracts above £25,000).
  
- 61.3. Where a potential conflict is highlighted, this should be brought to the attention of the Chief Procurement Officer for further advice.
  
- 61.4. The evaluation of quotations / tenders must be in accordance with the evaluation criteria specified in the original quotation / tender documents. Under no circumstances should there be a deviation away from this.
  
- 61.5. Where a bidder submits a qualified or conditional tender, they must be given the

opportunity to withdraw the qualification or condition without amendment to the bid submitted. If a bidder fails to do so their bid must be rejected unless it is dealt with as an alteration to their submission in accordance with Procurement Procedure Rule 62.

- 61.6. Where a bid received appears to be abnormally low, the Council is under a statutory duty to request that the bidder concerned provides a full and detailed response to explain the price / cost proposed, including confirmation that the supplier is not practising modern slavery. Identifying and dealing with an abnormally low bid shall be the responsibility of the Authorised Officer. The Council may reject an abnormally low bid, where the justification doesn't satisfactorily account for the low level of price. Where consideration is being given to the rejection of a bid on these grounds advice must be sought from the Chief Procurement Officer and Chief Legal Officer.

## **62. Errors in Quotations and Tenders**

- 62.1. A quotation / tender may be amended after it has been received, and before it is accepted if it is identified during the evaluation process that a genuine arithmetical error or other minor discrepancy has been made, that can easily be corrected by way of clarification, following consultation with the Chief Procurement Officer and/or Chief Legal Officer, subject to the following:

62.1.1. The bidder shall be given details of the error(s) found during the examination of the tender and shall be given the opportunity of confirming the quotation / tender without amendment or to withdraw their quotation / tender.

62.1.2. Amending the quotation, to correct genuine arithmetic errors provided that no other adjustment, revision, or qualification is permitted.

- 62.2. The Authorised Officer must ensure a written record of all amendments made under this Procurement Procedure Rule is maintained.

## **63. Post Tender and Quotation Negotiations**

- 63.1. In the interests of ensuring an open, fair and transparent process, negotiation following receipt of tenders / quotations is only permissible in limited circumstances.

63.2. Negotiation is never permissible following the receipt of final tenders where the tender is above the relevant Threshold.

- 63.3. Where the procurement is below the relevant Threshold, the Authorised Officer may, after consulting with the Chief Procurement Officer and Chief Legal Officer enter negotiations with one or more bidders where they consider that it is in the Council's best interest to do so.

- 63.4. Where the scope of the original procurement is to be reduced in order to fit within budgetary provision, advice must be sought from the Chief Procurement Officer and Chief Legal Officer. In instances where the Contract is a Call-Off from a Framework Agreement or Dynamic Purchasing System it may be acceptable that all bidders who were invited to bid must be given the opportunity to re-submit a revised offer. However, where the procurement is the result of an openly advertised tender, dependent on the scale of the change of scope, the tender may need to be re-run.
- 63.5. Negotiations shall be conducted on behalf of the Council by two or more Authorised Officers from the service area concerned and / or the Corporate Procurement Team.
- 63.6. A full written record must be maintained of the negotiation which if agreed in writing by the Authorised Officer and the bidder for inclusion within the final Contract.

#### **64. Due Diligence**

- 64.1. Following the evaluation process of all Contracts valued above £25,000, and upon reaching consensus on the top scoring bidder, it is recommended best practice that a due diligence process is undertaken. The purpose of the due diligence is to confirm aspects such as:
- 64.1.1. The bid received is bona fide and sustainable.
  - 64.1.2. The Council fully understands the bid that has been submitted.
  - 64.1.3. The Supplier has the financial and technical capacity and capability to deliver the Contract and where this does cause concern appropriate steps have been agreed (i.e. parent company guarantees); and
  - 64.1.4. The Supplier has the relevant policies / certificates required (including evidence of adequate insurance cover).
- 64.2. Minutes from any due diligence meetings / conversations must be formally agreed in writing with the winning bidder for inclusion within the final Contract.

#### **65. Approval to Award**

- 65.1. For all Contracts valued above £25,000 (including further competitions from Framework Agreements or Dynamic Purchasing Systems), prior to formally notifying bidders whether they have been successful or not (regardless of whether the decision taken is to award the Contract or abandon the process), a tender evaluation report must be prepared and approved. Only the most

economically advantageous tender(s) or quotation(s) must be recommended for award.

- 65.2. In instances where the recommendation is to abandon and re-tender the requirement, robust justifiable reasons must be demonstrated (i.e. funding no longer available, all quality submissions below required thresholds etc). It would be a breach of Procurement Legislation if a tender was abandoned on the grounds that a particular supplier was not the successful bidder and such action would leave the Council open to legal challenge.
- 65.3. The tender evaluation report should summarise the procedure undertaken to include for example:
  - 65.3.1. The subject matter, value of the procurement and procedure used.
  - 65.3.2. The suppliers involved.
  - 65.3.3. Results of any compliance, selection and / or award criteria.
  - 65.3.4. The winning bid including any due diligence carried out.
  - 65.3.5. Any outcomes achieved.
  - 65.3.6. Any issues or risks with the proposed recommendation.
- 65.4. The tender evaluation report must be approved in accordance with the directorates scheme of delegation (or any other relevant Authorised Signatory).

## **66. Acceptance and Award**

- 66.1. All bidders must be notified in writing of their success / failure in a quotation / tender process in a timely manner using standard documents supplied by the Corporate Procurement Team.
- 66.2. All notifications for Contracts valued above £25,000 must be issued electronically through the Council's e-tendering portal.
- 66.3. Notification also includes a decision where the Council has decided to abort a process.
- 66.4. It is important to notify bidders as soon as possible after their elimination from a process. therefore, in the case of all tenders which relate to procurements above the relevant Threshold where there are multiple stages (i.e. a selection stage in

the restricted procedure) the bidder must be notified following the evaluation of that stage in the process.

- 66.5. For procurements concerning Contracts with a Contract Value above the relevant Threshold it is essential that all unsuccessful letters contain the following information:
  - 66.5.1. The award criteria used.
  - 66.5.2. The score obtained of the bidder against the award criteria.
  - 66.5.3. The score obtained by the winning bidder against the award criteria.
  - 66.5.4. The name of the winning bidder.
  - 66.5.5. The characteristics and relative advantages of the winning tender; and
  - 66.5.6. Precise details of the standstill period.
- 66.6. The standstill period requires a minimum 10 calendar days (where the notification is made electronically) between the communication of the award decision and Contract conclusion, with day 1 being the day after the award decision is issued. Where the notification is not issued electronically or is followed up by postal notification, the standstill period must be no less than 15 calendar days. The standstill period must end on a weekday.
- 66.7. Whilst the standstill period referred to above is not a legal requirement for below Threshold procurements, above Threshold procurements under Social and Other Specific Services or Call-Offs under Framework Agreements or Dynamic Purchasing Systems, it is recommended best practice to apply such a process to allow an opportunity for unsuccessful aggrieved bidders to challenge/complain, and for the Council to satisfactorily deal with such instances before entering into Contract.
- 66.8. Following the successful conclusion of standstill, the successful bidder(s) should be informed that the Council will be progressing to formal award and the issuing of formal Contracts.
- 66.9. All Contracts awarded with a value of £5,000 and above must be reported to the Chief Procurement Officer and recorded on the Council's contracts register. All Contracts awarded with a value of £25,000 and above must be recorded on Contracts Finder. All Contracts awarded above the relevant Threshold must also be recorded on the UK e-notification service within 30 calendar days following the decision to award the Contract and a Regulation 84 report must also be prepared in accordance with the Procurement Legislation by the Authorised

Officer. For Contracts awarded with a value of £250,000 and above an Officer Delegated Decision record is also required to be published.

## **67. Exemptions from the Normal Procedure**

67.1. The Strategic Director has the power to waive any requirements within these Procurement Procedure Rules for specific projects, where one or more of the following exemptions apply:

- 67.1.1. Where the technical characteristics of the Goods are only compatible with an existing supply or installation, such that procurement of another product other than the one available from the original Supplier would result in disproportionate technical difficulties. The duration of a Contract negotiated in accordance with this exemption shall not exceed 3 years.
- 67.1.2. The procurement of a unique work of art or artistic performance.
- 67.1.3. Where competition is absent for technical reasons where no reasonable alternative or substitute exists, and the absence of the competition is not the result of an artificial narrowing down of the parameters of the procurement.
- 67.1.4. The purchase of proprietary or patented Goods or material, or Services, which are obtainable only from one supplier, and where no reasonable satisfactory alternative is available.
- 67.1.5. Where the execution of Works, or supply of Goods or Services are controlled by a statutory body, trade organisation or legislation and no reasonable satisfactory alternative is available.
- 67.1.6. Where the execution of Work or the supply of Goods or Services are required so urgently<sup>1</sup> that compliance with any competitive process prescribed by these Procurement Procedure Rules cannot be achieved.
- 67.1.7. 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 has considered the use of reasonable measures to protect such security and allow the normal procurement process to be followed (e.g. the use of confidentiality agreements)
- 67.1.8. 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.

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<sup>1</sup> The urgency not being due to the action or inaction of the Council or its officers)

- 67.1.9. The execution of Works, or the supply of Goods or Services for which it can be demonstrated that no genuine competition can be obtained.
- 67.1.10. An alternative competitive process to that prescribed by these Procurement Procedure Rules for Contracts with a value between £10,000 and the relevant Threshold subject to reasonable justifications for such a request.
- 67.1.11. All exemptions require the support of the Chief Finance Officer, who is ultimately responsible for procurement within the Council, in advance of gaining the approval of the relevant Strategic Director for the service concerned (or other Chief Officer).
- 67.1.12. An exemption request form must be completed for every instance of an exemption with a total value of £10,000 or more to aid the decision making of the Chief Finance Officer and the relevant Strategic Director. The request must clearly document the exemption to be relied upon, along with the justification and all necessary procurement, legal, financial and procurement implications.
- 67.1.13. A copy of all approved exemptions must be provided to the Chief Procurement Officer, where a record will be maintained. The relevant Strategic Director is responsible for ensuring the appropriate Cabinet Member is kept informed. A summary of agreed exemptions will be reported in quarterly performance monitoring reports.
- 67.1.14. Where an exemption is approved, the Service must ensure that an appropriate Contract is entered into (including a scope of works and proposal from the Supplier) which is managed in line with the requirements of these Procurement Procedure Rules. Details of the contract must be advertised on the Council's contract register and on Contracts Finder (for Contracts above £25,000) in accordance with data transparency and reporting requirements.

## **68. Contracts and Purchase Orders**

### **68.1. Purchase Orders**

- 68.1.1. It is Council policy that all requests (irrespective of value) for Goods, Services and Works are supported by an official purchase order generated from an approved Council system in advance of the services commencing and an invoice being received and coded to the appropriate cost code unless otherwise agreed by the Chief Procurement Officer and relevant Head of Finance.
- 68.1.2. Every purchase order placed by the Council regardless of value must incorporate terms and conditions approved by the Chief Legal Officer.

## **68.2. Form and Content of Contracts**

68.2.1. Every Contract must be in writing in a form approved by the Chief Legal Officer.

68.2.2. As appropriate a Contract must specify:

- a) The parties to the Contract, including any surety or guarantor.
- b) The Goods or Services to be supplied or the Works to be performed.
- c) The price to be paid together with a statement as to the amounts of any discounts or other deductions.
- d) The period within which the Contract is to be performed.

68.2.3. Any Contract that deviates from the standard payment terms<sup>2</sup> of the Council must be agreed in advance with the relevant Head of Finance and Chief Procurement Officer.

68.2.4. Every written Contract must contain a clause stating that in circumstances where the Supplier fails to comply with its contractual obligations in whole or in part, or commits a fundamental breach of the Contract, the Council may;

- a) Terminate the Contract, either wholly or to the extent of such default.
- b) Make good the default and/or complete the requirements encompassed in the Suppliers former obligations (set out in the Contract) itself or appoint another Supplier or agent to do so.
- c) Recover from the Supplier the costs incurred in making good the default and/or in the completion of the Suppliers former obligations.

These provisions also cover the Suppliers obligations towards delivering its Social Value commitments.

68.2.5. All Contracts shall require that if one or more sums of money are to be paid to the Council, the Supplier must pay interest on respect of any late payment of such sums at the rate stated in the Contract from the date when payment is due until the date when payment is received.

68.2.6. The Supplier shall be placed under a contractual obligation to comply with the requirements of the Equality Act 2010 and obligated to provide the Council with information on request in relation to compliance with those requirements.

68.2.7. The Supplier shall be placed under a contractual obligation to comply with human rights law (including the Modern Slavery act 2015) and obligated to

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<sup>2</sup> 30 calendar days from receipt of valid invoice

provide the Council with information on request in relation to compliance with those requirements.

- 68.2.8. The Supplier shall be placed under a contractual obligation to comply with data protection law (including the General Data Protection Regulations) and ensure that the Council is able to comply with those statutory obligations.
- 68.2.9. The Supplier shall be placed under a contractual duty to comply with the requirements of the Health and Safety at Work Etc Act 1974 and any other legislation relevant to Health and Safety.
- 68.2.10. Where Suppliers are discharging Council functions, they shall be placed under an obligation to ensure the Council's compliance with the duty of Best Value for Money under the Local Government Act 1999 (as amended).
- 68.2.11. Every Contract shall include a clause requiring the Supplier to hold and maintain appropriate insurance cover (e.g. employers liability, public liability, professional indemnity cover) with a reputable insurance provider at any statutory levels or higher levels if deemed necessary in consultation with the Council's insurance officer.
- 68.2.12. Every Contract shall include a clause preventing the Supplier from transferring, disposing, assigning and/or subcontracting all or any part of the Contract without the prior consent of the Council given in writing.
- 68.2.13. All formal quotations, tenders and Contracts must contain a notice/clause relating to Freedom of Information and a schedule that allows Suppliers to clearly identify those sections or clauses of their proposal which they believe are commercially confidential within the terms of the Freedom of Information Act 2000.
- 68.2.14. If a Contract is to be entered into for the provision of business-critical Services or Supplies, consideration shall be given to the inclusion of clauses that contractually obligate the maintenance of adequate business continuity processes in order to minimise the Council's risk of exposure.
- 68.2.15. In every Contract a clause shall be included to ensure that the Council shall be entitled to terminate the Contract, and to recover from the Supplier the amount of any loss resulting from such termination, if the Supplier (including its employees or agents):
  - a) Does anything improper to influence the Council to award the Contract; and/or
  - b) Commits an offence under the Bribery Act 2010 and/or under Section 117 of the Local Government Act 1972.

- 68.2.16. Every Contract with a value above the relevant Threshold shall contain a clause which enables the Council to terminate the Contract in order to comply with its obligations at Regulation 73 of the Procurement Legislation.

### **68.3. Signing Contracts and the Common Seal**

- 68.3.1. The common seal of the Council must be affixed to any Works Contract with an estimated Contract Value of £100,000 or more and to any contract, instrument or other document that is required by law to be made by deed.
- 68.3.2. The affixing of the common seal of the Council shall be deemed to be duly authenticated if but only if the impress of the seal is accompanied by the signature of an Authorised Signatory (including any temporary appointment to any of those positions to cover a vacancy or long-term absence).
- 68.3.3. Strategic Directors, other officers defined in the directorate scheme of delegation or other Authorised Signatories, have the power to sign Contracts and agreements that are not required to be made by deed.

## **69. Contract Management**

### **69.1. General**

- 69.1.1. For every contractual relationship the relevant Strategic Director shall appoint a suitably qualified, experienced and trained officer to be the contract manager.
- 69.1.2. The contract manager shall be responsible for actions such as:
- 69.1.3. Regularly reviewing management information and supplier performance (as detailed in the tender and contract documentation).
- 69.1.4. Meeting with the supplier at a frequency appropriate to the contract value (but no less than annually) to discuss contract compliance, performance, service development, innovation etc.
- 69.1.5. Dealing with instances of off and non-contract spend within the Council.
- 69.1.6. Benchmarking the Contract to ensure it continues to provide Best Value for Money.
- 69.1.7. Monitoring any ongoing efficiency savings and reporting these to the Chief Procurement Officer.

- 69.1.8. Monitoring that all outputs and outcomes (including social value commitments) are delivered and take appropriate action where a Supplier fails to perform.
- 69.1.9. Make recommendations about options for future procurements / extensions to the Contract.

## **69.2. Contract Extension**

- 69.2.1. An extension to a Contract may only be permitted where the details of any extension provision was included within the terms and conditions of the Contract, tender / quotation documents and UK e-notification service notice (where appropriate).
- 69.2.2. If there is not a provision in the Contract for an extension, but one is required, an exemption to these Procurement Procedure Rules must be identified and dealt with in accordance with Procurement Procedure Rule 67.
- 69.2.3. Prior to formally extending a Contract, the Authorised Officer must ensure that an appraisal is undertaken to determine whether it is in the best interest of the Council to extend the current arrangement. Any recommendation to extend / re-procure or decommission a Contract must be detailed in writing and approved by the appropriate Officer as detailed in the directorates scheme of delegation.
- 69.2.4. 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 competitive rates, additional social value commitments or improved quality outcomes.
- 69.2.5. All extensions to a Contract must be in writing and coordinated through the Corporate Procurement Team. A copy of the extension notice should be stored with the Contract.
- 69.2.6. Details of the Contract extension must be updated on the Council's contracts register.

## **69.3. Contract Modifications / Variations**

- 69.3.1. All Contract variations must be carried out within the scope of the original Contract and must not materially affect or change the Contract.
- 69.3.2. There are significant limitations (especially where Procurement Legislation applies) on modifications which result in additional Works, Goods or Services, which were not considered when the original procurement took place and could be considered as altering the overall nature of the Contract.

- 69.3.3. When considering a modification / variation to an existing Contract, advice must be sought from the Chief Procurement Officer and Chief Legal Officer. Approval of any modification must be made in writing by the relevant officer detailed in the directorate scheme of delegation incorporating the advice of the Chief Procurement Officer and Chief Legal Officer, as well as confirmation from the relevant Head of Finance that budget provision exists.
- 69.3.4. All agreed modifications must be made in writing and signed by the Council and the Supplier. A copy of the signed modification should be stored with the Contract.

#### **69.4. Novation of Contracts to another Supplier**

- 69.4.1. In the event that a novation to a Contract is required due to a Supplier ceasing to provide the Works, Goods or Services as a result of insolvency, company restructuring, company purchase, termination of the Contract or any other reason, then the Authorised Officer must consult and seek advice from the Chief Procurement Officer and Chief Legal Officer before novating or assigning the Contract to a new Supplier.

#### **69.5. Termination of Contracts**

- 69.5.1. If the performance of a Contract is giving rise to concern, before commencing proceedings to terminate a Contract with a Supplier for a breach of Contract, the Authorised Officer must consult and seek advice from the Chief Procurement Officer and Chief Legal Officer.

#### **69.6. Contract Claims**

- 69.6.1. The Authorised Officer must inform the Chief Legal Officer of all claims by or against Suppliers which are the subject of formal dispute resolution or litigation between the Council and the Supplier.

### **70. Miscellaneous**

#### **70.1. Purchasing Cards**

- 70.1.1. The Council uses purchasing cards for some areas of high volume / low value purchases to reduce the amount of time spent on processing orders and invoices.
- 70.1.2. Purchasing cards must only be used in accordance with the agreed Purchasing Card guidelines and not used as a way of bypassing the requirements of these Procurement Procedure Rules.
- 70.1.3. The Chief Procurement Officer and/or relevant Head of Finance will withdraw the use of purchasing cards where they are not being used in accordance with the agreed guidelines. Instances of non-compliance may result in disciplinary action in accordance with Procurement Procedure Rule 46.

## **70.2. Review and Amendment**

- 70.2.1. The Assistant Director of Finance and Assistant Director of Legal are authorised to make technical amendments from time to time to ensure these procedures are consistent with legislative requirements, best practice guidance issued from central government, changes in Council policies, procedures and personnel.
  
- 70.2.2. A formal review and update of these Procurement Procedure Rules will take place at least every 2-years.