

# PART 4

## Rules of Procedure

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2. Access to Information Procedure Rules
3. Budget and Policy Framework Procedure Rules
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# **Council Procedure Rules**

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1. **ANNUAL MEETING OF THE COUNCIL (Council only)**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. (Councillor elections on the 4<sup>th</sup> day after the election) In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (a) elect the Chairman of Council
- (b) elect the Vice-Chairman of Council
- (c) approve the minutes of the last meeting
- (d) receive any announcements from the Chairman
- (e) elect a leader (in circumstances where the Council has decided to elect a leader in accordance with the constitution)
- (f) elect Chairmen of Committees and Sub-Committees (save that Standards Committee shall elect its Chairman)
- (g) appoint Committees and Sub-Committees as the Council considers appropriate
- (h) consider any business set out in the notice convening the meeting.
- (i) decide the allocation of seats [and substitutes] to political groups in accordance with the political balance rules;
- (j) receive nomination of Councillors to serve on each Committee and outside body.

2. **ORDINARY MEETINGS (Council only)**

Ordinary meetings will:

- (a) approve the minutes of the last meeting
- (b) receive any declarations of interest from Members
- (c) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting
- (d) deal with any business from the last Council meeting
- (e) receive reports and recommendations from the Council's Committees and receive questions and answers on any of those reports
- (f) receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations

- (g) consider motions
- (h) consider any other business specified in the summons to the meeting.

3. **EXTRAORDINARY MEETINGS (Council only)**

Calling extraordinary meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings;

- (a) the Council by resolution
- (b) the Chairman of the Council
- (c) the Monitoring Officer;
- (d) the Chief Finance Officer; and
- (e) any fourteen Members of the Council if they have signed a requisition presented to the chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. **APPOINTMENT/DELEGATIONS TO COMMITTEES (Council only)**

4.1 **Delegation of Functions**

The Council shall delegate its functions to such Committees and Sub-Committees as it deems appropriate;

4.2 **Appointment of Committees and Sub-Committees**

The Council shall at the Annual Meeting appoint such Committees and Sub-Committees as it is required to appoint and may appoint such other Committees, Sub-Committees, Panels and Task Groups as are necessary to carry out the work of the Council;

4.3 **Election of Chairman of the Council**

The Term of Office of the Chairman of the Council shall be for one year with the retiring Chairman and previous Chairmen being eligible for re-election.

4.4 **Election of Chairmen**

The Chairmen of Committees and Sub-Committees shall be elected at the Annual Council Meeting with the exception of the Chairman of the Standards Committee who shall be elected by that Committee.

4.5 **Election of Vice-Chairmen**

The Vice-Chairman of each Committee and Sub-Committee shall be elected by the Members of that Committee or Sub-Committee at its first meeting following the Annual Meeting of the Council.

#### 4.6 **Holding of Office**

Any Member of the Council so appointed to a Committee or other body shall not hold office later than the next Annual Meeting of the Council save for Standards Committee where Members are appointed for an initial term of two years.

#### 4.7 **Dissolution of Committee**

The Council may at any time dissolve a Committee or alter its Membership;

#### 4.8 **Urgent Items**

No business shall be transacted at a meeting of the Council other than that specified in the agenda except business brought before the meeting as a matter of urgency as certified by the Chairman for specific reasons which are to be included in the Minutes.

### 5. **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES (Council only)**

#### 5.1 **Allocation**

As well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members.

#### 5.2 **Number**

For each Committee or Sub-Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or Sub-Committee.

#### 5.3 **Powers and duties**

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### 5.4 **Substitution**

Substitute Members may attend meetings in that capacity only:

- (a) to take the place of the ordinary Members for whom they are the designated substitute
- (b) where the ordinary Member will be absent for the whole of the meeting; and
- (c) after notifying the Director of Corporate Services by 9 a.m. on the day of the meeting of the intended substitution.

5.5 Members of Strategy Committee cannot be substitute Members for Overview and Scrutiny Committees, or vice versa.

5.6 No Member may be involved in scrutinising a decision in which he or she has been directly involved. Members acting as substitute Members on either of the two Overview and Scrutiny Committees should not take part in any business being considered by the Overview and Scrutiny Committee in circumstances where the substitute Member has been directly involved in determining the issue under scrutiny.

6. **TIME AND PLACE OF MEETINGS (Council and Committee)**

The time and place of meetings will be determined by the Director of Corporate Services and notified in the summons.

7. **NOTICE OF AND SUMMONS TO MEETINGS (Council and Committee)**

The Director of Corporate Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Director of Corporate Services will send a summons signed by him or her to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8. **CHAIRMAN OF MEETING (Council and Committee)**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairmen of Committees and Sub-Committees.

9. **REMOVAL OF CHAIRMAN OF COUNCIL/COMMITTEES (Council and Committee)**

9.1 At any meeting of the Council a Member may propose that "the meeting has no confidence in the Chairman". The motion shall after debate be put and if carried the Chairman shall consider his or her position, and report his or her decision to the Council as soon as possible.

9.2 At any meeting of a Committee, Sub-Committee, Panel or Task Group a Member may propose that "the meeting has no confidence in the Chairman", the question shall after debate be put and if carried by a majority of at least two thirds of the Members present the Chairman shall stand down and the remainder of the meeting shall be chaired by the Vice-Chairman or in his or her absence by a Member elected for that purpose by the meeting.

9.3 Following a successful vote of no confidence in the elected Chairman he or she shall not officiate at any subsequent meeting of the Committee, Sub-Committee, Panel or Task Group prior to the next meeting of the Council. At that meeting the Council shall consider whether to confirm or not the vote of no confidence. If by a simple majority the Council shall decide to confirm the vote the office of Chairman of the relevant Committee shall be declared vacant and a new Chairman shall be elected by the Council.

10. **DURATION OF MEETING (Council and Committee)**

The duration of any meeting shall be at the absolute discretion of the Chairman.

11. **QUORUM (Council and Committee)**

- 11.1 Save in relation to meetings of the Licensing and Appeals, Standards, and Hadleigh and District Swimming Pool Trust Committees, the quorum of a meeting will be one quarter of the whole number of Members (for the avoidance of doubt this will be rounded up to the next whole number). During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining issues will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 11.2 The quorum of a meeting of the Licensing and Appeals Committee will be 4 Members except when it sits for staffing matters when it shall be 3.
- 11.3 A meeting of a Standards Committee or Sub-Committee of a Standards Committee shall not be quorate unless at least three Members (including at least one Independent Member) of that Committee or Sub-Committee are present for its duration.
- 11.4 The quorum of a meeting of the Licensing Sub-Committee and the Hadleigh and District Swimming Pool Trust Committee shall be three Members, being the number of Members appointed to serve.

12. **ORDER OF BUSINESS (Council and Committee)**

- 12.1 Subject to what follows, the order of business at every meeting of the Council will be:-
- (a) To appoint a person to preside if the Chairman and Vice-Chairman are absent.
  - (b) To deal with any item required by statute to be dealt with before any other item.
  - (c) To approve as a correct record and sign the minutes of the last meeting of the Council.
  - (d) Chairman's Announcements.
  - (e) To receive notification of petitions.
  - (f) To dispose of any business remaining from a previous meeting.
  - (g) To receive and consider all other reports, minutes and recommendations of Committees in date order of meeting.
  - (h) To consider amendments and motions moved without notice in accordance with Council Procedure Rule 17.
  - (i) To consider notices of motions received under Council Procedure Rule 16 in the order received; and
  - (j) To consider questions received under Council Procedure Rule 14.
  - (k) To consider questions received under Council Procedure Rule 15.
  - (l) Other business, if any, specified in the summons.

The order of business (with the exceptions of items (a), (b) and (c)) may be altered by the Chairman or by a resolution following a motion moved, seconded and put to the meeting without debate.

### 13. **PETITIONS (Council and Committee)**

If any petition is submitted to the Chief Executive, either directly or indirectly, relating to the exercise or non-exercise of duties or powers of the Council and signed by at least twenty persons who are resident in the District or who work or study in the District it shall be referred to the next meeting of the Committee or Sub-Committee responsible for the administration of the powers in connection with the subject matter of the petition. In addition the Chief Executive shall report the receipt of such a petition to the next meeting of the Council where there shall be no debate or comment thereon.

Note: PETITIONS AND HOW WE DEAL WITH THEM

At its meeting on 30 June 2010, the Council approved a Petition Scheme contained in Appendix 1 attached.

The Petition Scheme can also be accessed through the following link:

<http://www.babergh.gov.uk/NR/rdonlyres/C82BBA59-2190-4179-9145-4CF22471FAF6/0/090710Petitions.pdf>

### 14. **QUESTIONS BY THE PUBLIC (Council only)**

#### 14.1 **General**

Members of the public may ask questions of any Chairman of a Committee at ordinary meetings of the Council in accordance with the meeting Agenda.

#### 14.2 **Order of Questions**

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

#### 14.3 **Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Corporate Services no later than midday two working days before the day of the meeting. Each question must give the name and address of the questioner and must name the relevant Chairman to whom it is to be put.

#### 14.4 **Number of Questions**

At any one meeting no person may submit more than one question (plus a supplementary question) and no more than one question (plus a supplementary question) may be asked on behalf of one organisation.

#### 14.5 **Scope of Questions**

The Director of Corporate Services may reject a question if it:

- (a) is not about a matter for which the Local Authority has a responsibility or which affects the district;

- (b) is defamatory, frivolous, vexatious or offensive
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

#### 14.6 **Record of Questions**

The Director of Corporate Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

#### 14.7 **Asking the Question at the Meeting**

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

#### 14.8 **Supplemental Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 14.5 above.

#### 14.9 **Written Answers**

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

#### 14.10 **Reference of Question to a Committee**

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

### 15 **QUESTIONS BY MEMBERS (Council and Committee)**

#### 15.1 **On Reports of Committees**

A Member of the Council may ask the Chairman of a Committee any question without notice upon an item of the report of the Committee when that item is being received or under consideration by the Council.

## 15.2 **Questions on Notice at Full Council**

Subject to Rule 15.4 a Member of the Council may ask:

- (a) the Chairman; or
- (b) the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the District.

## 15.3 **Questions on Notice at Committees and Sub-Committees**

Subject to Rule 15.4 a Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that Committee or Sub-Committee.

## 15.4 **Notice of Questions**

A Member may only ask a question under Rule 15.2 or 15.3 if either:

- (a) he/she has given at least 2 working days notice in writing or by electronic mail of the question to the Director of Corporate Services.
- (b) the question relates to urgent matters, he/she has the consent of the Chairman to whom the question is to be put and the content of the question is given to the Director of Corporate Services by 4 p.m. on the day prior to the meeting.

## 15.5 **Response**

An answer may take the form of:

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

## 15.6 **Supplementary Question**

A Member asking a question under Rule 15.2 or 15.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

16. **MOTIONS ON NOTICE** (Council and Committee)

16.1 **Notice**

Except for motions which can be moved without notice under Rule 17, written notice of every motion, signed by at least 1 Member, must be delivered to the Director of Corporate Services not later than 6 clear working days (that is not counting the day of the meeting or the day of receipt) before the date of the meeting. These will be entered in a book open to public inspection.

16.2 **Motion Set out in Agenda**

Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the Member giving notice states, in writing, that he/she propose to move it to a later meeting or withdraw it.

16.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the District.

17. **MOTIONS WITHOUT NOTICE** (Council and Committee)

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule other than Council Procedure Rules Nos. 22.6 and 23.2;

- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under Rule 26.3 or to exclude him or her from the meeting under Rule 26.4;
- (p) to give the consent of the Council where its consent is required by this Constitution.

## 18. **RULES OF DEBATE** (Council only)

### 18.1 **No Speeches until Motion Seconded**

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

### 18.2 **Right to Require Motion in Writing**

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

### 18.3 **Seconders' Speech**

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

### 18.4 **Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. The speech of a proposer of any motion or amendment shall not exceed 5 minutes and no other speech may exceed 3 minutes without the consent of the Chairman.

### 18.5 **When a Member may Speak Again**

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

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

## 18.6 **Amendments to Motions**

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

## 18.7 **Alteration of Motion**

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

## 18.8 **Withdrawal of Motion**

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

## 18.9 **Right of Reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 18.10 **Motions Which May be Moved During Debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules;
- (h) to not hear further a Member named under Rule 26.3 or to exclude him or her from the meeting under Rule 26.4.

#### 18.11 **Closure Motions**

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## 18.12 **Point of Order**

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

## 18.13 **Personal Explanation**

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

## 19. **MOTIONS AFFECTING EMPLOYEES (Council and Committee)**

If any question arises at a meeting of the Council as to the appointment, promotion, salary, dismissal, pension entitlement or conditions of service or as to the conduct of a Council employee, such questions shall not be discussed until the Council has considered whether or not to exclude the press and public under Part 1 Paragraph 1 of Schedule 12A of the Local Government Act 1972.

## 20. **STATE OF THE DISTRICT DEBATE (Council)**

### 20.1 **Calling of Debate**

The Chairman of Council may call a State of the District debate on a date and in a form to be agreed.

### 20.2 **Form of Debate**

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

### 20.3 **Chairing of Debate**

The debate will be chaired by the Chairman of Council.

### 20.4 **Results of Debate**

The results of the debate will be:

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

21. **PREVIOUS DECISIONS AND MOTIONS** (Council only)

21.1 **Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 14 Members.

21.2 **Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 14 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

22. **VOTING** (Council and Committee)

22.1 **Majority**

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

22.2 **Chairman's Casting Vote**

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

22.3 **Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 22.4 and 22.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

22.4 **Ballots**

In the case of the appointment of Members only, the vote will take place by ballot if 7 Members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

22.5 **Recorded Vote**

If 7 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes. A demand for a recorded vote will override a demand for a ballot.

22.6 **Right to Require Individual Vote to be Recorded**

Where any Member requests it immediately after the vote is taken, his/her vote will be so recorded in the Minutes to show whether he/she voted for or against the motion or abstained from voting.

## 22.7 **Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## 23. **MINUTES (Council and Committee)**

### 23.1 **Signing the Minutes**

The Chairman will sign the Minutes of the proceedings at the next suitable meeting. The Chairman will move that the Minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

### 23.2 **No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

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

### 23.3 **Form of Minutes**

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

## 24. **RECORD OF ATTENDANCE (Council and Committee)**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## 25. **EXCLUSION OF PUBLIC (Council and Committee)**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 27 (Disturbance by Public).

## 26. **MEMBERS' CONDUCT (Council and Committee)**

### 26.1 **Standing to Speak (Council only)**

When a Member speaks at full Council he/she must stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### 26.2 **Chairman Standing**

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

26.3 **Member not to be Heard Further**

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

26.4 **Member to Leave the Meeting**

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

26.5 **General Disturbance**

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

27. **DISTURBANCE BY PUBLIC (Council and Committee)**

27.1 **Removal of Member of the Public**

If a Member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order his/her removal from the meeting room.

27.2 **Clearance of Part of Meeting Room**

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

28. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES (Council and Committee)**

28.1 **Suspension**

All of these Council Rules of Procedure except Rule 22.6 and 23.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

28.2 **Amendment**

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

29. **CHANGES IN COUNCIL PROCEDURE RULES (Council only)**

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

30. **INTERPRETATION OF PROCEDURE RULES**

- (1) The ruling of the Chairman as to the construction or application of any Procedure Rule or as to any proceedings of the Council shall not be challenged.
- (2) For the purposes of these Council Procedure Rules in the absence at the relevant time of the Director of Corporate Services compliance with the terms of the relevant Standing Order shall be deemed to have occurred if the notice, submission or application is given to the Chief Executive.

31. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the above Council Procedure Rules apply to meetings of Full Council. Only Rules 6-13, 15-17, 19, 22-28 (but not Rule 26.1) apply to meetings of Committees and Sub-Committees.

32. **PUBLIC SPEAKING ON PLANNING APPLICATIONS**

The arrangements for public speaking are set out in the attached Appendix 2.

## **PETITION SCHEME**

This policy sets out how Babergh District Council deals with and responds to petitions.

### **1.1 What is a petition?**

There are different types of petition (see 1.4 below) and different requirements for each type. In general terms, we treat as a petition any communication signed by or sent to us on behalf of a number of people. For practical purposes, we set a requirement for at least 20 signatories or petitioners before we treat it as a petition. The petitioners should live, work or study in the Council's area.

### **1.2 What should a petition contain?**

A petition should include:-

- 1.2.1 A clear and concise statement of the petitioners' concerns and what it is they want the Council to do. This must relate to something over which the Council has responsibility or some influence.
- 1.2.2 The name and contact details, including an address, of the "petition – organiser". This is the person whom we will contact to explain how we will respond to the petition. If the petition does not identify a petition – organiser, we will contact the first person named as a signatory to act as petition organiser. Their contact details will not be placed on the Council's website.
- 1.2.3 The names of at least 20 petitioners (which can include the petition organiser) supporting the petition. Where the petition is in paper form, it should include an actual signature from each petitioner but, where the petition is in electronic form, a list of the names and addresses of the petitioners will be sufficient. The addresses of petitioners is important in enabling the Council to assess the degree of local support or opposition. If you want your petition to be debated at a meeting of the Council ("A Petition for Debate"), or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report ("A Petition to hold an Officer to Account"), your petition will need to contain a higher number of signatories or petitioners (see paragraphs 1.4.4 and 1.4.5 below).
- 1.2.4 If you are submitting the petition in response to consultation by the Council on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with the original matter.

### **1.3 How do I submit my petition?**

Where you submit a petition in response to consultation by the Council, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

Other petitions should be sent in writing to:-

Committee Services  
Babergh District Council  
Corks Lane  
Hadleigh  
IPSWICH IP7 6SJ

Or, by email to:- [committee.services@babergh.gov.uk](mailto:committee.services@babergh.gov.uk)

Committee Services can also provide you with advice about how to petition the Council or the progress of your petition. You can contact them at either of the above addresses or by telephone on 01473 825876.

## **1.4 Types of Petition**

There are five different types of petition, as set out below. How we deal with a petition will depend on the type of petition you submit –

### **1.4.1 Ordinary Petitions**

These are petitions which do not come within any of the following specific types. (Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Standards (Assessment) Sub-Committee, rather than considered under this Petitions Procedure).

### **1.4.2 Consultation Petitions**

These are petitions in response to an invitation from the Council for representations on a particular proposal or application, for example on planning or licensing applications. Consultation petitions which are received by the response date in the consultation invitation will be reported to the meeting which will be taking the decision on the application or proposal.

### **1.4.3 Statutory Petitions**

Particular Acts of Parliament require the Council to consider certain petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

### **1.4.4 Petitions for Debate**

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 1,000 signatories or petitioners (this is reduced to 200 signatories or petitioners where the petition relates to a more localised issue that affects no more than 2 electoral wards within the Council's area).

### **1.4.5 Petitions to Hold an Officer to Account**

If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter for which they are responsible as part of their duties, your petition has to contain at least 500 signatories or petitioners (reduced to 100 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the Council's area). The Council has determined that such petitions must relate to the Chief Executive, the Deputy Chief Executive, a Director or a Head of Service of the Council. Such a petition may, for example, ask a senior officer to explain the progress on an issue or to explain advice that they have given.

## **1.5 The Petitions Website**

The Council maintains a petitions section on its website at [www.babergh.gov.uk](http://www.babergh.gov.uk). When a petition is received, within 10 working days details of the petition will be placed on the appropriate section of the Council's website. These details will include the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

As soon as it is decided who the petition will be considered by within the Council, and when, this information will be entered on the website and, at the same time, sent to the petition organiser. Once the petition has been considered, the Council's decision will be notified to the petition organiser and put on the website within 10 working days.

Petitions are presented on the petitions area of the website in the order in which they are received and will be kept there for 2 years from the date of receipt.

## **1.6 The role of Ward Councillors**

1.6.1 When a petition is received relating to a local matter that particularly affects specific electoral wards, a copy of the petition will be sent to each relevant Ward Councillor at the same time as receipt of the petition is acknowledged to the petition organiser.

1.6.2 When the petition is reported to the person or body within the Council who can take a decision on the matter to which it relates, the relevant Ward Councillor will be invited to attend and to address the relevant Committee for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.

## **1.7 What happens when a petition is received?**

Whenever a petition is received –

1.7.1 Within 10 working days of its receipt, an acknowledgement will be sent to the petition organiser setting out what is to happen to it and explaining the procedures that will apply.

1.7.2 In some cases, it may be possible to resolve the petitioners' request directly, by getting the relevant officer to take appropriate action. For example where the petition relates to fly-tipping and the Council can arrange for it to be cleared up directly. Where this is done, we will ask the petition organiser whether s/he considers that the matter is resolved.

1.7.3 Unless the matter has been resolved to the satisfaction of the petition organiser, we will, within 10 working days of receipt of the petition, provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend and address the meeting for up to 3 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.

1.7.4 A petition must normally be received at least 10 working days before a relevant meeting if it is to be reported to that meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary to hold over consideration of the petition until the following meeting.

1.7.5 At the same time as responding to the petition organiser, relevant Ward Councillors will be notified of the petition's receipt.

1.7.6 Within 10 working days of receipt of a petition, the petition details will be placed on the appropriate section of the website (see 1.5 above).

1.7.7 At each stage of the consideration of the petition, within 10 working days of any decision, we will update the petitions section of website so that petitioners can track the progress of their petition.

1.7.8 The process after this stage differs for the various types of petitions – see below.

## **1.8 How will the Council respond to petitions?**

1.8.1 Our response to a petition will depend on what the petition asks for and what type of petition it is but may include one or more of the following:-

- Taking the action requested in the petition
- Considering the petition at a council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with the petitioners
- Referring the petition for consideration by the Council or the appropriate Committee
- Calling a local referendum
- Writing to the petition organiser setting out the Council's views on the matter.

## **1.9 What happens to a Consultation Petition?**

1.9.1 Consultation Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application.

1.9.2 The petition will be reported to the person or body who will take the decision on the proposal or application at the meeting when they are to take the decision. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegation and the Terms of Reference of Committees and Sub-Committees. Please note that the Chief Planning Control Officer has delegated authority to determine planning applications subject to certain provisions and the request contained in the petition does not raise material planning considerations or is not significantly at variance with the Chief Planning Control Officer's recommendation.

## **1.10 What happens to a Statutory Petition?**

1.10.1 Particular Acts of Parliament require the Council to consider petitions, for example a petition to create a new Parish Council, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

## **1.11 What happens to Petitions for Debate?**

1.11.1 Petitions for Debate will be reported to the next convenient meeting of the Council.

1.11.2 As set out below, the petition organiser will be invited to address the meeting for up to 3 minutes on the subject matter of the petition.

## **1.12 What happens to a Petition to Hold an Officer to Account?**

1.12.1 Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.

1.12.2 At least 2 clear working days before the meeting, the petition organiser should submit a list of any questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.

1.12.3 The Chairman of the Committee will read out such of those questions to the officer at the meeting as s/he deems appropriate. The relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chairman may invite the petition organiser to suggest supplementary questions for him/her to put to the officer.

### **1.13 What happens to an Ordinary Petition?**

1.13.1 Each Ordinary petition will be reported to the next convenient meeting of the Council or of the Committee or Sub-Committee of the Council which has the power to take a decision on the matter.

### **1.14 At the meeting, when the matter to which the petition relates is considered –**

1.14.1 Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chairman presiding at the meeting determines otherwise. A maximum of 30 minutes will be allowed at each meeting for considering such petitions and any petitions not reached in the time allowed will stand deferred until the next meeting.

1.14.2 Any petitions relevant to particular items of business, such as petitions relating to planning applications will be taken together with that item of business, in the normal order of business.

1.14.3 The Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 3 minutes. The Chairman may then ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address him/her on the matter for up to 3 minutes (each). The Chairman will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body.

### **1.15 Appeal to an Overview and Scrutiny Committee**

1.15.1 If the petition organiser is not satisfied with the outcome of the Council's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Director of Corporate Services at the Council's offices of his/her intention to appeal within 10 working days of being notified of the authority's decision.

1.15.2 Within 10 working days of receipt of intention to appeal, the Director of Corporate Services will determine which is the relevant Overview and Scrutiny Committee and will notify the petition organiser of the time, date and place of the next convenient meeting who may address the Committee for up to 3 minutes on why s/he considers that the authority's decision on the petition is inadequate.

1.15.3 The Committee will consider the appeal at the next available meeting after its receipt. Should the Committee determine that the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council and arranging for the matter to be considered at a meeting of full Council.

### **1.16 The role of the Petition Organiser**

1.16.1 The petition organiser will receive acknowledgement of receipt of the petition within 10 working days of its receipt by the Council.

1.16.2 Where the petition is not accepted for consideration (see Paragraph 1.17 below for grounds for rejection of petitions), the petition organiser will be advised of the rejection and the grounds for such rejection.

- 1.16.3 Where the petition is accepted for consideration, the petition organiser will be advised within 10 working days of receipt by the Council as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.
- 1.16.4 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.
- 1.16.5 The petition organiser will be regularly kept informed of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 10 working days of such decision.
- 1.16.6 The petition organiser may notify the Council of his/her intention to appeal to an Overview and Scrutiny Committee against the decision of the Council relating to the petition within 10 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee for up to 3 minutes as to why he/she considers that the authority's decision on the petition was inadequate.

## **1.17 Petitions which will not be reported**

### **1.17.1 Duplicate Petitions**

Where more than one petition is received in time for a particular meeting, each supporting the same outcomes on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

### **1.17.2 Repeat Petitions**

Petitions will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.

### **1.17.3 Rejected Petitions**

Where a petition relates to a matter which is within the responsibility of another public authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision. Petitions will not be reported if in the opinion of the Director of Corporate Services, they are rude, abusive, offensive, defamatory, scurrilous, vexatious, time-wasting, or otherwise inappropriate or if they do not relate to something which is the responsibility of the Council, or over which it has some influence. The following list of examples is not exhaustive but petitions –

- will be considered vexatious if they are likely to cause distress, disruption or irritation without any proper or justified cause.
- will be considered abusive if they may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006) or if they are insulting, cruel, unjust, contemptuous or cause revulsion.
- will be considered otherwise inappropriate where they do not relate to officers' roles in delivering public services but to their personality or private lives; where they amount to harassment or bullying; where they are connected to or otherwise associated with legal proceedings and where they target individual members of the community.

### **1.17.4 Misconduct**

Where a petition raises issues of competence or misconduct, it will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.

**COUNCIL PROCEDURE RULE 32**

**PUBLIC SPEAKING ON PLANNING APPLICATIONS AT MEETINGS OF THE DEVELOPMENT COMMITTEE**

1. The Council has a policy of allowing members of the public to speak on planning applications when they are discussed at meetings of the Development Committee.
2. Prior to the consideration of each application on the planning schedule the Chairman will ask whether anyone in the public gallery who is eligible to speak wishes to address the Committee.
3. If there are, the Chairman will ask the public concerned to indicate whether they are a representative from the Town or Parish Council, an objector or either the applicant or his/her representative. If there is more than one objector present, the Chairman will ask whether they have nominated a spokesperson to speak on their behalf. If they haven't they will be asked to leave the meeting to determine a spokesperson and the Chairman will move to the next item in the meantime. The objectors will be reminded that if they are unable to agree a spokesperson then they will not be able to make any representations.
4. The following procedure and order of business applies in respect of each item:-  
  
Introduction of item by Planning Officer.  
  
Representations by Town or Parish Council representative (or Parish Meeting where there is no Parish Council).  
  
Representations by objector.  
  
Representations by applicant or representative.  
  
Clarification of any points by the Planning Officer and consideration of application by Members.  
  
Decision by Members.
5. Prior to making any representations, speakers will come forward, one at a time at the invitation of the Chairman, and sit on one of the raised seats facing the main chamber and state their name and who they represent. Speeches cannot exceed 3 minutes and speakers will be asked to stop immediately if they exceed this period of time. Speakers will then return to the public gallery.
6. Speakers can only make statements of opinion or fact. They are not allowed to ask questions of Members or Officers and equally Members or Officers are not allowed to ask questions of them. Furthermore, speakers cannot ask questions to other speakers. Speakers can only rely on verbal statements and no presentational material can be displayed either on the notice boards or on the overhead projector. No information or materials can be handed around the Committee by the speakers whilst the meeting is in progress.
7. Babergh Councillors are not entitled to speak with regard to an application or other matter under this policy. However, a representative of the Councillor may speak on their behalf provided they are not a Councillor.

# **Access To Information Procedure Rules**

## 1. **SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees (if any) Strategy Committee, Regulatory Committees and the Standards Committee (together called meetings).

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

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

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

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

## 4. **NOTICES OF MEETING**

The Council will give at least 5 clear days notice of any meeting by posting details of the meeting at the Council Offices.

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear days before the meeting. If an item is added to the agenda later, the Director of Corporate Services shall make the item available to the public as soon as it is completed.

## 6. **SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection; (such documents are, in addition, normally available on the Council's website within 2-3 days of dispatch to Councillors).
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

## 7. **ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which discloses exempt or confidential information;

- (b) summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## 8. **BACKGROUND PAPERS**

### 8.1 **List of background papers**

The Director of Corporate Services will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

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

The Council shall make available for public inspection for 4 years after the date of the meeting one copy of each of the documents on the list of background papers.

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's offices.

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

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

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

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

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

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

### 10.3 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### 10.4 **Descriptions of exempt information**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications to the above are set out below:-

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992

10. Information which—

(a) falls within any of paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

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

# **Budget and Policy Framework Procedure Rules**

## **1. THE FRAMEWORK FOR DECISION MAKING**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Strategy Committee to implement it.

## **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

The Council shall endeavour to follow a process by which the budget and policy framework shall be developed as set out below:-

- (a) In May/June each year the Strategy Committee will publish a programme for establishing the budget and policy framework for the following year. Within this programme, it will identify strategic policy or resource issues on which it wishes to request studies by the Overview and Scrutiny Committees.
- (b) Policy studies undertaken by the Overview and Scrutiny Committees should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the Strategy Committee, which will then draw on them in developing its proposals to Council.
- (c) The policy and budget framework presented to Council will be available for public consultation for a period of 4 weeks. As part of this public consultation, the Council will hold a 'State of the District' debate to set the proposals in context.
- (d) In approving the policy and budgetary framework, the Council will also specify the extent of virement (i.e. transfer between accounts) within the budget and degree of in-year changes to the policy framework which may be undertaken by the Strategy Committee, in accordance with paragraphs 3 and 4 of these Rules (virement i.e. transfer between accounts and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

## **3. VIREMENT**

The details are contained in the Council's Financial Regulations and Procedures in Part 4 of this Constitution.

## **4. IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Strategy Committee, other Committees or officers with delegated authority must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by Strategy Committee or officer with delegated authority except changes:

- (a) necessary to ensure compliance with the law, ministerial direction or government guidance;

- (b) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

# **Overview And Scrutiny Procedure Rules**

1. The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such Committees may appoint Sub-Committees.
  - (a) The Council will have two Overview and Scrutiny Committees which will perform all Overview and Scrutiny functions on behalf of the Council. Each will consist of nine Members of the Council.
  - (b) In these Procedure Rules “relevant” in relation to any policy, issue or decision or matter means any such item falling within the areas of responsibility of the respective Overview and Scrutiny Committees as described in paragraph 2 or 17 as the case may be.

## **2. THE TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY (STEWARDSHIP) COMMITTEE WILL BE:-**

### **2.1 Policy and Development Review**

To examine and review existing policies relating to the planning and management and performance of local democracy and the achievement of effective transparent and accountable decision making by the Council.

- 2.2 To investigate and provide advice to the Council via the Strategy Committee for new policies or for action to make existing policies more effective in relation to the matters specified in 2.1 above, whether on the Committee's own behalf or in response to a request by the Strategy Committee, and to conduct research and consultation in the analysis of relevant policies and possible options.
3. To appoint, where necessary, in connection with 2.2 above ad hoc Panels or Task Groups for the purpose of undertaking in-depth and time limited investigations/reviews and the Overview and Scrutiny (Stewardship) Committee shall appoint Co-optees to the Panel or Task Group as it deems necessary.
4. To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
5. In the exercise of the policy review function, to question and gather evidence from any person (with his/her consent), and to question Members of the Strategy Committee and the Chief Executive, Deputy Chief Executive, Directors and Heads of Service about their views on issues and proposals.
6. On all matters relevant to the Overview and Scrutiny (Stewardship) Committee to act as the principal liaison between the Council and external organisations (whether national, regional or local) and with local communities in accordance with such area arrangements as the Council shall determine and to make recommendations in relation to those arrangements to the Council.

## Scrutiny

7. To monitor and make recommendations to the Council on the management of the Council's budget, borrowing, assets and audit arrangements and the provision, planning, management and performance of all Council Services, the Strategic Plan and any other Council function not otherwise addressed by any other Committee.

Specifically, to be responsible for risk management and to undertake the functions of an audit committee as follows:

- Approve (but not direct) internal audit's strategy, plan and performance.
  - Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
  - Consider the reports of external audit and inspection agencies.
  - Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements. Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
  - Be satisfied that the authority's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it.
  - Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
  - Review the financial statements, external auditor's opinion and reports to Members, and monitor management action in response to the issues raised by external audit.
  - Scrutiny of the Council's Treasury Management Strategy and Policies.
8. To review relevant policies in the light of concerns referred by the regulatory Committees or included in Ombudsman reports, reports of statutory inspections, reports from the external Auditor and Audit Commission.
  9. To review and scrutinise the performance of other public bodies in the area on relevant issues and to invite and receive reports from them in the form of an address to the Committee and local people about their activities and performance.
  10. To ensure that the Council's spending proposals are linked to its policy priorities and to review progress towards the achievement of those priorities.
  11. To make recommendations to the Strategy Committee on the draft budget.
  12. To ensure that actions of the Strategy Committee accord with the relevant policies and budget of the Council.
  13. (a) To review relevant decisions of the Strategy Committee considered pursuant to the "Call-in Protocol" (set out below) whereupon the Committee may either –
    - (i) confirm or accept the decision of the Strategy Committee which may then be implemented forthwith, or

- (ii) refer the matter back to the Strategy Committee for further consideration, or
  - (iii) refer the matter to Council for a final determination, or for referral back to Strategy Committee, or
  - (iv) defer consideration until a specified time when further reports shall be considered.
- (b) In the event that the matter is referred back to Strategy Committee in accordance with 13(a)(ii) above, and the Strategy Committee does not accept the recommendations of the Overview and Scrutiny Committee, then in such circumstances the original decision of Strategy Committee, together with the report and recommendations of Overview and Scrutiny Committee shall be referred to Council for consideration and Strategy Committee cannot implement its original decision until Council has determined the matter.
- (c) In undertaking such a review of any decision, the Committee may question Members of the Strategy Committee and the Chief Executive, Deputy Chief Executive, Directors and Heads of Service and any other person (with his/her consent) and shall consider whether the appropriate criteria were applied in reaching the decision in question, whether the decision accords with the policy of the Council, is lawful and/or within the powers of the Council and whether it contributes to the efficient, effective and economic discharge of the function.

## **GENERAL**

- 14. To consider any relevant matter affecting the Council's area or its inhabitants.
- 15. To control and manage the finances made available to the Committee by the Council.
- 16. To prepare an Annual Work Programme and to submit to the Council an Annual Report on the Committee's work which shall include suggestions for future Work Programmes and amended working methods as appropriate.

### **17. THE TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY (COMMUNITY SERVICES) COMMITTEE WILL BE:-**

#### **17.1 Policy and Development Review**

To examine and review existing policies of the Council relating to community development and the natural and built environment including the provision, planning and management and performance of community safety, cultural, economic development, benefits, health, housing, tourism and transport services in Babergh and the environment, including the planning and protection of the built environment and the countryside.

- 17.2 To investigate and provide advice to Council via Strategy Committee for new policies or for action to make existing policies more effective in relation to the matters specified in 17.1 above, whether on the Committee's own behalf or in response to a request by the Strategy Committee, and to conduct research, community and other consultation in the analysis of relevant policies and possible options.

- 17.3 To appoint, where necessary, in connection with the paragraph above ad hoc Panels or Task Groups for the purpose of undertaking in depth and time limited investigations/reviews and the Overview and Scrutiny (Community Services) Committee shall appoint Co-optees to the Panel or Task Group as they deem necessary.
- 17.4 To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- 17.5 In the exercise of the policy review function, to question and gather evidence from any person (with their consent), and to question Members of the Strategy Committee and the Chief Executive, Deputy Chief Executive, Directors and Heads of Service about their views on issues and proposals.
- 17.6 To discharge the function as the Council's Crime and Disorder Committee under Section 19 of the Police and Justice Act 2006
- 17.7 On all matters relevant to the Overview and Scrutiny (Community Services) Committee to act as liaison between the Council and external organisations (whether national, regional or local) and with local communities in accordance with such area arrangements as the Council shall determine and to make recommendations in relation to those arrangements to the Council.

## **SCRUTINY**

18. To review relevant policies in the light of concerns referred by the regulatory Committees or included in Ombudsman reports, report of statutory inspections, reports from the District Auditor and Audit Commission and complaints received under the Council's Complaints Procedure.
19. To review and scrutinise the performance of other public bodies in the area on relevant issues and to invite and receive reports from them in the form of an address to the Committee and local people about their activities and performance.
20. To make recommendations to the Strategy Committee on the draft budget.
21. To ensure that actions of the Strategy Committee accord with the relevant policies and budget of the Council.
22. (i) To review relevant decisions of the Strategy Committee referred pursuant to the "Call-in Protocol" (set out below) whereupon the Committee may either –
  - (a) confirm or accept the decision of the Strategy Committee which may then be implemented forthwith, or
  - (b) refer the matter back to the Strategy Committee for further consideration, or
  - (c) refer the matter to Council for a final determination, or for referral back to the Strategy Committee, or
  - (d) defer consideration until a specified time when further reports shall be considered.

- (ii) In the event that the matter is referred back to Strategy Committee in accordance with 22(i)(b) above, and the Strategy Committee does not accept the recommendations of the Overview and Scrutiny Committee, then in these circumstances the original decision of Strategy Committee, together with the report and recommendations of Overview and Scrutiny Committee shall be referred to Council for consideration and Strategy Committee cannot implement its original decision until Council has determined the matter.
- (iii) In undertaking such a review of any decision, the Overview and Scrutiny Committee may question Members of the Strategy Committee and the Chief Executive, Deputy Chief Executive, Directors and Heads of Service and any other person (with their consent) and shall consider whether the appropriate criteria were applied in reaching the decision in question, whether the decision accords with the policy of the Council, is lawful and/or within the powers of the Council and whether it contributes to the efficient, effective and economic discharge of the function.

## **GENERAL**

- 23. To consider any relevant matter affecting the Council's area or its inhabitants.
- 24. To control and manage the finances made available to the Committee by the Council.
- 25. To prepare an Annual Work Programme and to submit to the Council an Annual Report on the Committee's work which shall include suggestions for future Work Programmes and amended working methods as appropriate.

### 26. **WHO MAY SIT ON AN OVERVIEW AND SCRUTINY COMMITTEE?**

All Councillors, except the Members of Strategy Committee, may be Members of an Overview and Scrutiny Committee. No Member may be involved in scrutinising a decision in which he/she has been directly involved.

### 27. **NON-ELECTED MEMBERS**

The Overview and Scrutiny Committees or any Sub-Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting non-elected Members. Non-voting Members shall be subject to the same rules relating to declarations of interests as Members.

### 28. **MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES**

There shall be at least eight ordinary meetings of each of the Overview and Scrutiny Committees, in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Director of Corporate Services upon the requisition of the Chairman of the relevant Overview and Scrutiny Committee and any four Members of the Committee or by the Monitoring Officer if he/she considers it necessary or appropriate.

### 29. **QUORUM**

The Quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

30. **WORK PROGRAMME**

The Overview and Scrutiny Committees/Sub-Committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

31. **AGENDA ITEMS**

31.1 Any Member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Director of Corporate Services that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the Agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Director of Corporate Services will ensure that it is included on the next available Agenda.

31.2 Any Member of the Council who is not a Member of the Overview and Scrutiny Committees may give written notice to the Director of Corporate Services that he/she wishes an item to be included on the Agenda of the relevant Overview and Scrutiny Committee. If the Director of Corporate Services receives such a notification, then he/she will include the item on the first available Agenda of the relevant Overview and Scrutiny Committee for consideration by the Committee.

31.3 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, Strategy Committee to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committees shall report their findings and any recommendations back to the Council via Strategy Committee. Strategy Committee and Council shall consider the report of an Overview and Scrutiny Committee within one month of receiving it.

32. **POLICY REVIEW AND DEVELOPMENT**

(a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

(b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committees or Sub-Committees may make proposals to the Strategy Committee for developments insofar as they relate to matters within their Terms of Reference.

(c) Overview and Scrutiny Committees may hold Inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

33. **REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Director of Corporate Services for consideration by Strategy Committee (if the proposals are consistent with the existing budgetary and policy framework) or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Strategy Committee as appropriate, then not more than one minority report may be prepared and submitted for consideration to the Council or Strategy Committee with the majority report.
- (c) The Council or the Strategy Committee shall consider the report of the Overview and Scrutiny Committee within two months of it being submitted to the Director of Corporate Services.

34. **MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE STRATEGY COMMITTEE**

The Agenda for Strategy Committee meetings shall include an item entitled "Issues Arising From Overview and Scrutiny". The reports of Overview and Scrutiny Committees referred to the Strategy Committee shall be included at this point in the Agenda (unless they have been considered in the context of the Strategy Committee's deliberations on a substantive item on the Agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.

35. **RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, Members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Strategy Committee and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

36. **MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions in accordance with the Committee's Terms of Reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Strategy Committee, the Head of Paid Service, Deputy Chief Executive and any Director or Head of Service to attend before it to explain in relation to matters within their remit:-
  - (i) any particular decision of the Strategy Committee or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

and it is the duty of those persons to attend if they are required, save that in exceptional circumstances where those persons are unable to attend they could nominate an Officer to attend on their behalf.

- (b) Where any Member or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Director of Corporate Services. The Director of Corporate Services shall inform the Member or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, (for example illness) the Member or Officer is unable to attend on the required date, and it is not appropriate for another person to substitute then the Overview and Scrutiny Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of twenty-one days from the date of the original request.

### 37. **ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee may invite people other than those referred to in the paragraph above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend, and these attendances of course are entirely optional.

### 38. **CALL-IN**

Call-in should only be used in exceptional circumstances. These are where Members of the Overview and Scrutiny Committees consider that one or more of the circumstances set out in Protocol 2 apply.

- (a) When a decision is made by the Strategy Committee, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The Chairmen and Members of the two Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of seven working days after the publication of the decision, unless it is called in.
- (c) During that period of time, a minimum of any five Overview and Scrutiny Committee Members (but not the Chairman of either Committee) may request that a decision of the Strategy Committee be called-in for scrutiny by the appropriate Overview and Scrutiny Committee. The request shall be submitted to the Director of Corporate Services in the prescribed form set out in Protocol 1 in hard copy form, by fax or by email.

- (d) Upon receipt of a call-in request, the Director of Corporate Services shall consult with the Monitoring Officer and the Chairmen of both Overview and Scrutiny Committees to decide which would be the most appropriate Overview and Scrutiny Committee to consider the call-in having regard to the terms of reference of each Committee.
- (e) The Chairman (or in his or her absence the Vice Chairman) of the appropriate Overview and Scrutiny Committee, determined in accordance with (d) above, shall consider the validity of a call-in request in consultation with the Director of Corporate Services and the Monitoring Officer. Thereafter, if so requested by the Chairman, the Director of Corporate Services shall call-in the decision for scrutiny by the appropriate Overview and Scrutiny Committee and shall then notify the decision-maker of the call-in.
- (f) The Director of Corporate Services shall call a meeting of the Committee on such a date as he/she may determine, where possible after consultation with the Chairman (or Vice Chairman in his or her absence) of the Committee, such meeting to be held as soon as practicable.
- (g) Any Member named on the call-in request may attend and speak at the meeting of the Overview and Scrutiny Committee at which the call-in is considered.
- (h) If having considered the decision the Overview and Scrutiny Committee is still concerned about it, then it may either:-
  - (i) refer it back to the Strategy Committee for reconsideration, or
  - (ii) refer it to Council for a final determination, or for referral back to Strategy Committee as provided in (k) below

in each case setting out in writing the nature of its concerns.

- (i) If referred to Strategy Committee, that Committee shall then reconsider as soon as practicable. If Strategy Committee does not accept the recommendations of Overview and Scrutiny Committee the issue shall be referred to Council for consideration. If Strategy Committee accepts the recommendations of Overview and Scrutiny Committee, it may adopt the amended decision.
- (j) If following the setting up of the meeting for consideration of the call-in request the Overview and Scrutiny Committee does not meet on the date specified by the Director of Corporate Services, the decision shall take effect on the date it is known that the meeting will not take place. If the Committee does meet but does not refer the matter back to the Strategy Committee, or refer it to Council the decision shall take effect on the date of the Overview and Scrutiny Committee meeting.

- (k) If the matter was referred to Full Council under (h) (ii) above or in circumstances where Strategy Committee did not accept the recommendations of Overview and Scrutiny Committee (as set out in (i) above) and Council does not object to the original decision, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Council does object, Council will either make a final determination on the matter or refer any decision to which it objects back to the Strategy Committee, together with the Council's views on the decision. The Strategy Committee shall then make its decision in accordance with the views expressed by Council at a meeting convened to reconsider the matter as soon as practicable following Council's referral.
- (l) If the Council does not meet, or if it does but does not refer the decision back to Strategy Committee, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (m) In circumstances where the Council has appointed Area Committees and where a decision has been taken by an Area Committee, then the right of call-in shall extend to any five Members of another Area Committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their Committee relates. In such cases, those five Members may request the Director of Corporate Services to call-in the decision. He/she shall call a meeting of the relevant Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the Chairman (or the Vice Chairman in his or her absence) of the Committee, and in any case within five days of the decision to call-in. All other provisions relating to call-in shall apply as if the call-in had been exercised by Members of a relevant Overview and Scrutiny Committee.

39. A proposal should only be called in once. If, however, the Strategy Committee substantially amends the original proposal in a way which the Overview and Scrutiny Committee has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Overview and Scrutiny Committee has the right to call it in again.

#### 40. **PROCEDURE ON CALL-INS**

40.1 The end of the call-in period will normally be 5.00 p.m. on the seventh working day after the publication of the Strategy Committee decision. The Director of Corporate Services will be responsible for informing the Chairman of the Strategy Committee, the Chief Executive, Deputy Chief Executive and Directors/Heads of Service of any item that has been called-in.

40.2 Officers need to bear in mind that if a call-in is registered, then the Strategy Committee decision cannot be actioned until finally dealt with. Only work that can be undertaken without presuming the ultimate decision can be undertaken.

40.3 The item called in will require the following papers:-

- (a) the report that was presented to the Strategy Committee;
- (b) the relevant extract of the Strategy Committee Minutes;
- (c) any supplementary report, either updating figures and information which was supplied orally to the Strategy Committee or giving further updated information available to the Strategy Committee, or both.

- 40.4 Members who have exercised call-in can withdraw their request at any time before the meeting either individually or “en bloc”.
- 40.5 Any Member of Overview and Scrutiny Committee who has acted as substitute on a matter decided at Strategy Committee must stand down during discussion of the item at Overview and Scrutiny Committee.
- 40.6 Officers may be approached for information before Overview and Scrutiny Committee and they are referred to the Member/Officer protocol to deal with any such issues. Generally any information which is necessary for the Member’s understanding of the item coming to Overview and Scrutiny Committee is a matter that must be dealt with by the Officer. In cases of confidential/exempt matters the same applies but for good administrative practice this should be limited to Members of the Strategy Committee, Overview and Scrutiny Committee and Members who have called-in the item.
- 40.7 At the meeting, the Overview and Scrutiny Committee shall determine whether the called-in item shall be further considered having regard to the reasons given in the call-in request in relation to the criteria specified in the call-in Protocol against which a call-in request is to be determined. If the reason for the call-in is not, in the opinion of the Committee, a valid reason for call-in, no further consideration of the item shall take place and the Decision of the Strategy Committee shall take immediate effect but if the Committee is satisfied that the call-in request cites a valid reason for call-in, it will proceed to determine the merits of the reason. The Committee will determine the focus of the evidence that it wishes to hear in relation to the Decision, and with regard to the hearing of that evidence, the following will be the usual order of appearance:-
- (a) The author of the call-in report notifies Members of Overview and Scrutiny Committee of the updated position.
  - (b) The “call-in” Members (one or all) make a presentation of their reasons for call-in.
  - (c) Members of Overview and Scrutiny Committee may question them.
  - (d) The Chairman of the Strategy Committee (or his or her nominated representative) explains why the decision was made.
  - (e) Members of Overview and Scrutiny Committee may question him/her.
  - (f) Any other contributions from representatives from outside the Council.
  - (g) Members of Overview and Scrutiny Committee may question him/her.
  - (h) The author of the report presents his/her papers with or without comments. The Officer is not expected to make a further presentation.
  - (i) Members of Overview and Scrutiny Committee may question him/her.
  - (j) Member of the Strategy Committee (as in (d) above) to respond.
  - (k) Discussion takes place.

- (l) There will be a vote giving the reason for the Overview and Scrutiny Committee's decision (if the Strategy Committee Member has indicated that he/she is prepared to take the matter back to the Committee that will be noted and referred to together with the reason).
- (m) The Chairman of the Overview and Scrutiny Committee will have the discretion to operate the above process flexibly where it is considered that changes would be conducive to the effective performance of the Scrutiny role.

#### 40.8 **QUESTIONING**

Overview and Scrutiny Committee Members may ask any questions which are supplemental or related to the reason(s) attributable to call-in. The decision as to whether such questions are appropriate will be a matter for the Chairman of Overview and Scrutiny Committee.

#### 40.9 **CONSIDERING EVIDENCE**

A Member of the Overview and Scrutiny Committee should participate in the determination and voting on a matter that has been called-in, only if he or she has been present during the Committee's consideration of the item.

#### 41. **EXCEPTIONS**

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-

- (a) that each Overview and Scrutiny Committee may only call-in ten decisions per year (save that Council may decide at any time to increase the number of call-ins each year as provided for in Article 4 of this Constitution);
- (b) five Overview and Scrutiny Committee Members are needed for a decision to be called-in. Neither Chairman of the Overview and Scrutiny Committees shall sign a call-in request.

#### 42. **CALL-IN AND URGENCY**

- 42.1 The call-in procedure set out above shall not apply where the decision being taken by the Strategy Committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all circumstances and to it being treated as a matter of urgency. In the absence of the Chairman the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 42.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

42.3 When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

43. **COUNCILLOR CALL FOR ACTION (PROTOCOL 3)**

Any Councillor may request a Councillor Call for Action (CCfA) under the terms of the CCfA Protocol contained in Part 5 of this Constitution. The operation of CCfA will be in full compliance of the Protocol.

44. **PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

44.1 (a) Overview and Scrutiny Committees and Sub-Committees shall consider the following business:-

- (i) Minutes of the last meeting;
- (ii) Declarations of interest (including whipping declarations);
- (iii) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
- (iv) Responses of the Strategy Committee to reports of the Overview and Scrutiny Committee; and
- (v) The business otherwise set out on the Agenda for the meeting.

(b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-

- (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy and that they treat the Committee Members and Officers with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

44.2 In addition the following principles shall also apply:-

- (a) Where someone requested to attend is genuinely unable to attend, then he or she may nominate another Member or Officer who is able to speak on the topic to attend.
- (b) Anyone asked to speak to an Overview and Scrutiny Committee shall be entitled to see the Terms of Reference of the particular matter under consideration by the Overview and Scrutiny Committee before attending to speak.
- (c) Anyone asked to speak to an Overview and Scrutiny Committee shall be entitled to see the public papers which have been made available to the Overview and

Scrutiny Committee and wherever possible on the same timescale for a Member of the Overview and Scrutiny Committee.

- (d) Anyone asked to speak to an Overview and Scrutiny Committee shall wherever possible be given access to statements submitted by people from whom the Overview and Scrutiny Committee has already heard but not those who have not yet given evidence. The Chairman and Members of the two Overview and Scrutiny Committees shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential (exempt) material, if he or she considers that will help the speakers to address a particular point or will otherwise assist the Overview and Scrutiny Committee's examination of the issue.
- (e) All speakers shall respect the confidentiality of any confidential or exempt information they receive and shall not disclose it without the authorisation of the Overview and Scrutiny Committee.
- (f) Speakers may submit papers in advance to the Overview and Scrutiny Committee but such papers shall be clear and succinct.
- (g) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Overview and Scrutiny Committee, but shall expect to make available any such notes to the Committee on the request of the Chairman.
- (h) Papers submitted by speakers shall become public documents once they have presented their evidence and shall be cited as background papers to the Overview and Scrutiny Committee's published report unless they contain exempt information.
- (i) Overview and Scrutiny Committee Members may expect to ask searching questions but will always behave in a polite and respectful way to anyone contributing to Overview and Scrutiny Committee's proceedings.
- (j) The speaker shall have at least five minutes to contribute evidence or a longer period as the Chairman of an Overview and Scrutiny Committee may specify. If someone making such a contribution exceeds the time limit given the Chairman may stop him or her. The Chairman may also structure a discussion and limit the time allowed for questioning by Members of the Overview and Scrutiny Committee.
- (k) Speakers shall be entitled to a copy of any draft Minute or other record taken of their contribution for comment. Should they feel that such record is not accurate then they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Overview and Scrutiny Committee.
- (l) Overview and Scrutiny Committee meetings shall be open to the press and public except where they are considering matters which would give rise to the disclosure of confidential or exempt information as defined in Schedule 12A of the Local Government Act 1972.
- (m) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Strategy Committee and/or Council as appropriate and shall make its report and findings public.

45. **MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE**

45.1 Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, before submitting its findings to the Strategy Committee and/or Council for consideration, the report of the reviewing Overview and Scrutiny Committee shall be considered by the other Overview and Scrutiny Committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration.

46. **DOCUMENTATION**

46.1 An Overview and Scrutiny Committee:-

- (a) may commission research or advice (including from external organisations) to assist in any deliberations
- (b) shall have access to all relevant papers of the Council

46.2 Overview and Scrutiny Committee Members who have access to confidential material shall at all times respect the confidentiality of that material and shall not use it in a context other than the Overview and Scrutiny Committee examination without the permission of the Overview and Scrutiny Committee.

46.3 Overview and Scrutiny Committees will also have access to background information for a range of sources, including:-

- The Policy Framework and Strategic Plan
- Service plans.
- Audit Management letter.
- Internal and external audit plan.
- Government reports and national studies.
- CIPFA statistics.
- Complaints.
- Community Strategies.
- Representations from the community (individuals, community groups, local Members, Area Committees and Forums, residents, surveys, etc.).
- Research published by other organisations or commissioned by Overview and Scrutiny Committees.
- Evidence from expert witnesses at the Overview and Scrutiny Committee's request.

Attn: **Director of Corporate Services**

**BABERGH DISTRICT COUNCIL  
REQUEST FOR CALL-IN**

**Dated** .....

We would like to call in the decision as detailed below:

Decision making body or individual

Date decision made

What decision do you want the Overview and Scrutiny Committee to consider

Reason for calling in the decision *(continue on separate sheet if necessary)*

Desired Witnesses

Members calling in the decision\*

1
2
3
4
5

Signed .....

Signed .....

Signed .....

Signed .....

Signed .....

\*NB Call-in can be requested by any five Members of either the Overview and Scrutiny (Stewardship) Committee and the Overview and Scrutiny (Community Services) Committee, excluding the Chairmen of those Committees.

**BABERGH DISTRICT COUNCIL**  
**PROTOCOL FOR USE OF CALL-IN PROCEDURE**

There are five key elements for overview and scrutiny:

- Holding the Strategy Committee to account;
- Policy Review;
- Policy Development;
- Improvement reviews, including Best Value;
- External scrutiny.

These functions are carried out either by looking at individual decisions or whole policies and strategies. Councillors can develop new policies and look at service delivery through Best Value reviews and performance management information.

Issues can be investigated in depth (in which case a Planning Assessment Sheet should be drawn up as a first step), or be looked at over one meeting, or be for information only.

Members of the Overview and Scrutiny Committees also have the right to challenge a Strategy Committee decision before it is implemented and ask Strategy Committee or Council to reconsider, through the call-in procedure.

Set out below are the criteria against which the Council expects any request for call-in to be judged.

Members should refer to the Overview and Scrutiny Procedure Rules referred to in Part 4 of the Constitution, with particular reference to Paragraphs 38 to 42.

The Council does **NOT** expect Members to call in a Strategy Committee decision **UNLESS** one or more of the following circumstances applies –

- there is reasonable concern over the lawfulness of the decision;
- the decision appears to be contrary to the Budget or one of the policy framework plans or strategies;
- the decision appears to be inconsistent with any other policy approved by Council or the Strategy Committee;
- the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny Committee and accepted by Council or the Strategy Committee;
- the Strategy Committee has overlooked some relevant and material consideration in arriving at its decision;
- the Strategy Committee appears to have acted unreasonably in failing to consult relevant stakeholders on some relevant and material issue before arriving at its decision;
- the Strategy Committee has not taken its decision in accordance with the decision-making principles set out in Article 12 of the Constitution; or

- the Strategy Committee has taken a decision outside its Terms of Reference as set out in the Responsibilities for Functions in Part Three of the Constitution.

In addition, the Council expects Members to satisfy themselves, before deciding to call in a particular Strategy Committee decision that the delay which will ensue, as a consequence of calling in the decision in question, is unlikely to cause prejudice to the interests of the Council or third parties.

BABERGH DISTRICT COUNCIL

COUNCILLOR CALL FOR ACTION PROTOCOL

**1. Introduction**

- 1.1 The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007, and came into force on 1 April 2009.
- 1.2 The 2007 Act enables any member of the Council to refer to the Overview and Scrutiny Committee any local government matter which affects their Ward and is relevant to the functions of the Committee.
- 1.3 In addition, Section 119 of the Police and Justice Act 2006 came into force on 30 April 2009 and enables any member of the Council to refer to the crime and disorder committee any local crime and disorder matter which affects their Ward. The Overview and Scrutiny (Community Services) Committee will discharge the function of the crime and disorder committee.
- 1.4 The power to refer a matter is available only where the matter is of direct concern to the ward or division which the councillor represents. The matter may affect all or part of the ward member’s area or any person who lives or works in that area. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

**2. Limitations**

- 2.1 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

**3. Issues excluded from referral as a CCfA**

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
  - 3.1.1 Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:

Council Tax/Housing Benefit appeals  
Issues currently under dispute in a court of law.
  - 3.1.2 Any matter relating to a planning or listed building application or enforcement decision.
  - 3.1.3 Any matter relating to a licensing application, review or enforcement decision.

3.1.4 Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or any of its sub-committees.

3.2 A matter will not be excluded under 3.1.1 to 3.1.3 where the allegation consists of the function not being discharged at all or that the function has failed or is failing on a systematic basis.

3.3 A referral, provided it is covered by the legislation and is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.

3.4 A referral made to the Overview and Scrutiny Committee is seen as being the end of the CCfA process (the last resort) and not the first step.

#### **4. Steps to be taken prior to making a Councillor Call for Action referral**

4.1 Prior to a councillor referring a matter as a CCfA to the Overview and Scrutiny Committee, a councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letter written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and councillors in other authorities etc.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members, questions at committees, motions on the agenda at full Council etc.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
- Ascertain whether or not any other form of local scrutiny is investigating the issue, eg Suffolk County Council.

#### **5. How to make a Councillor Call for Action referral**

5.1 If the issue/problem is still not resolved the councillor can refer it to the Overview and Scrutiny Committee as a "Councillor Call for Action". To do this the councillor should complete and submit to the Director of Corporate Services a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form, a specimen is attached as Appendix 1, is available on the Council's website, or from the Director of Corporate Services. The request form for a CCfA includes:

- The name of the councillor and ward they represent
- Title of the CCfA and date of submission
- Why you think the issue should be looked at by the Overview and Scrutiny Committee
- A brief synopsis of what the main areas of concern are
- What evidence you have in support of your CCfA
- Which areas or community groups are affected by the CCfA

- What you have done to try and resolve the issue prior to requesting a CCfA
- Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process
- Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.

5.2 The Director of Corporate Services will receive the referral form, log it to track its progress, and, after consultation with the Solicitor to the Council, assess the issue to ensure that it is covered by the legislation referred to above and is not a matter excluded from referral to the Overview and Scrutiny Committee. A decision that a matter is excluded pursuant to paragraph 3.1.4 above will only be taken by the Director of Corporate Services in consultation with the Chairman of the relevant Overview and Scrutiny Committee.

5.3 The Director of Corporate Services will inform the Chairman of the relevant Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The Councillor will be informed whether or not their referral has been successful.

5.4 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.

## **6. Decision of the Committee whether to take the matter further**

6.1 In deciding whether or not to take the matter further the relevant Overview and Scrutiny Committee will consider:

- Anything that the councillor has done in relation to this matter; and
- Representations made by the councillor as to why the Committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views).

6.2 The criteria the Committee will use to decide whether or not to take the matter further include:

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? And do the responses received by the referring councillor demonstrate that the matter is not being progressed?
- Has the Committee considered a similar issue recently – if yes have the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work plan? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?

- Is this a case that is being or should be pursued via the Council's complaints procedure?
- Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community).
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Suffolk County Council?
- And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?

6.3 In considering the CCfA, the Overview and Scrutiny Committee may invite the Chief Executive, Deputy Chief Executive or relevant Director, Head of Service or external organisation to discuss the issue with the Committee and answer any questions.

6.4 If the Committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

6.5 If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work plan. This could include:

**Before holding a formal hearing:**

- Asking the service area(s)/partner organisation(s) to respond to the CCfA
- Setting up a research group to undertake a more in-depth review.

**At formal hearings**

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the Cabinet/partner organisation.

**7. Potential outcomes**

7.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- The Committee could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward Councillor notified in writing;
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Committee could write a report and make recommendations on the CCfA to the Strategy Committee and/or relevant partners.
- The Committee could make a report or recommendations to Full Council where the CCfA is a local crime and disorder matter.

7.2 Once the Committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of any report or recommendations made. The report

will also be made available on the Council's website, unless the matter was an exempt item, in which case the report cannot be made public.

## **8. Timescales**

- 8.1 Once the CCfA has been assessed as not being a matter which is excluded from referral to Overview and Scrutiny Committee, the item will be included on the next Committee agenda.
- 8.2 If the Committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.
- 8.3 Should a CCfA hearing result in recommendations to Strategy Committee or Full Council being made, an item will be placed on the agenda for the next Strategy Committee or Council, respectively.
- 8.4 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so.

## Appendix 1 – Councillor Call for Action Request Form

This form should be used by any Councillor who would like the Overview and Scrutiny Committee to consider a Councillor Call for Action in their ward.

**Councillor**

**The ward you represent:**

**Title of your Councillor Call for Action:**

**Date of Submission:**

Have you approached the Overview and Scrutiny Committee on the same issue in the past six months?

Yes

No

**Why you think the issue should be looked at by the Overview and Scrutiny Committee:**

**Please give a brief synopsis of the main areas of concern:**

**What evidence do you have in support of your CCfA:**

**Which areas or community groups are affected by the CCfA:**

**How have you tried to resolve the issue:**

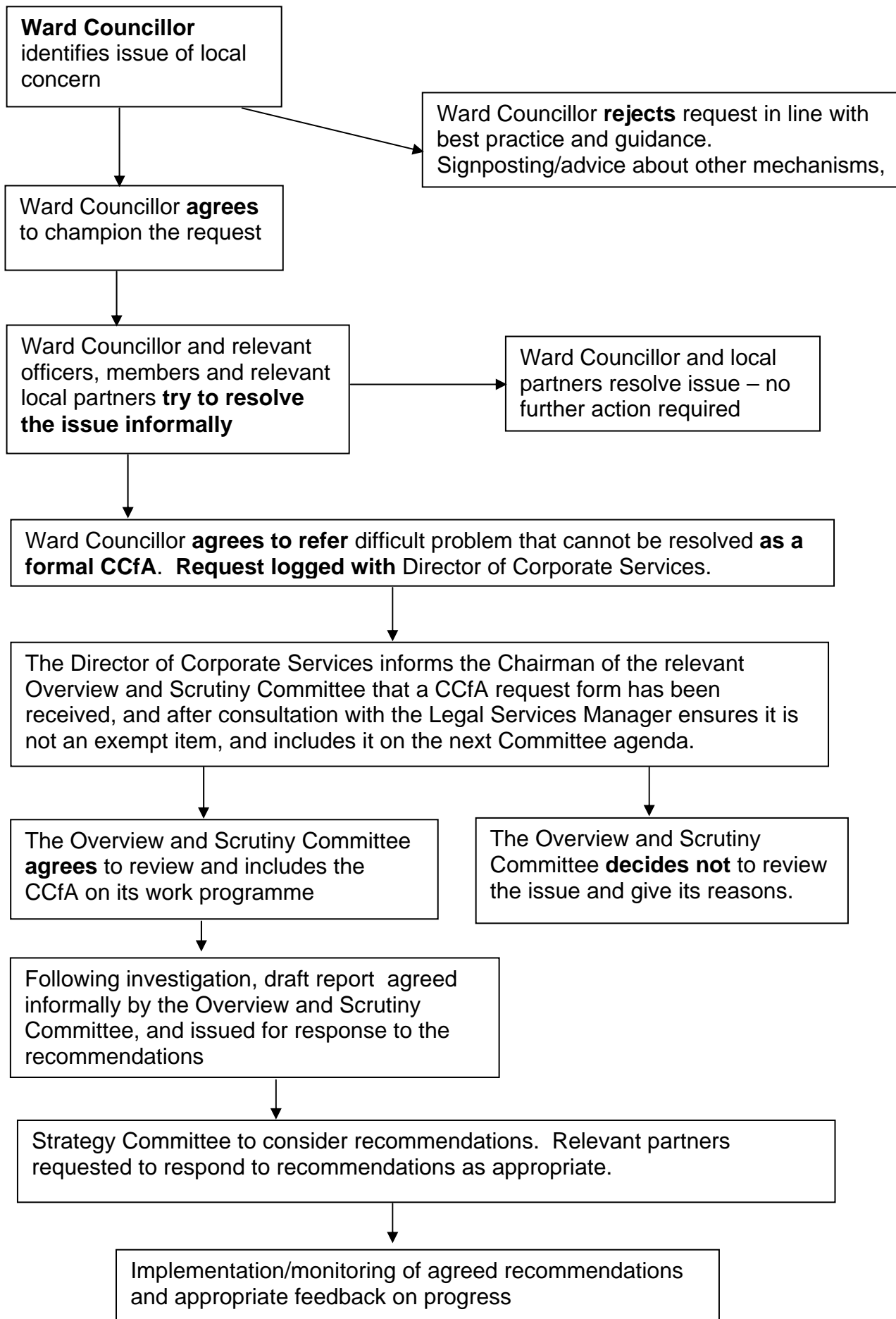
**Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?**

**Are there any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware:**

**Please complete and return the form to:**

Director of Corporate Services  
Council Offices  
Corks Lane  
Hadleigh  
IPSWICH  
IP7 6SJ

## Appendix 2 – Summary of CCfA Mechanism



## Appendix 3 – Explanatory Notes

### 1. Definition of a local government matter and a local crime and disorder matter

#### Local government matter

For the purpose of the 2007 Act a “local government matter”, in relation to a member of a local authority is one which:

- Relates to any discharge of any function of the authority;
- Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (ie it must be specific to a particular locality); and
- Is not an excluded matter.

However, the guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA, the interpretation of “local government matter” needs to be broader. This includes issues relating to the Council’s partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority’s duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

#### Local crime and disorder matter

A “local crime and disorder matter”, in relation to a member of a local authority, has been defined in the 2006 Act to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

### 2. Definitions of “vexatious”, “persistent”, “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee is to be excluded”.

#### Vexatious/Persistent

Deciding whether a request is vexatious is a balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor's requirements.

### Discriminatory

A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

*A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others.* This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area should receive better, or worse, services on account of that group's predominant religion, race, gender or other characteristic, as covered by discrimination legislation.

### Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

## **3. Structure of the CCfA hearing**

A CCfA hearing will be based on the Overview and Scrutiny Committee's protocol for dealing with call-in hearings.

The following protocol is intended to formalise the conduct of CCfA hearings and the preparation work carried out in the run-up to such a hearing. It should be noted, however, that the protocol may be varied by the Chairman of the Overview and Scrutiny Committee to meet the requirements of any particular circumstances.

### **Prior to the hearing**

1. The CCfA Request Form and any additional papers provided by the referring councillor will be published with the agenda for the meeting.
2. The referring councillor and relevant officers and partners will be invited to the meeting.
3. Any other relevant external witnesses will be invited to the meeting.
4. Seven days' notice of a request to attend the meeting will be given to all participants. If a question plan is to be produced, seven days' notice of the questions planned will also be given to participants.
5. Prior to the meeting any member who may have a conflict of interest will be given relevant advice by the Monitoring Officer.

## **The hearing**

1. The CCfA hearing will normally be the first item of business on the agenda, in order that participants and other witnesses are not kept waiting.
2. Participants and witnesses will be placed around the table with the Committee if space permits, but if there is a large number of witnesses or other attendees at the meeting, they may be required to wait in a separate seating area or the public gallery.
3. the referring councillor will be invited to make a presentation outlining his or her main reasons for referring the matter as a CCfA. A question and answer session will follow.
4. Any other parties relevant to the hearing, for example Member Champions, officers or partners, will be invited to make presentations outlining their response to the CCfA. Question and answer sessions will follow.
5. Any other relevant external witnesses will be invited to make a presentation to the Committee without interruption, following which there will be a question and answer session.
6. Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
7. The referring councillor will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.

# **FINANCIAL REGULATIONS**

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## **FINANCIAL REGULATIONS AND PROCEDURES**

### **INTRODUCTION**

The following is extracted from the Chartered Institute of Public Finance and Accountancy (CIPFA) guide on the above, with amendments to reflect Babergh's arrangements and requirements:-

- 1.1 To conduct its business efficiently, a local authority needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of financial regulations that set out the financial policies of the authority. A modern council should also be committed to innovation, within the regulatory framework, providing that the necessary risk assessment and safeguards are in place.
- 1.2 These financial regulations provide clarity about the roles and financial accountability of individuals – Members, the head of paid service, the monitoring officer, the chief finance officer and other officers. Each of the financial regulations sets out the overarching financial responsibilities.
- 1.3 In addition to the adoption of the financial regulations, the authority needs to have detailed financial procedures setting out how these will operate in practice and the responsibilities of the finance director and other officers. These are attached at Appendices A to E.
- 1.4 Each section of the financial procedures follows the format set out below:
  - why is this important?
    - this sets the context for the financial procedures
  - key controls
    - this explains the key internal controls that set the framework for ensuring financial regulations are operating effectively
  - responsibilities of the chief finance officer
  - responsibilities of Management Team, Heads of Service and other officers.
- 1.5 Financial regulations provide the framework for managing the authority's financial affairs. They apply to every Member and officer of the authority and anyone acting on its behalf.
- 1.6 These regulations identify the financial responsibilities of the Council, Committees, Members, the head of paid service, the monitoring officer, the chief finance officer and other officers. These officers should maintain a written record where decisions relating to the Regulations have been delegated to other staff. Where decisions have been delegated or devolved to other responsible officers, references to the officer in the Regulations should be read as referring to the delegated officer.
- 1.7 All Members and staff have a general responsibility in using the Council's resources, for taking action to ensure the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

- 1.8 The chief finance officer is responsible for reviewing these financial regulations and submitting any additions or changes necessary to the Strategy Committee/Council for approval. He/she is also responsible for reporting, where appropriate, breaches of the Regulations to the relevant Committee or the Council.
- 1.9 The Corporate Management Team and Heads of Service are responsible for ensuring that all staff in their divisions are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference.
- 1.10 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 authority are required to follow.
- 1.11 There are five Financial Regulations which cover:
- A : Financial Management
  - B : Financial Planning
  - C : Risk Management and Control of Resources
  - D : Systems and Procedures
  - E : External Arrangements
- 1.12 These Regulations and Procedures are to be read in conjunction with the constitution and scheme of delegation and the chief finance officer shall determine any matter on which conflict may arise.
- 1.13 Procedure rules generally refer to the responsibilities of Management Team and Heads of Service or other officers. These shall be read as applying to all relevant staff who have responsibilities in the areas mentioned.

# **FINANCIAL REGULATION A : FINANCIAL MANAGEMENT**

## **INTRODUCTION**

- A.1** Financial management covers all financial matters in relation to the running of the authority, including the policy framework and budget.

## **THE FULL COUNCIL**

- A.2** The Council is responsible for adopting the authority's constitution and for approving the policy framework and budget within which the Strategy Committee operates including arrangements for transferring budgets between specific items and services. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in the constitution. The Council is also responsible for monitoring compliance with the agreed policy and related executive decisions and, specifically, has a statutory responsibility for setting the Council Tax, determining borrowing limits and considering reports by the chief finance officer (under section 114 of the Local Government Act 1988).

## **THE STRATEGY COMMITTEE**

- A.3** The Strategy Committee is responsible for proposing the policy framework and budget to the Council, and for discharging executive functions in accordance with the policy framework and budget.
- A.4** These can be delegated to a sub-committee of the Strategy Committee, an officer or a joint committee.
- A.5** Arrangements for delegated powers are set out in the scheme of delegation in the constitution.

## **OTHER COMMITTEES**

### **OVERVIEW AND SCRUTINY COMMITTEES**

- A.6** The Overview and Scrutiny Committees are responsible for scrutinising Strategy Committee decisions before or after they have been implemented and for holding Members to account. The Overview and Scrutiny Committees are also responsible for assisting the Council in developing its budget and policy framework and for the review of policy, performance and service delivery issues.
- A.7** They have rights of access to all the information they consider necessary and can consult directly with internal and external auditors. The Committees are responsible for reviewing the external auditor's reports, the annual audit letter and internal audit's annual or other reports.
- A.8** They also have a scrutiny role on the management of the budget, borrowing, assets and audit arrangements and ensuring spending proposals are linked to the Council's policy priorities, reviewing progress towards the achievement of those priorities.

## STANDARDS COMMITTEE

**A.9** The Standards Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it has a role in supporting the chief finance officer in his or her statutory duty in relation to financial probity and the issuing of national guidance on that role.

## THE STATUTORY OFFICERS

### HEAD OF PAID SERVICE (AND CHIEF EXECUTIVE)

**A.10** The head of paid service is responsible for the corporate and overall strategic management of the authority as a whole. He or she must report to and provide information for the Strategy Committee, the Council, the Overview and Scrutiny Committees and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The head of paid service is also responsible, together with the monitoring officer, for the system of record keeping in relation to all the Council's decisions (see below).

### MONITORING OFFICER

**A.11** The monitoring officer is responsible for promoting and maintaining high standards of conduct and provides support to the Standards Committee. The monitoring officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Strategy Committee, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

**A.12** The monitoring officer must ensure that executive decisions and the reasons for them are made public. He or she must also ensure that Members are aware of decisions made by the Strategy Committee.

**A.13** The monitoring officer is responsible for advising all Members and officers about who has authority to take a particular decision.

**A.14** The monitoring officer is responsible for advising the Strategy Committee or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

**A.15** The monitoring officer is responsible for maintaining an up-to-date constitution.

### THE CHIEF FINANCE OFFICER

**A.16** The chief finance officer is responsible for advising the Strategy Committee and the Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- initiating a new policy or spending not provided for in the approved budget
- committing expenditure in future years to above the budget level
- budget transfers above virement limits

- causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount

**A.17** He or she has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2003.

**A.18** He or she is responsible for:

- the proper administration of the authority's financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management.

**A.19** Section 114 of the Local Government Finance Act 1988 requires the chief finance officer to report to the Council and external auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- is about to make an unlawful entry in the authority's accounts.

Section 114 of the 1988 Act also requires:

- the chief finance officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- the authority to provide the chief finance officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

## MANAGEMENT TEAM AND HEADS OF SERVICE

**A.20** These are responsible for:

- ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the chief finance officer

- signing contracts in relation to their specific service areas, following consultation with the Head of Legal and Administrative Services, who can sign all contracts on behalf of the authority.

**A.21** It is their responsibility to consult with the chief finance officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

## OTHER FINANCIAL MATTERS

### Budget virement (transfers)

**A.22** The Council is responsible for agreeing procedures for virement (transfer) of expenditure between budget headings.

**A.23** Management Team and Heads of Service are responsible for agreeing in-year virements within delegated limits, in consultation with the chief finance officer. They must notify him/her of all virements.

### Treatment of year-end balances

**A.24** The chief finance officer is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

### Accounting policies

**A.25** The chief finance officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### Accounting records and returns

**A.26** The chief finance officer is responsible for determining the accounting procedures and records for the authority.

### The annual statement of accounts

**A.27** The chief finance officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The Council is responsible for approving the annual statement of accounts.

## **FINANCIAL REGULATION B:**

### **FINANCIAL PLANNING**

#### **INTRODUCTION**

- B.1** The Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Strategy Committee. In terms of financial planning, the key elements are:
- the financial strategy
  - medium-term financial plans
  - the revenue budget
  - the capital programme.
- B.2** The Strategy Committee/Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- B.3** The Council is responsible for setting the level at which the Strategy Committee may reallocate budget funds from one service to another and the latter is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- B.4** The chief finance officer is responsible for proposing the financial strategy and the Performance Plan to the Strategy Committee for consideration before its submission to the Council for approval.
- B.5** He or she is also responsible for setting out the annual service and financial planning process and a financial strategy to the Strategy Committee.

#### **BUDGETING**

##### Budget format

- B.6** The general format of the budget will be approved by the Council and proposed by the Strategy Committee on the advice of the chief finance officer. The draft budget will include the allocation of resources to different services and projects, proposed taxation levels, proposed charges for services and Council House rent levels.

##### Budget preparation

- B.7** The chief finance officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a longer-term revenue plan on a three or four-yearly basis for consideration by the Strategy Committee, before submission to the Council. The Council may amend the budget or ask the Strategy Committee to reconsider it before approving it.
- B.8** The chief finance officer is responsible for ensuring that a 3-5 year capital programme is also prepared on an annual basis for consideration by the Strategy Committee before submission to the Council.

**B.9** It is the responsibility of Management Team and Heads of Service to ensure that the budget reflects the agreed objectives, service priorities and service plans and that these are prepared in line with guidance issued by the Strategy Committee.

#### Budget monitoring and control

**B.10** The chief finance officer is responsible for putting in place effective procedures and providing appropriate guidance and financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Strategy and Overview and Scrutiny Committees on the overall position on a regular basis.

**B.11** It is the responsibility of Management Team/Heads of Service to manage and control income and expenditure within their area and to monitor performance, taking account of financial information and guidance provided by the chief finance officer. They are responsible for reporting on variances within their own areas, for avoiding exceeding their budget allocation and alerting the chief finance officer to any problems.

#### Resource allocation

**B.12** The chief finance officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the policy framework.

#### Guidelines

**B.13** Guidelines on budget preparation are issued by the chief finance officer. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- the Council's objectives, aims and priorities
- available resources
- spending pressures
- best value and other relevant government guidelines
- other internal policy documents
- cross-cutting issues

#### MAINTENANCE OF RESERVES

**B.14** It is the responsibility of the chief finance officer to advise the Strategy Committee and the Council on prudent levels of reserves for the authority.

# **FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

## **INTRODUCTION**

**C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the authority. This involves the proactive participation of all those associated with planning and delivering services.

## **RISK MANAGEMENT**

**C.2** The Strategy Committee is responsible for approving the authority's risk management strategy and the Overview and Scrutiny Committee (Stewardship) for reviewing the effectiveness of risk management. Strategy Committee is responsible for ensuring that proper insurance exists where appropriate.

**C.3** The chief finance officer is responsible for preparing and for seeking the Strategy Committee's approval of the authority's risk management strategy and for promoting it throughout the authority. He/she is also responsible for arranging appropriate insurance cover and advising the Strategy Committee accordingly. Management Team is responsible for reviewing the effective management of risk.

## **INTERNAL CONTROL**

**C.4** Internal control refers to the systems of control devised by management to help ensure that the authority's objectives are achieved in a manner that promotes the proper economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.

**C.5** The chief finance officer is responsible for advising on effective systems of internal control. 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.

**C.6** It is the responsibility of Management Team and Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness.

## **AUDIT AND INSPECTION**

**C.7** The Accounts and Audit Regulations issued by the Secretary of State for the Environment require every local authority to maintain an adequate and effective internal audit. The chief finance officer is responsible for ensuring this is achieved.

**C.8** The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

**C.9** The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as the Audit Commission, HM Customs and Excise and the Inland Revenue, who have statutory rights of access. It is the responsibility of Management Team, Heads of Service and all staff to co-operate with these and provide such information as required by those bodies.

#### PREVENTING FRAUD AND CORRUPTION

**C.10** The chief finance officer is responsible for the development and maintenance an anti-fraud and anti-corruption policy and strategy and for seeking approval from the Strategy Committtee of this. He/she is also responsible ensuring this is implemented and appropriate training and awareness provided to Members and staff.

**C.11** It is the responsibility of Management Team/Heads of Service and all staff to operate within that policy and strategy and ensure systems and procedures comply with these.

#### ASSETS

**C.12** Management Team and Heads of Service are responsible for ensuring that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

#### TREASURY MANAGEMENT

**C.13** The authority has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*.

**C.14** The Council has in place the following for effective treasury management:

- A treasury management policy statement, stating the policies, objectives and approach to the risk management of its treasury management activities.
- Appropriate Treasury Management Practices (TMPs), setting out the manner in which the authority will seek to achieve those policies and objectives, and detailing how to manage and control those activities.

**C.15** The Council will receive reports on its Treasury Management activities, including the following as a minimum:

- An updated annual strategy and policy before the start of each financial year;
- A mid year review;
- An annual report after the close of the financial year.

**C.16** The authority nominates the Overview and Scrutiny (Stewardship) Committee to be responsible for the effective scrutiny of its Treasury Management Strategy and Policies.

**C.17** The Council delegates responsibility for the implementation, execution and administration of its Treasury Management activities to the Director of Finance, who will act in accordance with the Council's policy statement, Treasury Management Practices (TMPs) and CIPFA's Standard of Professional Practice on Treasury Management.

## STAFFING

- C.18** The Council is responsible for determining overall staffing establishments and requirements. The Strategy Committee will consider changes to these within the overall policy and budget framework.
- C.19** The head of paid service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.20** Management Team is responsible for controlling total staff numbers in conjunction with Heads of Service by:
- advising the Strategy Committee on the budget necessary in any given year to cover required staffing levels
  - adjusting staffing levels to meet changing operational needs providing that can be funded within approved budgets.
  - the proper use of appointment procedures.

# **FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES**

## **INTRODUCTION**

**D.1** Sound systems and procedures are essential to an effective framework of financial management, accountability and control.

## **GENERAL**

**D.2** The chief finance officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Management Team/Heads of Service or their staff to the existing financial systems or the establishment of new systems must be approved by the chief finance officer. Management Team/Heads of Service are responsible for the proper operation of financial processes in their own divisions.

**D.3** Any changes to agreed procedures by Heads of Service to meet their own specific service needs must be agreed with the chief finance officer.

**D.4** The chief finance officer should ensure that all relevant staff receive relevant financial training.

**D.5** Heads of Service must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under Freedom of Information legislation.

## **INCOME AND EXPENDITURE**

**D.6** It is the responsibility of Management Team and Heads of Service to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on behalf of the Head of Service, or on behalf of the Council, in respect of payments, income collection and placing orders, together with the limits of their authority. The Strategy Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

**D.7** The chief finance officer is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances and expenses to Members.

## **TAXATION**

**D.8** The chief finance officer is responsible for advising Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

**D.9** He or she is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## TRADING ACCOUNTS/BUSINESS UNITS

**D.10** It is the responsibility of the chief finance officer to advise on the establishment and operation of trading accounts and business units.

# **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

## **INTRODUCTION**

**E.1** The local authority plays an important leadership role for the community and in bringing together the contributions of various stakeholders in determining how that is best achieved. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

## **PARTNERSHIPS**

**E.2** The Strategy Committee/Council is responsible for approving the overall framework for partnerships and work for third parties. Management Team/Heads of Service are responsible for forming partnerships with other local public, private, voluntary and community sector organisations as appropriate.

**E.3** Where functions are delegated, the Strategy Committee remains accountable for them to the Council.

**E.4** The head of paid service or other nominated officers represent the authority on partnership and external bodies, in accordance with the scheme of delegation.

**E.5** The chief finance officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.

**E.6** The chief finance officer must also ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues, in conjunction with the monitoring officer, when contracts are arranged with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

**E.7** Management Team and Heads of Service are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

## **EXTERNAL FUNDING**

**E.8** The chief finance officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

## **WORK FOR THIRD PARTIES**

**E.9** Management Team/Heads of Service are responsible for approving the contractual arrangements for any work for third parties or external bodies.

# **FINANCIAL PROCEDURES**

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## **FINANCIAL MANAGEMENT**

### **FINANCIAL MANAGEMENT STANDARDS**

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

- 1.01** All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is achieved by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that those standards are met.

#### **Key controls**

- 1.02** The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the authority
  - (b) a monitoring system and documented procedures to ensure compliance with these standards.

#### **Responsibilities of the chief finance officer**

- 1.03** To ensure the proper administration of the financial affairs of the authority.
- 1.04** To set the financial management standards and to monitor compliance with them.
- 1.05** To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.06** To advise on the key strategic controls necessary to secure sound financial management.
- 1.07** To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

#### **Responsibilities of Management Team and Heads of Service**

- 1.08** To promote the financial management standards in their service areas/Divisions and to monitor adherence to the standards and practices, liaising as necessary with the chief finance officer.
- 1.09** To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## **MANAGING EXPENDITURE**

### **Scheme of budget virement (transfers)**

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

**1.10** The scheme of virement is intended to enable members and officers to manage budgets with a degree of flexibility within the overall budget and policy framework determined by the full council, and therefore to optimise the use of resources. A budget head is considered to be a line in the approved budget or a lower level, equivalent to the standard service division or subdivision as defined by CIPFA's Service Expenditure Analysis, where deemed appropriate by the chief finance officer.

#### **Key controls**

**1.11** Key controls for the scheme of virement are:

- (a) it is administered by the chief finance officer within guidelines set by the Council and in line with the Council's programmes and priorities. Any variation from this scheme requires the approval of the Council
- (b) the overall budget is agreed by the Strategy Committee and approved by the Council. Management Team, Heads of Service and budget managers are therefore authorised to incur expenditure in accordance with the budget. The rules below cover virement; that is, transferring resources between approved budgets or heads of expenditure/income.
- (c) virement does not create additional budget availability. Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting additional recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Officers must plan to fund such commitments from within their own budgets wherever possible.
- (d) These commitments must be approved through the Council's laid down Service and Financial Planning arrangements.

#### **Responsibilities of the chief finance officer**

**1.12** A member of Management Team/Head of Service may exercise virement on budgets under his or her control for amounts up to £10,000 on any one budget head during the year, following consultation with the chief finance officer, subject to the conditions in paragraphs 1.14 to 1.17 below. The chief finance officer may transfer appropriate sums between revenue and capital budgets providing these are in relation to related projects or services.

**1.13** To prepare jointly with the appropriate officer a report to the Strategy Committee where virements in excess of £10,000 are proposed, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Amounts greater than £25,000 will be considered by the Strategy Committee for recommendation to the Council.

**1.14** The prior approval of the chief finance officer is required for any virement, of whatever amount, where it is proposed to:

- vire between budgets of different service areas.
- vire between budgets managed by different Heads of Service.

- 1.15 Virement that is likely to impact on the level of service activity of another Head of Service should be implemented only after agreement with him/her.
- 1.16 No virement relating to a specific financial year can be made after 31 March in that year.
- 1.17 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that the amount is used in accordance with the purposes for which it has been established

### **Treatment of year-end balances**

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

- 1.18 The authority's scheme of virement also sets out the authority's treatment of year-end balances. It is administered by the chief finance officer within guidelines determined by him/her. Any variation from the scheme (as set out above) requires the approval of the Council.
- 1.19 The rules below cover arrangements for the transfer of resources between financial years, ie a carry-forward.

#### **Key controls**

- 1.20 Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

#### **Responsibilities of the chief finance officer**

- 1.21 To administer the scheme of carry-forward within the guidelines approved by the Council.
- 1.22 To report on overspendings and underspendings on service budgets and on sums to be carried forward to the Strategy Committee.

#### **Responsibilities of Management Team/Heads of Service**

- 1.23 Any overspending on total budgets under the direct control of the member of Management Team/Head of Service should be carried forward to the following year, and will constitute the first call on budgets in the following year unless the chief finance officer determines that part or all of it should be met from reserves .
- 1.24 Net underspendings on budgets under his/her control may be carried forward, subject to:
  - (a) the agreement of the chief finance officer to the reasons for the underspending or additional income and the proposed application of those resources
  - (b) the approval of the Strategy Committee where the carry forward exceeds 25% of the individual budget heading or £20,000, whichever is less.
- 1.25 All internal business unit surpluses shall be retained for the benefit of the authority and their application shall require the approval of the chief finance officer.

## **ACCOUNTING POLICIES**

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

**1.26** The chief finance officer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

### **Key controls**

**1.27** The key controls for accounting policies are:

- (a) systems of internal control are in place that ensure that financial transactions are lawful
- (b) suitable accounting policies are selected and applied consistently
- (c) proper accounting records are maintained
- (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### **Responsibilities of the chief finance officer**

**1.28** To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (i) deferred charges
- (j) accounting for value added tax
- (k) government grants
- (l) leasing
- (m) pensions.
- (n) Such other items that require consideration under the current code of practice.

### **Responsibilities of Management Team/Heads of Service**

**1.29** To adhere to the accounting policies and guidelines approved by the chief finance officer.

## **ACCOUNTING RECORDS AND RETURNS**

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

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

### **Key controls**

**1.31** The key controls for accounting records and returns are:

- (a) all officers, finance staff and budget managers operate within the required accounting standards and timetables
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) prime documents are retained in accordance with legislative and other requirements.

### **Responsibilities of the chief finance officer**

**1.32** To determine the accounting procedures and records for the authority. Where these are maintained outside the finance division, the Head of Service should consult and agree their adequacy with the chief finance officer.

**1.33** To arrange for the compilation of all accounts and accounting records under his or her direction.

**1.34** To ensure compliance with the following principles in relation to accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

**1.35** To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations.

**1.36** To ensure that all claims for funds including grants are made by the due date.

**1.37** To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the Council to approve the statement of accounts before 30 September or such other date specified by the Government.

**1.38** To administer the authority's arrangements for under- and overspendings to be carried forward to the following financial year.

**1.39** To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

**Responsibilities of Management Team/Heads of Service**

**1.40** To consult and obtain the approval of the chief finance officer before making any changes to accounting records and procedures.

**1.41** To comply with the principles outlined in paragraph 1.34 when allocating accounting duties.

**1.42** To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

**1.43** To supply information required to enable the statement of accounts and other accounting or financial statements to be completed in accordance with guidelines issued by the chief finance officer.

## **THE ANNUAL STATEMENT OF ACCOUNTS**

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

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

### **Key controls**

**1.45** The key controls for the annual statement of accounts are:

- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs.
- the authority's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (the SORP) (CIPFA/LASAAC).

### **Responsibilities of the chief finance officer**

**1.46** To select suitable accounting policies and to apply them consistently.

**1.47** To make judgements and estimates that are reasonable and prudent, comply with the SORP and sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.

**1.48** To draw up the timetable for final accounts preparation to meet statutory timescales for approval and publication and to advise staff and external auditors accordingly.

### **Responsibilities of Management Team/Heads of Service**

**1.49** To comply with accounting guidance provided and to supply the chief finance officer with information when required.

**FINANCIAL PLANNING**

**BUDGET AND PERFORMANCE PLANS**

**Why is this important?**

**2.01** Each local authority has a statutory responsibility to publish various performance plans. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The authority is required to publish a performance plan annually, which summarises its performance and position in relation to service improvement. The plan is an important statement explaining the authority's improvement plans, achievements and priorities. The external auditor is required to report on whether the authority has complied with statutory requirements in respect of the preparation and publication of the plan.

**Key controls**

**2.02** The key controls for performance plans are:

- (a) to ensure that all relevant plans are produced and that they are consistent
- (b) to produce plans in accordance with statutory requirements
- (c) to meet the timetables set
- (d) to ensure that all performance information is accurate, complete and up to date
- (e) to provide improvement targets which are meaningful, realistic and challenging.

**Responsibilities of the chief finance officer**

**2.03** To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

**2.04** To contribute to the development of corporate and service targets and objectives and performance information.

**2.05** To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

**2.06** To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met and to submit appropriate reports to the relevant committees.

**Responsibilities of Management Team/Heads of Service**

**2.07** To contribute to the development of performance plans in line with statutory requirements, promote continuous service and performance improvement and the achievement of targets.

**2.08** To contribute to the development of corporate and service targets and objectives and performance information.

## **BUDGETING**

### **Format of the budget**

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

**2.09** The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### **Key controls**

**2.10** The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with CIPFA's *Best Value Accounting – Code of Practice*
- (c) the format reflects the accountabilities of service delivery.

#### **Responsibilities of the chief finance officer**

**2.11** To advise the Strategy Committee on the format of the budget that is to be approved by the Council.

#### **Responsibilities of Management Team/Heads of Service**

**2.12** To comply with budgeting and other guidance provided by the chief finance officer.

#### **Revenue budget preparation, monitoring and control**

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

**2.13** Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budget monitoring is a continuous process, enabling the authority to review and adjust its budget during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

**2.14** By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority operates within an overall annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

**2.15** For the purposes of overall budgetary control by officers, a budget will normally be the total planned income and expenditure for a service area or cost centre. However, more detailed budgetary control will take place within service areas/cost centres as required by the chief finance officer.

## **Key controls**

**2.16** The key controls for managing and controlling the revenue budget are:

- (a) budget managers should be responsible only for income and expenditure that they can influence
- (b) there is a nominated budget manager for each cost centre heading
- (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) budget managers follow an approved process for incurring and certifying all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

## **Responsibilities of the chief finance officer**

**2.17** To establish an appropriate framework of budget management and control that ensures that:

- (a) budget management is exercised within annual cash limits unless the Council agrees otherwise
- (b) each responsible officer has available timely information on income and expenditure on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- (c) expenditure is committed only against an approved budget head
- (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations
- (e) each cost centre has a single named manager, determined by the relevant member of Management Team/Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- (f) variances from approved budgets are investigated and reported by budget managers regularly.

**2.18** To administer the authority's scheme of virement.

**2.19** To submit reports in accordance with the above to the Strategy Committee and to the Council, in consultation with the relevant officer(s), where the officer(s) is unable to balance expenditure and resources within existing approved budgets under his or her control, subject to the following:

- (a) In all circumstances the Head of Service shall, in consultation with the chief finance officer, as a matter of course make every endeavour to avoid the need for seeking approval to increasing the budget in relation to any matter by finding compensating savings in other budget headings.
- (b) In the event of there being a need for the approval to an increase in the budget for any individual matter being necessary, these shall be referred to the Strategy Committee for consideration, except where the amount does not exceed £5,000 or 10%, whichever is the less (subject to the latter not applying to any budget less than £5,000) in which case the chief finance officer shall be authorised to approve this and meet the additional cost from reserves, subject to an overall limit for any financial year of £25,000.

**2.20** To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

### **Responsibilities of Management Team/Heads of Service**

**2.21** To maintain budgetary control within their directorates/divisions, in adherence to the principles in 2.16 –2.20, and to ensure that all income and expenditure are properly recorded and accounted for.

**2.22** To ensure that an accountable budget manager is identified for each item of income and expenditure under his/her control.

**2.23** To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring monthly budget reports and taking appropriate corrective action where variations from the approved budget are forecast.

**2.24** To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

**2.25** To assist the chief finance officer in submitting reports on projected expenditure compared with budget to the Overview and Scrutiny and Strategy Committees.

**2.26** To ensure prior approval by the Council or Strategy Committee (as appropriate) for new proposals (*see footnote*), of whatever amount, that:

- (a) create financial commitments in future years
- (b) change existing policies, initiate new policies or cease existing policies
- (c) materially extend or reduce the authority's services.

**2.27** To ensure compliance with the scheme of virement.

**2.28** To agree with other relevant officers where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or another officer's level of service activity.

### **Budgets and medium-term planning**

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

**2.29** The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully considered aims and priorities. The budget is the financial expression of the authority's plans and policies.

*Footnote : A report on new proposals should explain the full financial implications, following consultation with the chief finance officer. Unless the Council or Strategy Committee has agreed otherwise, members of Management Team/Heads of Service must plan to contain the financial implications of such proposals within their cash limit for the year.*

- 2.30** The revenue budget and capital programme must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for an overall deficit in reserves but annual budgets can make appropriate use of existing reserves.
- 2.31** Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which Members and officers develop their strategic and service plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

### **Key controls**

- 2.32** The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
  - (b) budget managers are fully involved in the preparation of the budgets for which they will be held responsible and accept accountability for their budgets and the level of service to be delivered
  - (c) a monitoring process is in place to review regularly the effectiveness and operation of the service and financial planning process and budget preparation and to ensure that arrangements are effective.

### **Responsibilities of the chief finance officer**

- 2.33** To prepare and submit reports on budget prospects to the Strategy Committee, including resource availability or constraints set by the Government. Reports will take account of medium-term prospects, as appropriate.
- 2.34** To determine the detailed form of revenue and capital budgets and the methods for their preparation.
- 2.35** To prepare and submit reports to the Strategy Committee on the aggregate spending plans and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied or the Council Housing service.
- 2.36** To advise on the medium-term implications of spending decisions.
- 2.37** To encourage the best use of resources and value for money by working with other officers 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.
- 2.38** To advise the Council on proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

### **Responsibilities of Management Team/Heads of Service**

- 2.39** To prepare estimates of income and expenditure, in consultation with the chief finance officer, to be submitted to the Strategy Committee.
- 2.40** To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the chief finance officer.

- 2.41** To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42** In consultation with the chief finance officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Strategy and/other appropriate Committee.
- 2.43** When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements
  - (c) policy requirements as defined by the Council in the approved policy framework
  - (d) initiatives already under way.

## **Resource allocation**

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

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

### **Key controls**

- 2.45** The key controls for resource allocation are:
- (a) resources are acquired in accordance with the law and using an approved authorisation process
  - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
  - (c) resources are securely held for use when required
  - (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### **Responsibilities of the chief finance officer**

- 2.46** To advise on methods available for the funding of resource requirements, such as grants from central government and borrowing requirements.
- 2.47** To assist budget managers in the allocation of resources.

### **Responsibilities of other Management Team/Heads of Service**

- 2.48** To work within budget limits and to utilise resources allocated and use these in the most efficient, effective and economic way.
- 2.49** To identify opportunities to minimise or reduce resource requirements without having a detrimental effect on service delivery.

## Capital programmes

### Why is this important?

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

### Key controls

**2.52** The key controls for capital programmes are:

- (a) approval by the Council for the programme of capital expenditure
- (b) the inclusion of capital schemes in that programme based on an approved capital strategy
- (c) a scheme and estimate of cost is prepared for capital projects requiring the approval of the Strategy Committee
- (d) the implementation of asset management plans
- (e) accountability for each scheme or project is the responsibility of a named manager
- (f) monitoring of progress in conjunction with expenditure and comparison with approved budget.

**2.53** In order to provide flexibility in managing and implementing capital programmes, the following rules shall also apply:

- (a) Council approval to a capital programme shall constitute approval to the incurring of expenditure for the year in question on a scheme included in the capital programme, subject to:
  - (i) An appropriate report on the project being submitted to the Strategy Committee where this is indicated as being required in the capital programme and has not been approved through any other strategy (such as the Housing Strategy) or can be implemented through delegation arrangements.
  - (ii) The scheme cost not exceeding the financial provision in the approved capital programme or in any revised estimated cost approved, plus the addition of a tolerance of 20% of the first £50,000 of the estimated scheme cost and 10% of the balance of the estimated cost. The Strategy Committee shall be informed of any contract where the overall increase exceeds £30,000.
  - (iii) Any increase being found from other areas of the capital programme or revenue budget, unless the chief finance officer agrees that this is not possible and the Strategy Committee is appropriately informed.
- (b) If it becomes apparent that a project cannot be carried out within the tolerance prescribed in (a) above, a report shall be submitted to the Strategy Committee for further consideration.

- (c) Notwithstanding these regulations, Heads of Service shall be permitted, in consultation with the chief finance officer, to adjust their capital programme for the current year by bringing forward schemes from subsequent years where such schemes are included in the approved 3/5 year capital programme provided that:
- (i) There is sufficient provision in their capital programme for the year concerned to accommodate this or, where this is not possible, this will result in no more than an addition of 10% to the total capital programme for the year in relation to the service areas under their control.
  - (ii) The amendments do not involve a significant new policy or a major variation of an existing policy.

### **Responsibilities of the chief finance officer**

- 2.54** To prepare capital programmes jointly with other officers and to report them to the Strategy Committee for approval. The Strategy Committee will make recommendations on these and on the associated financing requirements to the Council.
- 2.55** To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the chief finance officer, having regard to government regulations and accounting requirements.
- 2.56** To obtain authorisation from the Strategy Committee for individual schemes where the estimated expenditure exceeds the capital programme provision by more than the specified amount in section 2.53.

### **Responsibilities of Management Team/Heads of Service**

- 2.57** To comply with guidance concerning capital schemes and controls issued by the chief finance officer.
- 2.58** To ensure that all capital proposals have undergone a business case assessment in accordance with guidance issued.
- 2.59** To prepare regular reports reviewing the capital programme provisions for their services and monitor progress and the estimated costs of schemes in the approved capital programme in conjunction with the chief finance officer.
- 2.60** To ensure that adequate records are maintained for all capital contracts.
- 2.61** To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the chief finance officer, where required.
- 2.62** To prepare and submit reports, jointly with the chief finance officer, to the Strategy Committee, of any variation in contract costs greater than the approved limits set out in section 2.53. This shall apply to all contracts, not just those relating to capital schemes:
- 2.63** To prepare and submit reports, jointly with the chief finance officer, to the relevant Overview and Scrutiny Committee, on completion of all schemes where the final expenditure exceeds the approved budget by more than the specified amount in regulation 2.53.

- 2.64 To 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 scheme through the capital programme.
- 2.65 To consult with the chief finance officer where a proposed bid for funding is to be made to government departments or other bodies to support expenditure that has not been included in the current year's capital programme.

## **MAINTENANCE OF RESERVES**

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

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

### **Key controls**

- 2.67 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.
- 2.68 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 2.69 Use of general reserves is agreed by the Strategy Committee and Council and expenditure from specific reserves is approved and monitored by the chief finance officer.

### **Responsibilities of the chief finance officer**

- 2.70 To advise the Strategy Committee and/or the Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.

**Risk Management and Control of Resources**

**RISK MANAGEMENT**

**Why is this important?**

- 3.01** All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 3.02** It is the overall responsibility of the Strategy Committee to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

**Key controls**

- 3.03** The key controls for risk management are:
- (a) A risk management strategy and procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
  - (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
  - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
  - (d) provision is made for losses that might result from the risks that remain
  - (e) procedures are in place to investigate claims within required timescales
  - (f) acceptable levels of risk are determined and insured against where appropriate
  - (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

**Responsibilities of the chief finance officer**

- 3.04** To prepare and promote the authority's risk management strategy.
- 3.05** To develop risk management controls in conjunction with other officers.
- 3.06** To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- 3.07** To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

**3.08** To give advice and guidance on aspects of risk management both corporately and to service divisions.

### **Responsibilities of Management Team/Heads of Service**

**3.09** To notify the chief finance officer immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by him/her or the authority's insurers.

**3.10** To take responsibility for risk management, having regard to advice from the chief finance officer and other specialist officers (eg crime prevention, fire prevention, health and safety).

**3.11** To ensure that there are regular reviews of risk within their directorates/departments.

**3.12** To notify the chief finance officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

**3.13** To consult the chief finance officer and the Head of Legal and Administrative Services on the terms of any indemnity that the authority is requested to give.

**3.14** To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **INTERNAL CONTROLS**

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

**3.15** The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.

**3.16** The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

**3.17** The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

**3.18** The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations
- (b) reliable financial information and reporting
- (c) compliance with laws and regulations
- (d) risk management.

#### **Key controls**

**3.19** The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively

- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline *Guidance for Internal Auditors*, CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom* and with any other statutory obligations and regulations.

### **Responsibilities of the chief finance officer**

**3.20** To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of Management Team/Heads of Service**

**3.21** To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

**3.22** To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the chief finance officer. Other officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

**3.23** To ensure staff have a clear understanding of the consequences of lack of control.

## **AUDIT REQUIREMENTS**

### **Internal audit**

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

**3.24** The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems in accordance with the proper internal audit practices”.

**3.25** Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

## **Key controls**

**3.26** The key controls for internal audit are:

- (a) that it is independent in its planning and operation
- (b) the head of internal audit has direct access to the Director of Finance and Performance Review, all levels of management and directly to elected members
- (c) the internal auditors comply with the Auditing Practices Board's guideline *Guidance for Internal Auditors*, as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom*.

## **Responsibilities of the chief finance officer**

**3.27** To ensure that internal auditors have the authority to:

- (a) access authority premises at reasonable times
- (b) access all assets, records, documents, correspondence and control systems
- (c) receive any information and explanation considered necessary concerning any matter under consideration
- (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
- (e) access records belonging to third parties, such as contractors, when required
- (f) directly access the head of paid service, the Strategy and Overview and Scrutiny Committees.

**3.28** To approve the strategic and annual audit plans prepared by the head of internal audit, which take account of the characteristics and relative risks of the activities involved.

**3.29** To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

## **Responsibilities of other Management Team/Heads of Service**

**3.30** To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

**3.31** To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

**3.32** To consider and respond promptly to recommendations in audit reports.

**3.33** To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

**3.34** To notify the chief finance officer/head of internal audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the officer and internal audit should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

**3.35** To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the head of internal audit prior to implementation.

## **External audit**

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

- 3.36** The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 3.37** The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:
- (a) the financial aspects of the audited body's corporate governance arrangements
  - (b) the audited body's financial statements
  - (c) aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the annual Performance Plan.
- 3.38** The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### **Key controls**

- 3.39** External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

### **Responsibilities of the chief finance officer**

- 3.40** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 3.41** To ensure there is effective liaison between external and internal audit.
- 3.42** To work with the external auditor and advise members and other officers on their responsibilities in relation to external audit.

### **Responsibilities of Management Team/Heads of Service**

- 3.43** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- 3.44** To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

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

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

### **Key controls**

- 3.48** The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
  - (b) all Members and staff act with integrity and lead by example
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
  - (d) high standards of conduct are promoted amongst Members by the Standards Committee
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
  - (f) whistle blowing procedures are in place and operate effectively
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

### **Responsibilities of the chief finance officer**

- 3.49** To develop and maintain an anti-fraud and corruption strategy.
- 3.50** To maintain adequate and effective internal control arrangements.
- 3.51** To ensure that all suspected irregularities are reported to the head of internal audit and the head of paid service.

### **Responsibilities of Management Team/Heads of Service**

- 3.52** To ensure that all suspected irregularities are reported to the Head of internal audit.
- 3.53** To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 3.54** To ensure that where financial impropriety is discovered, the chief finance officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 3.55** To ensure staff make appropriate disclosures in the register of interests.

## ASSETS

### Security

#### Why is this important?

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

#### Key controls

**3.57** The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- (a) resources are used only for the purposes of the authority and are properly accounted for
- (b) resources are available for use when required
- (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
- (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
- (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

#### Responsibilities of the chief finance officer

**3.58** To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000 or such lower value as may be determined by him/her for specific assets. The function of the asset register is to provide the authority with information about fixed assets so that they are:

- safeguarded
- used efficiently and effectively
- adequately maintained.

**3.59** To receive the information required for accounting, costing and financial records from other officers.

**3.60** To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

## **Responsibilities of Management Team/Heads of Service**

- 3.61** Nominated officer(s) shall maintain a database for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 3.62** To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the officer in consultation with the Head of Legal and Administrative Services, has been established as appropriate.
- 3.63** To ensure the proper security of all buildings and other assets under their control.
- 3.64** Where land or buildings are surplus to requirements, to make appropriate recommendations for their disposal or alternative use.
- 3.65** To pass title deeds to the appropriate officer who is responsible for custody of all title deeds.
- 3.66** To ensure that no asset is subject to personal use by an employee without proper authority.
- 3.67** To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 3.68** To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the appropriate officer.
- 3.69** To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 3.70** To consult the chief finance officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 3.71** To ensure cash holdings on premises are kept to a minimum.
- 3.72** To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the chief finance officer as soon as possible.
- 3.73** To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the chief finance officer, it is agreed otherwise.
- 3.74** To arrange for the valuation of assets for accounting purposes to meet requirements specified by the chief finance officer.
- 3.75** To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

## **Inventories**

- 3.76** To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery.
- 3.77** To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 3.78** To make sure that property is only used in the course of the authority's business, unless the other officer concerned has given permission otherwise.

## **Stocks and stores**

- 3.79** To make arrangements for the care and custody of stocks and stores in the department.
- 3.80** To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

## **Write-offs**

- 3.81** To investigate and remove from the authority's records (ie write off) discrepancies as necessary, or to obtain Strategy Committee approval if they are in excess of a predetermined limit, currently £1,000 per item or occurrence, subject to an annual overall limit of £10,000, above which the Strategy Committee shall be informed.
- 3.82** To authorise the disposal of redundant stocks and equipment in accordance with the above. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the chief finance officer, it is determined otherwise in a particular case.
- 3.83** To notify the chief finance officer of all write offs and disposals.

## **Intellectual property**

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

- 3.84** Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 3.85** Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

## **Key controls**

- 3.86** In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should only proceed with the approval of the Strategy Committee

## **Responsibilities of the chief finance officer**

**3.87** To develop and disseminate good practice, where this is necessary.

## **Responsibilities of Management Team/Heads of Service**

**3.88** To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

## **Asset disposal**

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

**3.89** It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

### **Key controls**

**3.90** Assets for disposal are identified and are disposed of with the approval of the Strategy Committee at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items above a certain value (currently £1,000), disposal should be by competitive tender or public auction.

**3.91** Procedures protect staff involved in the disposal from accusations of personal gain.

## **Responsibilities of the chief finance officer**

**3.92** To issue guidelines representing best practice for disposal of assets.

**3.93** To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

## **Responsibilities of Management Team/Heads of Service**

**3.94** To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

**3.95** To ensure that income received for the disposal of an asset is properly banked.

## **TREASURY MANAGEMENT**

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

**3.96** Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

## **Key controls**

**3.97** That the authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management* and with the authority's treasury policy statement.

## **Responsibilities of chief finance officer – treasury management and banking**

**3.98** To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.

**3.99** To report on treasury management activities to the Strategy Committee.

**3.100** To operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the chief finance officer.

## **Responsibilities of other officers – treasury management and banking**

**3.101** To follow the instructions on banking issued by the chief finance officer.

## **Responsibilities of chief finance officer – investments and borrowing**

**3.102** To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Council.

**3.103** To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate other officer.

**3.104** To effect all borrowings in the name of the authority.

**3.105** To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

## **Responsibilities of other officers – investments and borrowing**

**3.106** To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Strategy Committee, following consultation with the chief finance officer.

## **Responsibilities of other officers – trust funds and funds held for third parties**

**3.107** To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the chief finance officer, unless the deed otherwise provides.

**3.108** To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the chief finance officer, and to maintain written records of all transactions.

**3.109** To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

## **Responsibilities of the chief finance officer – imprest accounts**

- 3.110** To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 3.111** To determine the limits that apply to these and to maintain a record of all transactions and advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.112** To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

## **Responsibilities of other officers – imprest accounts**

- 3.113** To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
  - (b) make adequate arrangements for the safe custody of the account
  - (c) produce upon demand by the chief finance officer cash and all vouchers to the total value of the imprest amount
  - (d) record transactions promptly
  - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
  - (f) provide the chief finance officer with a certificate of the value of the account held at 31 March each year
  - (g) ensure that it is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
  - (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the chief finance officer for the amount advanced to him or her.

## **STAFFING**

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

- 3.114** In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **Key controls**

- 3.115** The key controls for staffing are:
- (a) appropriate policies and arrangements exist to ensure staffing requirements and budget allocations are matched
  - (b) procedures are in place for forecasting staffing requirements and costs
  - (c) controls are in place that ensure that staff time is used efficiently and to the benefit of the authority
  - (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

### **Responsibilities of the chief finance officer**

- 3.116** To ensure that budget provision exists for all existing and new employees.
- 3.117** To act as an advisor to other officers on areas such as tax, national insurance and pension contributions, as appropriate.

### **Responsibilities of Management Team/Heads of Service**

- 3.118** To produce annual staffing budgets in conjunction with the chief finance officer.
- 3.119** To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- 3.120** To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- 3.121** To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 3.122** To ensure that the chief finance officer is immediately informed if the staffing budget is likely to be materially over- or underspent.

**Financial Systems and Procedures**

**GENERAL**

**Why is this important?**

- 4.01** Service divisions have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. They are increasingly reliant on IT systems for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 4.02** The chief finance officer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

**Key controls**

- 4.03** The key controls for systems and procedures are:
- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
  - (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
  - (c) early warning is provided of deviations from target, plans and budgets that require management attention
  - (d) operating systems and procedures are secure.

**Responsibilities of the chief finance officer**

- 4.04** To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the authority's financial affairs
  - (d) approve any new financial systems to be introduced
  - (e) approve any changes to be made to existing financial systems.

**Responsibilities of Management Team/Heads of Service**

- 4.05** To ensure that accounting records are properly maintained and held securely.
- 4.06** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the chief finance officer.
- 4.07** To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 4.08** To incorporate appropriate controls to ensure that, where relevant:

- (a) all input is genuine, complete, accurate, timely and not previously processed
- (b) all processing is carried out in an accurate, complete and timely manner
- (c) output from the system is complete, accurate and timely.

- 4.09** To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 4.10** To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 4.11** To ensure that systems are documented and staff trained in operations.
- 4.12** To consult with the chief finance officer before changing any existing system or introducing new systems.
- 4.13** To establish a scheme of delegation identifying officers authorised to act upon the member of Management Team or Head of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 4.14** To supply lists of authorised officers, with specimen signatures and delegated limits, to the chief finance officer, together with any subsequent variations.
- 4.15** To ensure that effective arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 4.16** To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 4.17** To ensure that relevant standards and guidelines for computer systems issued by Management Team members or Heads of Service are observed.
- 4.18** To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.19** To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME AND EXPENDITURE**

### **Income**

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

**4.20** Income can be vulnerable and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly.

#### **Key controls**

**4.21** The key controls for income are:

- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (c) all money received by an employee on behalf of the authority is paid without delay to the chief finance officer or, as he or she directs, to the authority's bank accounts, and properly recorded. The responsibility for cash collection should be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
- (d) effective action is taken to pursue non-payment within defined timescales and legal requirements
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales and limits
- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

#### **Responsibilities of the chief finance officer**

**4.22** To agree arrangements for the collection of all income due to the authority including grant claims and to approve the procedures, systems and documentation for its collection.

**4.23** To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.

**4.24** To agree the write-off of bad debts up to approved limits in each case and to refer larger sums, set out in the scheme of delegation to officers (currently over £1,000), to the Chairman of the Strategy Committee.

**4.25** To approve all debts to be written off and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations.

**4.26** To obtain the approval of the Strategy Committee for debt management policies and any variation thereto.

- 4.27** To prepare a charging policy and ensure it is regularly updated and used by heads of service in reviewing existing charges for services or proposing the introduction of new charges.

### **Responsibilities of Management Team/Heads of Service**

- 4.28** To operate the Council's charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 4.29** To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 4.30** To assist in the appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 4.31** To issue official receipts or to maintain other documentation for income collection.
- 4.32** To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 4.33** To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.34** To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 4.35** To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 4.36** To ensure income is not used to cash personal cheques or other payments.
- 4.37** To supply the chief finance officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the chief finance officer to record correctly the sums due to the authority and to ensure accounts are sent out promptly.
- 4.38** To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 4.39** To recommend to the chief finance officer any debts to be written off where necessary. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 4.40** To obtain the approval of the chief finance officer when writing off debts in excess of the approved limits, and the approval of the executive where required.
- 4.41** To notify the chief finance officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the chief finance officer.

## **Ordering and paying for work, goods and services**

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

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

### **General**

**4.43** Every officer and Member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.

**4.44** Official orders must be in a form approved by the chief finance officer. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the chief finance officer.

**4.45** Each order must conform to the guidelines approved by the Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the chief finance officer.

**4.46** Apart from petty cash and other payments from advance accounts, the normal method of payment from the authority shall be by BACS, cheque or other instrument or approved method, drawn on the authority's bank accounts by the chief finance officer. The chief finance officer shall put in place appropriate arrangements for signing cheques and releasing payments above agreed amounts.

**4.47** Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key controls**

**4.48** The key controls for ordering and paying for work, goods and services are:

- (a) all goods and services are ordered only by appropriate persons and are correctly recorded
- (b) all goods and services shall be ordered in accordance with the authority's Contracts Procedure Rules for tenders, quotations and contracts unless they are purchased from sources within the authority
- (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
- (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected

- (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.
- (i) Invoices are paid promptly, in accordance with agreed terms and in order to meet Government performance targets.

#### **Responsibilities of the chief finance officer**

- 4.49** To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 4.50** To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 4.51** To approve the form of official orders and associated terms and conditions.
- 4.52** To make payments from the authority's funds on receipt of proper authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 4.53** To make payments, whether or not provision exists within the budget, where the payment is specifically required by statute or is made under a court order.
- 4.54** To make payments to contractors on the certificate of the appropriate officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 4.55** To provide advice and encouragement on making payments by the most economical means.
- 4.56** To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

#### **Responsibilities of Management Team/Heads of Service**

- 4.57** To ensure that unique pre-numbered official orders are used for all goods and services, other than the exceptions specified in para 4.44.
- 4.58** To ensure that orders are only used for goods and services provided to the Council. Individuals must not use official orders to obtain goods or services for their private use.
- 4.59** To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement.
- 4.60** To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

- 4.61** To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that discounts have been taken where available
  - (h) that appropriate entries will be made in accounting records.
- 4.62** To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 4.63** To ensure that lists of staff approved to authorise invoices are maintained and reviewed periodically. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the chief finance officer.
- 4.64** To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice except in exceptional cases where the authorised officer shall certify that the payment has not been previously made.
- 4.65** To encourage suppliers of goods and services to receive payment by the most economical means for the authority.
- 4.66** To ensure that best value is obtained from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to any best practice guidelines issued.
- 4.67** To utilise the established central purchasing procedures in putting purchases, where appropriate, out to competitive quotation or tender. These will cover:
- (a) authorised officers and the extent of their authority
  - (b) advertisement for tenders
  - (c) procedure for creating, maintaining and revising a standard list of contractors
  - (d) selection of tenderers
  - (e) compliance with UK and EU legislation and regulations
  - (f) procedures for the submission, receipt, opening and recording of tenders
  - (g) the circumstances where financial or technical evaluation is necessary
  - (h) procedures for negotiation
  - (i) acceptance of tenders
  - (j) the form of contract documentation
  - (k) cancellation clauses in the event of corruption or bribery
  - (l) contract records.
- 4.68** To ensure that employees are aware of the national code of conduct for local government employees.

- 4.69** To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the chief finance officer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 4.70** To notify the chief finance officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the chief finance officer and, in any case, not later than 30 April.
- 4.71** With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the chief finance officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 4.72** To notify the chief finance officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 4.73** To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

## **Payments to employees and members**

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

- 4.74** Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' Allowances are authorised in accordance with the Scheme adopted by the Council.

### **Key controls**

- 4.75** The key controls for payments to employees and members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
    - starters
    - leavers
    - variations
    - enhancements
  - (b) that payments are made on the basis of timesheets or claims, where appropriate
  - (c) frequent comparison of payroll expenditure against approved budget
  - (d) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
  - (e) that Inland Revenue and other statutory requirements and regulations are complied with.

## **Responsibilities of the chief finance officer**

- 4.76** To arrange and control secure and reliable payment of salaries, wages, compensation, remuneration or other payments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.

- 4.77** To record and make arrangements for the accurate and timely payment of tax, pension and other deductions.
- 4.78** To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.79** To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.80** To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 4.81** To ensure that there are adequate arrangements for administering pension matters on a day-to-day basis.

### **Responsibilities of Management Team/Heads of Service**

- 4.82** To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 4.83** The Human Resources division to notify the chief finance officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the chief finance officer.
- 4.84** To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.85** To ensure that timesheets and claims are submitted promptly and are certified by an authorised officer.
- 4.86** To ensure that payroll transactions are processed only through the payroll system. Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the chief finance officer.
- 4.87** To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the chief finance officer is informed where appropriate.
- 4.88** To ensure that the chief finance officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 4.89** To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

## **Responsibilities of Members**

**4.90** To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

## **TAXATION**

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

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

### **Key controls**

**4.92** The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues
- (b) budget managers are instructed on required record keeping
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the chief finance officer**

**4.93** To complete all Inland Revenue returns regarding PAYE.

**4.94** To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

**4.95** To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

**4.96** To provide up-to-date guidance for employees and members on taxation issues.

### **Responsibilities of Management Team/Heads of Service**

**4.97** To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.

**4.98** To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

**4.99** To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

**4.100** To follow the guidance on taxation issued by the chief finance officer.

## **TRADING ACCOUNTS AND BUSINESS UNITS**

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

**4.101** Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in Performance Plans.

### **Responsibilities of the chief finance officer**

**4.102** To advise on the establishment and operation of trading accounts and business units.

### **Responsibilities of Management Team/Heads of Service**

**4.103** To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged

**4.104** To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

## **External Arrangements**

### **PARTNERSHIPS**

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

- 5.01** Partnerships play a key role in delivering services and community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 5.02** Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### **General**

- 5.03** The main reasons for entering into a partnership are:
- (a) to provide new and better ways of delivering services
  - (b) to forge new relationships
  - (c) the ability to access new resources
  - (d) the desire to find new ways to share risk
- 5.04** A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project or
  - (b) a body whose nature or status give it a right or obligation to support the project.
- 5.05** Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in conjunction with others
  - (b) acting as a project funder or part funder
  - (c) being the beneficiary group of the activity undertaken in a project.
- 5.06** Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
  - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
  - (c) be open about any conflict of interests that might arise
  - (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
  - (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
  - (f) to act wherever possible as ambassadors for the project.

## **Key controls**

**5.07** The key controls for authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the authority's Financial Regulations and Procedures, Contracts Procedure Rules and other procedures.
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

## **Responsibilities of the chief finance officer**

**5.08** To advise on controls that will ensure that resources are used effectively and efficiently.

**5.09** To advise on the key elements of funding a project. These include:

- (a) a scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements.

**5.10** To ensure that the accounting arrangements are satisfactory.

## **Responsibilities of Management Team/Heads of Service**

**5.11** To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the chief finance officer.

**5.12** To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared.

**5.13** To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.

**5.14** To ensure that all agreements and arrangements are properly documented.

**5.15** To provide appropriate information to the chief finance officer to enable a note to be entered into the authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

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

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

### **Key controls**

**5.17** The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full council
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the chief finance officer**

**5.18** To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

**5.19** To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

**5.20** To ensure that audit requirements are met.

### **Responsibilities of Management Team/Heads of Service**

**5.21** To ensure that all claims for funds are made by the due date.

**5.22** To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## **WORK FOR THIRD PARTIES**

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

**5.23** Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

## **Key controls**

**5.24** The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the chief finance officer
- (b) to ensure that contracts are drawn up using guidance provided by the chief finance officer and that the formal approvals process is adhered to
- (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

## **Responsibilities of chief finance officer**

**5.25** To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

## **Responsibilities of Management Team/Heads of Service**

**5.26** To ensure that the approval is obtained before any negotiations are concluded to work for third parties.

**5.27** To maintain a record of all contracts entered into with third parties in accordance with any procedures specified by the chief finance officer.

**5.28** To ensure that appropriate insurance arrangements are made.

**5.29** To ensure that individual Members and the authority are not put at risk from any bad debts or personal liability.

**5.30** To ensure that no contract is subsidised by the authority.

**5.31** To ensure that, wherever possible, payment is received in advance of the delivery of the service.

**5.32** To ensure that the division has the appropriate expertise to undertake the contract.

**5.33** To ensure that such contracts do not impact adversely upon the services provided for the authority.

**5.34** To ensure that all contracts are properly documented.

**5.35** To provide appropriate information to the chief finance officer to enable a note to be entered into the statement of accounts.

# **Procurement and Contracts Procedure Rules** **Adopted by Council 26 June 2008**

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# **Procurement and Contracts Procedure Rules**

## **1. GENERAL**

- 1.1 These Procurement and Contracts Procedure Rules must be followed every time the Council enters into a contract for the supply of goods, materials or services or for the execution of works.
- 1.2 European Union Regulations must also be followed where applicable. Details of these regulations and the appropriate contract value thresholds can be found at <http://www.ogc.gov.uk/index.asp?id=397>. For contracts of a suitable value, the application of the European Union Procurement Regulations shall take precedence over these Rules. Note that it is illegal to attempt to break down a contract into smaller "portions" for the purposes of avoiding these thresholds.
- 1.3 It shall be a condition of any contract between the Council and any person (not being an officer of the Council) who is required to supervise a contract on the Council's behalf that, in relation to such a contract, he/she shall comply with the requirements of these Rules as if he/she were an officer of the Council.
- 1.4 Section 117 of the Local Government Act 1972 requires employees to give notice in writing to the Council, of any pecuniary interest, direct or indirect, which he/she has in a contract entered into (or to be entered into) by the Council. Such notification should be given to the Council's Monitoring Officer
- 1.5 All contracts exceeding £1,000 shall be, or be confirmed, in writing and any contract which exceeds or is estimated to exceed £50,000 shall either be in a form approved by the Solicitor to the Council or be on a list of contracts approved by the Solicitor to the Council for use by the Council.
- 1.6 These Rules must be read in conjunction with the Council's Financial Regulations and Procedures, the Procurement Code of Practice, the Responsibility for Functions and the Scheme of Delegation.
- 1.7 Any Purchase Orders placed or Contracts entered into should make reference to the Council's Standard Conditions of Contract as a minimum. Where a Standard Form of Contract, such as the JCT or NEC standard, is in common use in a particular industry, this should be used in the appropriate circumstances.

## **2. EXEMPTIONS and EXCEPTIONS**

- 2.1 Exemptions from the application of these rules, other than for the reasons noted herein, may be made by direction of the Strategy Committee where the Committee is satisfied that the exemption is justified and that the Council's position is not adversely affected. A record of every exemption shall be recorded in the Minutes.

- 2.2 These Rules shall not apply to:
- 2.2.1 Circumstances where purchases are made or services rendered as a consequence of a contract made by another local authority, government department, body or agent the benefits of which the Council obtains as a result of participation in a consortium. This will include framework contracts let by public sector Professional Buying Organisations (such as the OGC, ESPO, or the CBC).
  - 2.2.2 Goods purchased by public auction.
  - 2.2.3 Circumstances where the Council enters into a contract jointly with one or more other local authorities one of whom is the “lead authority” for that contract
  - 2.2.4 The lending or borrowing of money
  - 2.2.5 The appointment of any officer directly employed by the Council
  - 2.2.6 The sale or purchase of any land or buildings
  - 2.2.7 The provision of services by legal counsel
- 2.3 Notwithstanding anything contained within these Rules, where a relevant Director or Head of Service is satisfied, owing to the specialist nature of services, goods or works, that there are less than 3 known persons or firms that would be suitable to carry out a contract, quotations/tenders may be invited from those persons or firms and a report shall be given to the Monitoring Officer to this effect.
- 2.4 Notwithstanding anything contained within these Rules, only ONE tender need be invited or quotation obtained if:
- 2.4.1 in the case of contracts for the supply of goods or services, the goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations or Government Order and the relevant Director or Head of Service is satisfied that no satisfactory alternative is available
  - 2.4.2 the works to be executed or the goods or services to be supplied
    - consist of repair to or the supply of parts of existing proprietary machinery or plant; or
    - consist of goods or services the same as currently in use by the Council which are required for the purpose of standardisation
  - 2.4.3 in the case of contracts for works or services, an extension to an existing contract is proposed at a value not greater than the original contract sum and it is considered by the relevant Director or Head of Service that, taking into account the cost of re-tendering, the Council is unlikely to benefit from a reduced contract sum
  - 2.4.4 emergency action is required, in consultation with the Chairman of Strategy Committee, subject to the action being reported to the next meeting of Strategy Committee
  - 2.4.5 under paragraph 2.4 above, only one suitable supplier has been identified

### **3. PROCUREMENT THRESHOLDS and PROCEDURES**

This section summarises:

- 3.1 Low Value Procedure** for contracts estimated to be worth less than £7,000 (written or verbal Quotations but confirmed by supplier in writing).
- 3.2 Quotation Procedure** for contracts estimated to be worth more than £7,000 but less than £50,000 (written Quotations).
- 3.3 Formal Tender Procedure** for contracts with an estimated total value greater than £50,000.
- 3.4 European Procurement Procedure** where, in addition to 3.3 above, the value of the contract exceeds the appropriate EU threshold. See clause 1.2 above for further information.

#### **3.1 LOW VALUE PROCEDURE**

##### **3.1.1 Contracts worth less than £1,000:**

If the estimated value of the goods, services or works is less than £1,000 it is unlikely to be cost-effective searching for Quotations and should just be ordered from the first suitable supplier identified. In many cases, approved suppliers may already exist, particularly via buying consortia framework contracts, and these should be used wherever possible.

##### **3.1.2 Contracts worth more than £1,000 but less than £7,000:**

For contracts worth between £1,000 and £7,000 quotations may be sought from one Contractor only. Where a verbal Quotation is received a written confirmation must be obtained from the proposed successful supplier. Written quotations sent via E-mail or other electronic means are acceptable.

#### **3.2 QUOTATION PROCEDURE (contracts worth between £7,000 and £50,000)**

##### **3.2.1 The minimum number of suppliers invited to submit a written Quotation will be 3.**

##### **3.2.2 Every request for a Quotation must state that the Council reserves the right to negotiate with suppliers after Quotations are received and before a Purchase Order is placed or Contract entered into.**

##### **3.2.3 Where an approved Standing List of Suppliers exists for certain categories of work, such a list may also be used for this procedure using the same principles as Standing List Tendering.**

##### **3.2.4 Quotations must be submitted to the relevant Director or Head of Service or an officer to whom the Director or Head of Service has provided prior written authority. Quotations can be received by fax, letter, e-mail or other suitable electronic means.**

3.2.5 Quotation selection shall be based on Best Value to the Council where the criteria will include price and may encompass other areas such as quality of service, whole life cost, risk, compliance with the Conditions of Contract and on environmental / sustainability grounds.

3.2.6 Where other than the lowest priced Quotation is to be selected, there must a written statement showing a clear and measurable rationale for this decision. This must be counter-signed and approved by the relevant Director or Head of Service.

### **3.3 FORMAL TENDER PROCEDURE (above £50,000)**

3.3.1 Tenders shall be invited in accordance with one of the following 3 methods:-

#### **Open Tendering**

Where an advertisement is placed and all respondents are invited to Tender.

#### **Select List Tendering**

Where an advertisement is placed and only selected respondents are invited to Tender.

#### **Standing List Tendering**

Where Tenderers are selected from a list of pre-approved suppliers or contractors that is maintained by the Council.

3.3.2 All 3 types of tendering listed above require invitation by public notice, published in at least ONE of the following ways.

- in one or more local or national newspapers
- in one or more journals likely to be read by those persons or bodies whom the Council wishes to seek Tenders
- via a suitably approved third-party web-site

In addition, all public notices will be placed on the Council's own web-site,

(In the case of Standing List Tendering, the public notice invites suppliers to apply to appear on the List for a period of 4 years, during which period no further public notices will be required - see 4.3.1 below also).

3.3.3 The public notice must:

- specify details of the contract into which the Council wishes to enter;
- invite persons or bodies interested to apply for permission to tender
- specify a time limit, being not less than 14 days from the date of advertisement, within which such applications are to be submitted to the Council, and
- state where further details or documentation may be obtained

3.3.4 Selection of the tendering suppliers or contractors must be on an objective and measurable basis. The use of a Pre-Qualification Questionnaire (PQQ), requesting limited information regarding the supplier, their experience and their expertise, is recommended as a means of differentiating applicants.

#### **4. PROCEDURES FOR ISSUING INVITATIONS TO TENDER**

4.1 There shall be included in every Invitation to Tender:-

- the Form of Tender and a pricing schedule (where relevant)
- a specification;
- information on the selection criteria that will be used;
- the appropriate Conditions of Contract for the goods, services or works being Tendered;
- a questionnaire that requests evidence of compliance with the minimum standards required
- form of Bond or Parent Company Guarantee (if required), as determined by the Solicitor to the Council; a risk assessment should be undertaken to establish whether a bond is required and, if required, this will be normally set at 10% of total contract value
- for the execution of works, a copy of the contractor's Health and Safety Policy,
- a Collusive Tendering Certificate

#### **4.2 OPEN TENDERING (All Respondents Invited to Tender)**

4.2.1 Invitations to Tender for a Contract are to be obtained by open competition as advertised in accordance with clause 3.3.2

#### **4.3 SELECT LIST TENDERING (Selected Respondents Invited to Tender)**

4.3.1 Invitations to Tender for a Contract should be limited to suppliers or contractors selected from those who reply to a public notice as advertised in accordance with clause 3.3.2

4.3.2 After the expiry of the deadline specified in the public notice, invitation to tender for the contract shall be sent to :

- not less than 3 persons or bodies who applied for permission to tender, as selected by the appropriate Director or Head of Service or duly authorised officer.
- where fewer than 3 persons have applied, to all those persons or bodies which the Director or Head of Service or duly authorised officer considers suitable.

#### **4.4 STANDING LIST TENDERING (Tenderers selected from list of approved suppliers)**

4.4.1 This Rule applies where the Council has decided that a Standing List shall be kept of suppliers or contractors to be invited to Tender for Contracts for the supply of goods, services or works of specified categories, values or amounts. Invitations to Tender are to be limited to those persons or bodies whose names are included on the List compiled and maintained for that purpose.

4.4.2 At least 4 weeks before a list is first compiled notices inviting applications for inclusion in it shall be published in accordance with clause 3.3.2

4.4.3 The List shall :-

- be compiled and maintained, including any addition or removal of suppliers, by the relevant Director or Head of Service;
- contain the names of all persons or bodies which are approved by the relevant Director or Head of Service; and
- indicate in respect of a person or body whose name is so included, the categories of contract and the values in respect of those categories for which approval has been given.
- remain in place for a period of 4 years after which time it shall be re-advertised in accordance with clause 3.3.2 above

4.4.4 Invitations to tender for a contract shall be sent to:

- not less than three (3) suppliers of goods and services or six (6) contractors for works as selected by the relevant Director or Head of Service from among those approved for a contract of the relevant category and amount of value; or
- where fewer than three persons or bodies are approved for a contract of the relevant category and amount of value, all those persons or bodies.

#### **5 SUBMISSION OF TENDERS**

5.1 Every Invitation to Tender shall state that Tenders should be submitted, other than under the provisions of clause 5.4 below, except in a plain sealed envelope which shall bear the word "Tender" followed by the subject and deadline for submission to which it relates, but shall not bear any name or mark indicating the sender.

5.2 Tenders shall be received and recorded in a register stating the date and time of receipt of Tenders by the Council. Tenders received after the date and time indicated for the receipt of Tenders shall not be accepted or considered.

5.3 Tenders shall be addressed to the Council's Contract and Asset Management Division and will remain in their secure custody until the time and date appointed for opening.

5.4 *Electronic Tenders* – Tender documentation may be despatched electronically, e.g. via e-mail, in a standard form approved by the Solicitor to the Council, and the relevant Director or Head of Service and in full compliance with the provision of these rules. The receipt of electronic tenders will only be permitted where their use has been clearly stated in the tender documentation, and appropriate provision has been made for the security of such submissions.

## **6 OPENING and ACCEPTANCE OF TENDERS**

6.1 Tenders received shall be opened and recorded at the same time in the presence of:-

- the Officer responsible for the contract or a duly authorised officer, and
- the Council's Procurement Officer, or another duly authorised independent officer

6.2 Where late tenders are received, these shall be opened and recorded in accordance with the Rules, before being returned to the sender.

6.3 Following evaluation of tenders, a decision will be made as to which Tender offers Best Value to the Council.

6.4 Where evaluation of Tenders reveals errors or discrepancies that would affect the final Tender figure in an otherwise successful Tender, the Tenderer is to be given details of such errors and discrepancies and afforded an opportunity of confirming, amending or withdrawing his Tender. If the Tenderer elects to amend his Tender and the revised Tender is no longer the lowest, or if he withdraws, the next Tender in competitive Order is to be evaluated and dealt with in the same way. Any amendment to or confirmation of the Tender shall be recorded in a form approved by the Solicitor to the Council.

6.5 The Solicitor to the Council must accept any tender that is subject to the European Union Procurement Regulations. The relevant Director or Head of Service or the Head of Contract and Asset Management may accept any other formal tender (below the OJEU limit) including other than the lowest tender. Tender assessment shall be based on Best Value to the Council where the criteria will include price and may encompass other areas such as quality of service, whole life cost, risk, compliance with the Council's Conditions of Contract and on environmental / sustainability grounds.

6.6 Where the acceptance of a tender exceeds the expected budget or requires additional expenditure not previously authorised, this must be approved by the Council or a Committee or Sub-Committee on its behalf, having considered a written report by the relevant Head of Service.

## **7 CONTRACT CONDITIONS**

7.1 Every contract over £50,000 must state:

- the work to be done or the services to be provided or the materials to be supplied;
- the price and any discounts;
- the time within which the contract is to be carried out;

- that the contractor will pay liquidated damages, estimated by the relevant Director or Head of Service if he/she fails to meet the terms of the contract;
- that, if the contract is not carried out properly or the time limit is not met, the Council can:
  - cancel all or part of the contract;
  - complete the contract and recover from the contractor any additional costs in completing the contract;
  - take other legal action against the contractor.

7.2 Where a Director or Head of Service considers that the conditions above are not appropriate to a particular contract, he/she must consult the Solicitor to the Council to ensure that such omissions do not adversely affect the Council's interest before excluding any or all from a contract.

7.3 The relevant Director or Head of Service is responsible for ensuring that the Council's position is protected from the time when the tender is accepted to the signing of contracts.

7.4 Every contract over £50,000 must be let under seal. The exceptions to this are:

- with a government department or another public body.
- for insurance or banking arrangements
- for the lease or purchase of vehicles, machinery or equipment
- which is deemed inappropriate for other reasons.

Such exceptions must be agreed before signing by the Solicitor to the Council or any other duly authorised officer of the Council

## **8 CONSTITUTIONAL EFFECT**

8.1 In the event of there being any conflict between these Rules and the Council's Scheme of Delegation, the provisions of these Rules shall prevail.

## **9 FINANCIAL LIMITS**

9.1 If required, the Head of Contract and Asset Management can alter the financial limits in these Rules annually, at the beginning of the Council's Financial Year, by:-

- Quotation Procedure (low threshold): an increment of not more than £1000
- Formal Tender Procedure (low threshold): an increment of not more than £2500

26 June 2008

# **Officer Employment Procedure Rules**

## **1. RECRUITMENT AND APPOINTMENT**

### (a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council;
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (b) Seeking support for appointment.

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council.

## **2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

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

### (a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

### (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

### (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

## **3. APPOINTMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS/MONITORING OFFICERS**

This process will be subject to any relevant statutory provisions.

## **4. OTHER APPOINTMENTS**

- (a) **Officers below Chief Officer.** Appointment of officers below chief officer is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

5. **Disciplinary action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by a resolution of the Council at an extraordinary or ordinary meeting whilst an investigation takes place into any alleged misconduct. That suspension will be on full pay and last no longer than two months. The Monitoring Officer and the Chief Finance Officer will not be suspended during the period during which they are undertaking a formal investigation under their statutory powers.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action against any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

6. **DISMISSAL**

Councillors will not be involved in the dismissal of any officer below chief officer (save for dismissal of the Monitoring Officer) except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.