

PART 4B - FINANCIAL PROCEDURE RULES

1.0 INTRODUCTION

1.1 What are Financial Procedure Rules?

1.1.1 Section 151 of the 1972 Act states that “every authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.

1.1.2 Financial Procedures provide the framework for managing the Council’s financial affairs. Financial Procedures are supported by more detailed Financial Management Standards which set out how the procedures will be implemented. These are listed in Appendix A.

1.1.3 The procedures identify the financial responsibilities of the full Council, the Cabinet and officers.

1.1.4 To avoid the need for regular amendment due to changes in post

(a) titles generic terms are included for officers as follows:

(b) The term, “Chief Internal Auditor”, refers to the Head of Internal Audit and Risk Management

(c) The term, “Executive Management Team (EMT)”, refers to the Council’s Chief Executive, the Executive Directors and the Executive Managers.

1.2 Why are they important?

1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.

1.2.2 Good, sound financial management is a key element of Corporate Governance which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

1.3 **Who do Financial Procedures apply to?**

- 1.3.1 Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.
- 1.3.2 These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- 1.3.3 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

1.4 **Who is responsible for ensuring that they are applied?**

- 1.4.1 Chief Officer/Deputy Chief Officers are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by his/her staff and contractors providing services on the Council's behalf and for reporting to the Section 151 Officer any known or suspected breaches of the procedures.
- 1.4.2 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Section 151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Cabinet Members.
- 1.4.3 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers/Deputy Chief Officers and others acting on behalf of the Council are required to follow.
- 1.4.4 Any person charged with the use or care of the Council's resources and assets should inform him or herself of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice.
- 1.4.5 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, he/she shall raise the issue with the Section 151 Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

2.0 **FINANCIAL MANAGEMENT – GENERAL ROLES AND RESPONSIBILITIES**

1.5 **The Role of the Full Council**

The Council is responsible for:

- 1.5.1 The adoption and revision of these Financial Procedure Rules;
- 1.5.2 The determination of the Policy Framework and Budget within which the Cabinet works;
- 1.5.3 Providing the Section 151 Officer with sufficient staff, accommodation and other resources to carry out his or her duties; and

1.5.4 approving and monitoring compliance with the Council's overall framework of accountability and control.

1.6 **The Role of the Cabinet**

The Cabinet is responsible for:

1.6.1 controlling the Council's financial resources;

1.6.2 proposing the Budget and Policy Framework to full Council; and

1.6.3 for discharging Executive Functions in accordance with the Budget and Policy Framework.

1.7 **The Role of the Section 151 Officer**

1.7.1 The Section 151 Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- (a) Section 151 of the 1972 Act
- (b) The Local Government Finance Act 1988
- (c) The 1989 Act
- (d) The Accounts and Audit Regulations 2011.

1.7.2 The Section 151 Officer is the Council's professional adviser on financial matters and is responsible for:

- (a) The proper administration of the Council's financial affairs.
- (b) Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the full Council for approval.
- (c) Reviewing, updating, and monitoring compliance with financial management standards.
- (d) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- (e) Providing training for Members and officers on Financial Procedures and Financial Management Standards.
- (f) Determining accounting policies and ensuring that they are applied consistently.
- (g) Determining accounting procedures and records of the Council.
- (h) Reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Cabinet.
- (i) Preparing and monitoring the revenue Budget, capital programme and Medium Term Financial Plan.

- (j) Ensuring the provision of an effective Internal Audit Function.
- (k) Ensuring the provision of an effective Treasury Management Function.
- (l) Advising on financial risk management.
- (m) Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- (n) Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.
- (o) Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- (p) Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice.
- (q) Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- (r) Ensuring that proper professional practices, standards and ethics are adhered to.
- (s) Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.

1.7.3 Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to the full Council and to the External Auditors if the Council or one of its officers:

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

1.7.4 Section 114 of the 1988 Act also requires:

- (a) The Section 151 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.
- (b) The Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Section 151 Officer.

1.7.5 The Section 151 Officer,

- (a) is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in

these procedures are properly carried out. The Council will also ensure that the Section 151 Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.

- (b) shall be given access to any information as is necessary to comply with his/her statutory duties and with the requirements and instructions of the Council.
- (c) shall be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish.
- (d) shall be sent prior notice of all meetings of the Cabinet and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if he/she so desires

1.8 The Role of Chief Officers

1.8.1 Chief Officers and Deputy Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.

1.8.2 Chief Officers and Deputy Chief Officers are responsible for:

- (a) Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Section 151 Officer.
- (b) Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer.
- (c) Consulting with the Section 151 Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
- (d) Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.
- (e) Inform immediately the Section 151 Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets.

3.0 FINANCIAL PLANNING

3.1 Strategic Planning

3.1.1 The full Council is responsible for agreeing the Council's Budget and Policy Framework which will be proposed by Cabinet.

3.1.2 The preparation of the medium term financial plan is part of the strategic Policy Framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable, and sustainable and reflect Council priorities.

3.1.3 The full Council is responsible for approving procedures for agreeing variations to approved Budget, 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. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

3.1.4 Chief Officers and Deputy Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas. Service improvement plans should align with Council values and priorities and be consistent with and based upon the Budget allocated by the Council to the service.

3.2 **Budget Preparation**

3.2.1 The Cabinet, in consultation with the Section 151 Officer is responsible for determining the general Budget strategy and issuing annual guidelines to Members and Chief Officers/Deputy Chief Officers on:

- (a) Preparing a detailed revenue Budget for the following year
- (b) Preparing the medium term financial plan (5 years)
- (c) Preparing the capital programme
- (d) The timetable for preparing and agreeing the Council's revenue and capital Budget

3.2.2 The guidelines will take account of:

- (a) Council priorities as reflected in the Council plan
- (b) Spending pressures
- (c) What future funding is available
- (d) What level of reserves are available
- (e) The affordability, sustainability and prudence of capital investment plans
- (f) Legal requirements
- (g) Value for money and other relevant government guidelines
- (h) Other internal policy documents
- (i) Cross-cutting issues (where relevant).

3.2.3 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures the consideration of the full Council's Policy Framework.

3.2.4 The Section 151 Officer is responsible for ensuring that a detailed revenue Budget is prepared on an annual basis and a general revenue plan on a five yearly basis (medium term financial plan) for consideration by Cabinet before submission to full Council.

- 3.2.3 The Section 151 Officer is responsible for ensuring a capital programme is prepared on an annual basis for consideration by Cabinet before submission to the full Council.
- 3.2.4 It is the responsibility of the Section 151 Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.
- 3.2.5 Chief Officers are responsible for ensuring that Budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

3.3 **Budget Approval**

- 3.3.1 The full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The Policy Framework comprises of a number of statutory plans and strategies.
- 3.3.2 The Council's revenue and capital Budget will be proposed by the Cabinet, (on the advice of the Section 151 Officer), and will be approved by the full Council.
- 3.3.3 The full Council may amend the proposed Budget or ask the Cabinet to reconsider it before approving it.

3.4 **Budget Transfers (Virements)**

- 3.4.1 During the year the Cabinet and Chief Officers/Deputy Chief Officers may need to transfer Budgets from one service area to another to reflect changed service needs or priorities in order to deliver the Budget policy framework within the financial limits set by the Council.
- 3.4.2 The full Council is 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. Decisions should be referred to the full council by the Monitoring Officer.
- 3.4.3 The full Council is responsible for setting the level at which the Cabinet may reallocate Budget funds from service to another.
- 3.4.4 The following limits have been approved for the authorisation of Budget transfers (Virements):

3.5 **Senior Managers**

- (a) Up to £20,000.00, between one budget head to another (standard groupings) for which they are responsible, during the financial year after notification to the Section 151 Officer.

3.6 **Chief Officers/Deputy Chief Officers**

- (b) Up to £68,000.00, between any one Budget head to another (Standard groupings) for which they are responsible, during the financial year with written approval of the Section 151 Officer.
- (c) Up to £68,000.00 in relation to grant funding, where the Chief Officer/Deputy Chief Officer will have the power, subject to consultation with The Section 151

Officer and any directions given by the Cabinet Member, to agree to any terms or restrictions applied by the grant funding to approve the receipt and spend of grant funding.

- (d) Up to £68,000.00 in relation to expenditure which generates additional income, where the Chief Officer/Deputy Chief Officer will have the power, subject to consultation with The Section 151 Officer and any directions given by the relevant Cabinet Members, approve additional expenditure that leads to the generation of a net surplus within the financial year.
- (e) The Section 151 Officer shall have power to amend the capital programme and vire between capital budgets up to £100,000 (without the need to submit the matter to Cabinet under paragraph 3.7 below) following consultation with the responsible Chief Officer/Deputy Chief Officer and subject to no written directions to the contrary from the Leader.

3.7 **Cabinet**

- (f) Individual transfers between Budget heads in excess of £68,001.00 following a joint report by the Section 151 Officer and the responsible Chief Officer/Deputy Chief Officer. The joint report must explain the implications in the current and future financial year.
- (g) To agree to any terms or restrictions applied by the funder and to approve the receipt and spend of any grant funding between £68,000.01 and £100,000.00.

3.8 **Full Council**

- (h) To agree to any terms or restrictions applied by the funder and to approve the receipt and spend of grant funding above £100,000.
- (i) Any transfer which results in an excess of 30% of a directorate gross Budget.

3.8.1 It is the responsibility of the Chief Officers/Deputy Chief Officers to:

- (a) Notify the Section 151 Officer of any Budget transfer agreed under delegated powers as set out above;
- (b) Give prior notice to Budget holders of any Budget transfer affecting their service area and provide an explanation of the reason for the Budget transfer.

3.8.2 Council approval is required for any Budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new Service or the termination of an existing Service.

3.8.3 A Capital Budget cannot be transferred to a revenue Budget head. – Virements can be made from revenue budgets to capital budgets.

3.9 **Budget Monitoring and the Control of Income and Expenditure**

3.9.1 The Section 151 Officer is responsible for:

- (a) Developing an effective framework of Budgetary management and control.
- (b) Providing appropriate financial information to enable Budgets to be monitored effectively.

- (c) Reporting to the Cabinet on the overall Council Budget monitoring position on a quarterly basis.
- (d) Ensuring that suitable controls are in place covering all payments to employees, Members and creditors.
- (e) Maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- (f) Advising Chief Officers/Deputy Chief Officers on all taxation issues that affect the Council.
- (g) Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- (h) Agreeing arrangements for the collection of income due to the Council.
- (i) Agreeing banking, borrowing and other credit requirements e.g. leasing.
- (j) Agreeing the write-off of bad debts in accordance with the Council's Debt Recovery Policy.

3.9.2 The Cabinet is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer/Deputy Chief Officer is authorised in this respect under the Scheme of Delegations in this Constitution.

3.9.3 It is the responsibility of Chief Officers/Deputy Chief Officers to:

- (a) Control income and expenditure within their service area.
- (b) Monitor performance in conjunction with the Budget taking account of financial information provided by the Section 151 Officer.
- (c) Report on spending variances within their own areas.
- (d) Take any corrective action necessary to avoid exceeding their Budget allocation and alert the Section 151 Officer to any problems

3.10 **Reporting Council Spending at Year End**

3.10.1 The Governance and Audit Committee is responsible for approving the annual Statements of Accounts.

3.10.2 The Chief Finance Office is responsible for:

- (a) Publishing a timetable for the closure of the accounts annually
- (b) Ensuring that the Council's annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority in the United Kingdom:
 - (i) A Statement of Recommended Practice CIPFA/LASAAC, the Accounts and Audit Regulations 2011 and any other relevant guidelines.

3.10.3 It is the responsibility of Chief Officers/Deputy Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

3.11 **Use of Council Reserves**

3.11.1 The Section 151 Officer is responsible for advising the Cabinet and/or the full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.

3.11.2 The Section 151 Officer will manage the Council reserves in accordance with decisions taken by the Cabinet and full Council.

3.11.3 The following limits be approved for the authorisation of transfers between reserves and Budgets:

Chief Officers/Deputy Chief Officers:

- (a) Any Chief Officer and any Deputy Chief Officer shall, subject to the prior approval by or on behalf of the Section 151 Officer and to any written directions given by the Leader, have power to approve the re-allocation of un-allocated reserve balances up to £68,000.00

Cabinet:

- (b) To approve the re-allocation of un-allocated reserve balances between £68,000.01 and £100,000.00

Full Council:

- (c) To approve the re-allocation of un-allocated reserve balances greater than £100,000.01

4.0 **RISK MANAGEMENT AND CONTROL OF RESOURCES**

4.1 **Risk Management**

4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

4.1.2 The Governance and Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.

4.1.3 The Executive Management Team is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.

4.1.4 The Chief Officers/Deputy Chief Officers are responsible for reviewing strategic risks and reporting progress on the management of strategic risk to the Cabinet.

4.1.5 It is the responsibility of Chief Officers/Deputy Chief Officers to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the Council's Corporate Risk Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).

4.2 **Internal Control**

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2.2 The Chief Internal Auditor, in consultation with the Section 151 Officer, is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- 4.2.3 It is the responsibility of Chief Officers/Deputy Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.
- 4.2.4 The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2011. As part of this statement, the Chief Executive and the Leader are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.

4.3 **Insurance**

- 4.3.1 Insurance provision is a way of managing risk.
- 4.3.2 The Section 151 Officer is responsible for:
- (a) Effecting insurance cover and dealing with all claims in consultation with other Chief Officers where necessary.
 - (b) Reviewing, at least annually, all insurances in consultation with Chief Officers where necessary.
- 4.3.3 It is the responsibility of Chief Officers/Deputy Chief Officers to:
- (a) Advise the Section 151 Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
 - (b) Notify the Section 151 Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and shall provide such information and explanations required by the Section 151 Officer or the Council's insurers
 - (c) Consult with the Monitoring Officer on the terms of any indemnity which they are requested to give on behalf of the Council.
 - (d) Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

4.3 **Audit Requirements**

- 4.4.1 The requirement for an internal audit function for local authorities is implied by section 151 of the 1972 Act, and section 112 of the Local Government Finance Act 1988, which require that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2011 require that a, “relevant body must undertake an adequate and effective internal audit of its accounting records and of its systems of internal control” and must “at least once in each year conduct a review of the effectiveness of its internal audit.”
- 4.4.2 The Section 151 Officer, as determined by the Council, will ensure that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.
- 4.4.3 The strategy and terms of reference for Internal Audit are reviewed and approved by the Governance and Audit Committee.
- 4.4.4 An external auditor is appointed 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. They are also required to follow the current Audit Code of Practice. The duties include reviewing the work of the internal auditors.
- 4.4.5 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- 4.4.6 The Section 151 Officer is responsible for reporting to the Governance and Audit Committee and/or Cabinet, where appropriate, the findings of these inspections and taking relevant action to implement recommendations and action required.

4.4 **Preventing Fraud and Corruption**

- 4.4.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- 4.4.2 The Section 151 Officer is responsible for the development maintenance and review of an anti-fraud and anti-corruption policy.
- 4.4.3 It is the responsibility of Chief Officers/Deputy Chief Officers to promote the Anti-fraud and Anti-corruption policy within their Service areas and ensure that all suspected irregularities are reported to the Chief Internal Auditor.
- 4.4.4 The Chief Internal Auditor will take whatever steps are considered necessary, on behalf of the Section 151 Officer, to investigate and report upon the matter. Chief Officers/Deputy Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration.
- 4.4.5 It is the responsibility of the Governance and Audit Committee to approve policies and strategies relating to fraud and whistle-blowing arrangements and to receive reports on any detected internal frauds.

4.5 Use of and Disposal of Assets

- 4.5.1 The Section 151 Officer is responsible for issuing procedures to safeguard the use and disposal of Council assets.
- 4.5.2 Chief Officers/Deputy Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody all assets within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Section 151 Officer.

4.6 Treasury Management

- 4.6.1 The Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Service Code of Practice.
- 4.6.2 Accordingly, the full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.
- 4.6.3 The full Council is also responsible for approving Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 4.6.4 The Council will receive reports on its Treasury Management policies practices and activities, including as a minimum, an annual strategy and plan for the coming financial year at or before the start of each financial year and an annual report after its close, in the form prescribed in the TMPs.
- 4.6.5 The Council has delegated its responsibility for the implementation and monitoring of its Treasury Management policies and practices to the Governance and Audit Committee.
- 4.6.6 Responsibility for the execution and administration of its Treasury Management decisions, including decisions on borrowing, investment and financing, have been delegated to the Section 151 Officer, who will act in accordance with the Council's policy statements and TMPs.

4.7 Banking

- 4.7.1 All arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts shall be made solely upon direction of the Section 151 Officer.
- 4.7.2 The Section 151 Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.
- 4.7.3 Chief Officers/Deputy Chief Officers are responsible for ensuring that all banking arrangements determined by the Chief Finance Office are observed and to advise him or her of any changes in their Services that may require a change in these arrangements.

4.8 Income Collection

- 4.8.1 The Section 151 Officer is responsible for approving all methods of income collection, records and systems.

- 4.8.2 The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 (as amended).
- 4.8.3 Accordingly, the Governance and Audit Committee is responsible for the approving the Council's' Money Laundering Policy.
- 4.8.4 Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the Section 151 Officer who is responsible for nominating an officer (and deputy) to act as the Council's Money Laundering Reporting Officer.
- 4.8.5 Chief Officers/Deputy Chief Officers are responsible for:
- (a) Ensuring all income is held securely
 - (b) Ensuring for compliance with income and banking arrangements specified by the Section 151 Officer
 - (c) In consultation with the Section 151 Officer reviewing fees and charges, at least annually.

4.9 **External Funding**

- 4.10.1 Chief Officers/Deputy Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the Section 151 Officer.
- 4.10.2 Chief Officers/Deputy Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained and the source of external funding confirmed.
- 4.10.3 The Section 151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officers/Deputy Chief Officers are responsible for providing all necessary information to enable this to be achieved.

4.10 **Debt Collection**

- 4.11.1 The Cabinet is responsible for approving the Council's debt recovery policy.
- 4.11.2 The Section 151 Officer is responsible for maintaining records of debts and the implementation of the Council's debt recovery policy.
- 4.11.3 Chief Officers/Deputy Chief Officers are responsible for:
- (a) Ensuring effective systems are in place to allow sums due to the Council to be easily identified
 - (b) Ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken.
 - (c) Assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the Section 151 Officer.

- (d) Ensuring that the appropriate approval, as specified in the debt recovery policy, is obtained to write off debts

5.0 **PARTNERSHIPS**

- 5.1 The Cabinet is the focus for forming partnerships with other local, public, private, voluntary and community sector organisations. The Cabinet is responsible for approving any delegations of its powers, to address local needs.
- 5.2 The Council or the Cabinet can delegate its functions, including those relating to partnerships to officers. Details are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.
- 5.3 The Chief Executive or the appropriate Chief Officer or senior officer nominated by the Chief Officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.
- 5.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.
- 5.5 The Section 151 Officer is responsible for ensuring 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 when arranging contracts with external bodies. He or she must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 5.6 Chief Officers/Deputy Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

APPENDIX A - FINANCIAL MANAGEMENT STANDARDS

- FMS01 Introduction to Financial Management Standards
- FMS02 Budget Preparation & Medium Term Financial Planning
- FMS03 Budget Monitoring and Reporting
- FMS04 Accounting Policies
- FMS05 Accounting Records and Returns
- FMS06 Preparation and Monitoring of the Capital Programme
- FMS07 Annual Statement of Accounts
- FMS08 Performance Plans
- FMS09 Maintenance of Reserves
- FMS10 Risk Management
- FMS11 Audit Requirements
- FMS12 Internal Control
- FMS13 Safeguarding of Assets

FMS14	Insurance
FMS15	Treasury Management
FMS16	Banking
FMS17	Income Collection
FMS18	Debt Recovery
FMS19	Corporate Credit Cards
FMS20	Purchase Cards
FMS21	Payroll & Personnel Requirements
FMS22	Taxation
FMS23	Trading Accounts and Business Units
FMS24	Contracts, Agreements & Purchasing
FMS25	Partnerships
FMS26	External Funding
FMS27	Work for Third Parties
FMS28	Area Action Partnerships

CONTRACT PROCEDURE RULES

1.0 **BASIC PRINCIPLES**

1.1 All procurement procedures must:

- (a) realise value for money by achieving the optimum combination of whole life costs, and quality of outcome,
- (b) be consistent with the highest standards of integrity,
- (c) operate in a transparent manner,
- (d) ensure fairness in allocating public contracts,
- (e) comply with all legal requirements including European Union (EU) treaty principles,
- (f) ensure that non-commercial considerations do not influence any contracting decision,
- (g) support all relevant Council priorities and policies, including the Medium Term Financial Plan, and
- (h) comply with the Procurement Guidance for Officers.

Note: These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise.

2.0 **OFFICER RESPONSIBILITIES**

2.1 **Officers**

2.1.1 Officers will comply with:

- (a) these Contract Procedure Rules (CPRs);
- (b) the Council's Constitution; and
- (c) with all UK and EU legal requirements (including ensuring that any contractors are mandatorily excluded from participation in a procurement procedure where Regulation 57 of the Public Contracts Regulations 2015 applies).

2.1.2 Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.3 Officers will:

- (a) keep the records required by Rule 5 of these Contract Procedure Rules,
- (b) take all necessary procurement, legal, financial and professional advice, taking into account the requirements of these Contract Procedure Rules,
- (c) prior to letting a contract on behalf of the Council, check whether:
 - (i) the Council already has an appropriate contract in place in the Contracts Register, or:
 - (ii) an appropriate national, regional or other collaborative contract is already in place.

Where the Council already has an appropriate contract in place, then this must be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular case, and this is agreed following consultation with Contracts Team.

Where an appropriate national, regional or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.

- (d) ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.

2.1.4 Failure to comply with any of the provisions of these Contract Procedure Rules the Council's Constitution or UK or EU legal requirements may be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Officer as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

2.1.5 A contract may, where considered expedient by a Chief Officer/Deputy Chief Officer, be let through any framework agreement to which the Council has access. Where the

contract to be let is subject to the EU Procurement Rules, use of such framework agreement shall be subject to compliance with EU Procurement rules.

2.2 **Chief Officers / Deputy Chief Officers**

2.2.1 Chief Officers/Deputy Chief Officers will:

- (a) ensure their Service Grouping complies fully and are familiar with the requirements of these Contract Procedure Rules,
- (b) ensure contracts are recorded in the Contracts Register as held and maintained by Contracts Team,
- (c) ensure compliance with English Law, U.K. and EU legislation and Council policy (including ensuring that any contractors are mandatorily excluded from participation in a procurement procedure where Regulation 57 of the Public Contracts Regulations 2015 applies);
- (d) ensure value for money and optimise risk allocation in all procurement matters;
- (e) ensure compliance with any guidelines issued in respect of these Contract Procedure Rules
- (f) take immediate action in the event of a breach of the Contract Procedure Rules or any Code of Practice within their directorate or service area;
- (g) ensure that all existing and new contracts anticipated during the forthcoming financial year are clearly itemized in the Budget supporting documentation;
- (h) make appropriate arrangements for the opening of tenders and their secure retention;
- (i) submit to the Contracts Team tender forms as required by these Contract Procedure Rules;
- (j) ensure original contract documents are forwarded to the Shared Executive Manager Governance for safekeeping;
- (k) ensure effective contract management, contract reviews and monitoring during the lifetime of all contracts in their areas;
- (l) seek and act upon advice from the Contracts Team where necessary to ensure compliance with these responsibilities; and
- (m) keep records of waivers/variations of any provision of these Contract Procedure Rules.

2.2.2 Chief Officers/Deputy Chief Officers must keep a register of:

- (a) contracts entered into by or on behalf of the Council, and
- (b) exemptions recorded under Rule 3 and satisfy themselves that the use of exemptions has been monitored by the Contracts Team.

3.0 **VARIATIONS AND EXEMPTIONS**

3.1 Except where the Public Contracts Regulations 2006 apply, the Cabinet has the power to waive any requirements within these Contract Procedure Rules for specific projects. An exemption under this Rule 3 allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Rule 9.

3.2 Additionally, these Contract Procedure Rules may be waived or varied where the circumstances are certified by the Contracts Team as meeting any of the following criteria:

- (a) for works, supplies or services which are either patented or of such special character that it is not possible to obtain competitive prices;
- (b) for supplies purchased or sold in a public market or auction;
- (c) for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills;
- (d) with an organisation which has won a contract for an earlier phase of work via a competitive process and where the work forms part of a serial programme and has previously been identified as such;
- (e) with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement, without exposing the Council to unacceptable risk;
- (f) for works, supplies or services which are only available from one organisation;
- (g) involving such urgency that it is not possible to comply with the Contract Procedure Rules;
- (h) for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;
- (i) in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
- (j) where relevant UK or EU legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;
- (k) goods works or services contracts may be awarded directly to companies which can be legally defined as a "Teckal" company. The control the local authority exercises over the company must be similar to that which it exercises over its own departments; and at least 80% of the function of the company's activities must be with the controlling local authority or authorities.

3.3 In addition to approval by the Contracts Team:

- (a) the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government department,

health authority, primary care trust, statutory undertaker or public service purchasing consortium.

- (b) The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause:
 - (i) Disproportionate technical difficulties
 - (ii) Diseconomies
 - (iii) Significant disruption to the delivery of Council services.
- 3.4 Every variation/exemption form will be recorded on a master register to be maintained by the Contracts Team.
- 3.5 Where a variation/exemption is being applied for by the Contracts Team, it must also be scrutinised by the Monitoring or S151 Officer, to ensure the robustness of the procedure.
- 3.6 The use of e-procurement does not negate the requirement to comply with all elements of these Contract Procedure Rules. The circumstances under which an exemption to the use of e-procurement can be requested are detailed in Rule 11.
- 3.7 Where a variation/exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, Chief Officers/Deputy Chief Officers may approve the exemption but must prepare a report for the next meeting of the Cabinet to support the action taken.
- 3.8 Any exemption granted for more than one year must be reviewed annually and either reconfirmed or amended.
- 3.9 Where grant conditions require expenditure to be incurred within a financial year, and notification of grant is received so late as to prevent compliance with CPR 9, an exemption may be approved by the Corporate Management Team on receipt of a report from the Chief Officer/Deputy Chief Officer.
- 3.10 The Contracts Team must monitor the use of all exemptions.

4.0 **RELEVANT CONTRACTS**

- 4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials or services. These include arrangements for:
 - (a) the supply or disposal of goods or materials,
 - (b) the hire, rental or lease of goods or equipment,
 - (c) execution of works,
 - (d) the delivery of services, including (but not limited to) those related to:
 - (i) the recruitment of staff
 - (ii) land and property transactions

- (i) financial and consultancy services
- (iv) the supply of staff by employment agents, consultants or any other companies

4.2 Relevant Contracts do not include:

- (a) contracts of employment which make an individual a direct employee of the authority,
- (b) agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply), or:
- (b) the payment of grants to third parties.

Note: While grants are not covered by these Contract Procedure Rules, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat a procurement, as a grant in order to avoid conducting a competitive process.

5.0 **RECORDS**

1.0 The Public Contracts Regulations 2015 require contracting authorities to maintain the following comprehensive records of procurement activities:

- (a) contract details including value
- (b) selection decision
- (c) justification for use of the selected procedure
- (d) names of bidding organisations, both successful and unsuccessful
- (e) reasons for selection
- (f) reasons for abandoning a procedure

5.2 The outcome of any competitive procurement process must be recorded in a Report and submitted to the Contracts Team. The Contracts Team will maintain a register of all such Reports. Information from these Reports will also be used for the tracking of procurement savings, sustainability benefits, and other data.

5.3 Where the total value is less than £75,000.00 for works and £75,000.00 for supplies of goods materials or services, the following documents must be kept;

- (a) invitations to quote;
- (b) a written record of:
 - (i) any exemptions and reasons for it; and
 - (ii) the reasons if the lowest price is not accepted
- (c) Written records of communications with the successful contractor.

- 5.4 Where the total value exceeds £75,000.00 for works and £75,000.00 for supplies of goods, materials or services, the Officer must record:
- (a) pre-tender market research;
 - (b) the method of obtaining bids
 - (c) any contracting decision and the reason for it
 - (d) any exemption under Rule 3 together with the reasons for it
 - (e) the award criteria
 - (f) tender documents sent to and received from candidates
 - (g) the contract documents
 - (h) clarification and post-tender negotiation (to include minutes of meetings)
 - (i) written records of communications with candidates and with the successful contractor throughout the period of the contract
- 5.5 Written records required by this Rule 5 must be kept for six years (twelve years if the contract is under seal) after the final settlement of the contract. However, documents which relate to unsuccessful candidates may be microfilmed or electronically scanned or stored by some suitable method after twelve months from award of contract, provided there is no dispute about the award.
- 5.6 Prospective candidates must be notified simultaneously in writing and as soon as possible of any contracting decision. If a candidate requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request.
- 5.7 The Freedom of Information Act 2000 gives a general right of public access to all types of 'recorded' information held by public authorities, sets out exemptions from that general right, and places a number of obligations on public authorities with regard to the disclosures of information. The Council will, as a general rule, allow public access to recorded information where possible and the contractor shall agree to the Council making any disclosures in accordance with the Act.
- 6.0 **RISK ASSESSMENT**
- 6.1 All procurements via Invitation to Tender, and Requests for Quotation where appropriate, must be supported by a risk assessment. This risk assessment must be carried out at the start of the procurement process.
- 6.2 The risk assessment process will identify where further specialist advice should be sought.
- 6.3 Full details of the process to be followed, including the approved risk log and matrix, are available in the Procurement Guidance for Officers.

7.0 **ADVERTISING**

7.1 The Procurement Officer will ensure that the minimum advertising requirements, in line with EU treaty principles and as outlined in the Procurement Guidance for Officers, are met.

8.0 **APPROVED LISTS AND FRAMEWORK AGREEMENTS**

8.1 **Approved Lists**

8.1.1 Approved lists must not be used where they are prohibited under the Public Contracts Regulations 2015.

8.1.2 This Rule shall have effect where the Council has determined that a Standing List or Lists shall be kept of persons suitable for undertaking contracts for the execution of specified categories of work or for the supply of specified categories of goods, materials or services within such values or amounts as may be specified.

8.1.3 Standing Lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Standing Lists cannot be used where the EU Procedure applies.

8.1.4 Standing Lists shall:

- (a) be compiled following the procedure stipulated in this Rule 0
- (b) contain the names and addresses of all persons whose requests to be included have been approved by the Deputy Chief Officer in consultation with the Contracts Team.
- (c) no persons may be entered on a Standing List until there has been an adequate investigation into both their financial and technical ability to perform the contract, unless such matters will be investigated each time tenders are invited from that list.
- (d) no persons shall be precluded from inclusion on a Standing List other than for good reasons.
- (e) indicate whether a person whose name is included is approved for contracts of all or only some of the specified categories, values or amounts.
- (f) be kept by the relevant Deputy Chief Officer who will co-ordinate all enquires in respect of the list.
- (g) Standing Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure widest publicity amongst relevant suppliers and not less than four weeks before the list is first compiled. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 0 are met.

8.1.5 Standing Lists and shortlisting criteria must be reviewed at least annually and re-advertised at least every three years, Review means:

- (a) the reassessment of the financial, technical ability and performance of those persons on the list unless such matters will be investigated each time Candidates are invited from that list, and
- (b) the deletion of those persons no longer qualified, with a written record kept justifying the deletion.

8.1.6 On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to apply at least four weeks before each review.

8.1.7 All Standing Lists must be open to public inspection.

8.1.8 Where invitation to tender for a contract is limited to persons whose names appear on a Standing List maintained under this Rule 0, an invitation to tender for that contract shall be sent to at least four of those persons. Each person invited to tender must be approved for a contract for the category, value or amount selected. If there are insufficient suitably qualified persons to meet the competition requirement, all suitably qualified persons must be invited.

8.2 **Framework Agreements**

8.2.1 Framework Agreements are agreements between the Council and one or more suppliers for the provision of goods, works or services on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period.

8.2.2 The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

8.2.3 Where Frameworks are awarded to several organisations, contracts based on Framework Agreements may be awarded in one of two ways, as follows:

- (a) where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or
- (b) where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
 - (i) inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,
 - (ii) awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant Award Criteria set out in the Framework Agreement.

9.0 COMPETITION REQUIREMENTS / ASSETS FOR DISPOSAL

9.1 Competition Requirements

9.1.1 The Procurement Officer must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded. Where EU Procurement rules apply, Chief Officers/Deputy Chief Officers must also ascertain the value of a contract in accordance with those rules.

9.1.2 Contracts must not be artificially under or over estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules/EU Regulations and UK legislation.

9.1.3 Where the estimated total value for a purchase is within the values in the first, second and third columns of the table below, the tendering procedure in the fourth column must be followed.

Works	Supply of Goods, Materials and Services	Consultants	Tendering Procedure
up to £4,999	up to £4,000	up to £4,999	One quote – this should be a local provider unless not appropriate. A purchase order should be raised.
£5,000 - £24,999	£5,000 - £24,999		At least three quotes shall be sought. Local providers must have been given an opportunity to provide a quote. A purchase order should be raised.
£25,000 to £74,999	£25,000 to £74,999	£25,000 to £74,999	At least five written quotes shall be sought. Local providers must have been given an opportunity to provide a quote. A purchase order should be raised.
£75,000 up to EU	£75,000 up to EU	£75,000 up to EU	Open tender via E-

Procurement Threshold	Procurement Threshold	Procurement Threshold	Tendering Portal including use of Contracts Finder. A social value clause must be built into the specification and contract. A purchase order should be raised.
Above £4,104,394 EU threshold*)	Above £164,176 (EU threshold)	Above £164,176 (EU threshold)	EU Procedure – via E-Tendering Portal & OJEU notice. Local social value clause must be built into the specification and contract. A purchase order should be raised.

*Latest published EU Procurement Thresholds January 2016. These amounts will need to be updated as and when EU Thresholds change.

9.1.4 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements, all suitably qualified candidates must be invited.

9.1.5 An officer must not enter into separate contracts nor select a method of calculating the total value in order to minimize the application of the Contract Procedure Rules.

9.1.6 Where services are currently purchased internally, i.e. from within the Council, for internal provision, the requirement to obtain other quotations or tenders does not apply. However, the purchaser may choose to seek alternative quotations/tenders for the purpose of market testing.

9.1.7 Where the Public Contracts Regulations 2015 apply, the procuring Officer shall consult the Contracts Team to determine the procedure for conducting the procurement exercise.

9.1.8 External consultants and other professional advisers shall only be appointed if the process of tendering as prescribed for contracts in Parts B or C above has been followed except

- (a) where the nature of the work is deemed by a Chief Officer/Deputy Chief Officer to be so specialised as to preclude quotations or tenders being received from more than one source; or
- (b) where the advice or work of a consultant is in the opinion of the Chief Officer/Deputy Chief Officer required as a matter of urgency; or
- (c) the appointment is made from a list approved by the relevant Cabinet Member and the fee involved does not exceed £10,000

9.1.9 After the exercise of this power a report shall be made to the relevant Cabinet Member and if they so require a further report shall be made to the Cabinet

9.2 **Assets for Disposal**

9.2.1 Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.

9.2.2 Assets for disposal must be sent to Public Sale except where better value for money is likely to be obtained by inviting quotations and tenders. In the latter event, the method for disposal of surplus or obsolete stocks/stores or assets other than land must be determined as follows:

Total Value	Procedure
Up to £5,000	Two written quotations or public sale
£5,000.01 and above	At least three written quotations or public sale, or an invitation to tender

10.0 **PRE-TENDER MARKET TESTING AND CONSULTATION**

10.1 The Council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation,

10.2 When engaging with potential suppliers, the Council must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, and where this may prejudice the equal treatment of all potential bidding organisations or distort competition,

10.3 In undertaking any market testing activities, the Officer responsible should refer to any guidance contained in the Procurement Guidance for Officers.

11.0 **EVALUATION CRITERIA AND STANDARDS**

11.1 **Evaluation Criteria**

11.1.1 In any procurement exercise the successful bid should be the one which:

- (a) offers the lowest price where payment is to be made by the Council, or offers the highest price if payment is to be received, or:
- (b) offers the most economically advantageous balance between quality and price.

11.1.2 In the latter case, the Council will use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous, for example: price, service, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, safety, after-sales service, technical assistance, delivery date, delivery period and period of completion.

11.1.3 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of sub-contractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

11.1.4 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

11.1.5 The evaluation criteria must not include:

- (a) Non-commercial considerations
- (b) Matters which discriminate against suppliers from the European Economic Area *or signatories to the Government Procurement Agreement*.
- (c) Matters which are anti-competitive within the meaning of the Local Government Act 1988.

11.2 **Standards**

11.2.1 Relevant British, EU and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract. The Monitoring Officer must be consulted if the officer proposes to use standards other than European standards.

11.2.2 Officers should refer to any further guidance outlined in the Procurement Guidance for Officers.

12.0 **INVITATION TO TENDER / REQUEST FOR QUOTATION**

12.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these Contract Procedure Rules, with particular attention to Rule 7, Rule 9 and Rule 17.

12.2 The Invitation to Tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No tender delivered in contravention of this Rule 12.2 shall be considered.

12.3 All Invitations to Tender shall include the following:

- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of contract that will apply.
- (b) A requirement for candidates to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the candidate to any other party (except where such disclosure is made in confidence for a necessary purpose).

- (c) A requirement for candidates to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
- (d) Notification that tenders are submitted to the Council on the basis that they are compiled at the candidates expense.
- (e) A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance.
- (f) The method by which arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

12.4 The Invitation to Tender or Requests for Quotation must state that the Council is not bound to accept any tender or quotation.

12.5 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

13.0 **SHORTLISTING**

13.1 Any shortlisting (i.e. supplier selection or pre-qualification) must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the Public Contracts Regulations 2015.

14.0 **SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS**

14.1 **Tenders**

14.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. Where the Public Contract Regulations 2015 apply, Part 3 of the Regulations lays down specific minimum time periods for tenders.

14.2 **Tender Contents**

14.2.1 Each tender must contain:

- (a) An undertaking signed by the tenderer that to the best of their knowledge and belief they have complied with all the relevant provisions of the Health and Safety at Work Act 1974 and regulations made under it;
- (b) A statement that the tenderer will comply with all current relevant British Standard Specification or Code of Practice or equivalent European Union or international standards offering guarantees of safety, reliability and fitness for purpose;
- (c) A statement by the tenderer that they will not try to obtain or receive by whatever means any information which gives or is intended to give the tenderer or another party any unfair advantage over any other tenderer (including the Council's own

workforce) in relation to the tendering for and award of any works/services contract;

- (d) A statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; nor shall the Council have to give reasons for the rejection of any tender and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.

14.3 **Electronic Arrangements**

14.3.1 Quotations, Further Competition bids and Pre-Qualification Questionnaires which are received electronically will be opened by the Contracts Team. The system will not allow any quotations to be opened until the allocated return date / time has passed.

14.3.2 Tenders which are received electronically via the e-tendering system will be opened by a representative from the Authorised officer of relevant team.

14.4 **Hard Copy Arrangements**

14.4.1 In the event that 'hard copy' tenders are to be accepted these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Monitoring Officer without any mark revealing the bidding organisation's identity.

14.4.2 All hard copy tenders will be held by the Monitoring Officer until the tender opening date/time has been reached. The Monitoring Officer must not disclose the names of candidates to any staff involved in the receipt, custody or opening of tenders. Receipt of each tender must be

- (a) Date stamped;
- (b) Initialled by the receiving officer or the Monitoring Officer; and
- (c) Logged immediately upon receipt in the tender register.
- (d) All hard copy tenders for the same contract will be opened at the same time by a representative of the Chief Officer/Deputy Chief Officer who invited the tenders and a representative from the Authorised officer of relevant team. A register of tenders received will be kept by the Authorised officer of relevant team and will be initialled on each occasion by the officers who are present at the opening of the tenders.

14.4.3 In the event that hard copy quotations are to be accepted these must be submitted in a plain envelope marked 'Quotation for....' followed by a description of the goods, works or services being procured.

14.4.5 Hard copy quotations will be received directly by Service staff. All quotations must be opened together once the official return date / time has been passed in the presence of at least two persons who shall comprise the Chief Officer/Deputy Chief Officer or their authorised representative (on Principal Officer grade or above) and in the presence of at least one other officer.

15.0 **CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS**

- 15.1 Providing clarification of an Invitation to tender to potential or actual candidates or seeking clarification of a tender whether in writing or by way of a meeting is permitted. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission.
- 15.2 Post tender negotiation means negotiations with any tenderer after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. It must not be conducted in an *EU Procedure* where this might distort competition particularly with regard to price. Where post tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.
- 15.3 If post tender negotiations are necessary after a single stage tender or after the second stage of a two stage tender, then such negotiations shall only be undertaken with the tenderer who has previously been identified as submitting the best tender. Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Chief Officer/Deputy Chief Officer to carry out post tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 15.4 Post tender negotiation must only be conducted in accordance with guidance given by the Monitoring Officer and Contracts Team.
- 15.5 The Monitoring Officer and Contracts Team must be consulted:
- (a) Wherever it is proposed to enter into post tender negotiation
 - (b) About whether negotiation is with all tenderers.
- 15.6 Negotiations must be conducted by a team of at least two officers, one of whom must be from a section independent to that leading negotiation.

16.0 **EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS**

16.1 **Evaluation**

- 16.1.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations, and in line with any guidance detailed in the Procurement Guidance for Officers.
- 16.1.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 16.1.3 Deputy Chief Officers must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

16.2 **Award of Contract**

- 16.2.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
- 16.2.2 Where procurement has been subject to the Public Contract Regulations 2015, the Alcatel Standstill (a 10 day standstill period before a contract can be awarded to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award) will need to be included in the procurement timetable before the contract can be awarded.
- 16.2.3 Decisions on award of contract must be made in accordance with the scheme of delegations in Part 3 of the Constitution.

16.3 **Debriefing**

- 16.3.1 The debriefing of organisations must be carried out in line with any guidance detailed in the Procurement Guidance for Officers.

17.0 **NOMINATED SUB CONTRACTS**

- 17.1 The following provision shall have effect where the Council proposes to enter into a contract for the execution of work with a person ('the main contractor') and also proposes to nominate the main contractor one or more sub-contractors or suppliers for the execution of work or the supply of goods, materials or services within the main contract.
- 17.2 Tenders for the nomination shall be invited in accordance with the relevant provisions of Rule 9.
- 17.3 The terms of the invitation shall require an undertaking by the tenderer that if selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work or goods, materials or services in the sub-contract;
- 17.4 The Chief Officer/Deputy Chief Officer concerned or their authorised representative shall nominate to the main contractor a person whose tender is in their opinion most suitable. Provided that where the tender is other than the lowest received, the circumstances shall be reported appropriately.
- 17.5 Tenders received under this Rule 17 must comply with Rules 0 and 0.

18.0 **CONTRACT DOCUMENTS**

18.1 **Format of Contract Documents**

- 18.1.2 Every formal written contract for the supply of goods or materials shall provide that should the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract, The Council, without prejudice to any other remedy for breach of contract, shall determine the contract either wholly or to the extent of such default and to purchase other goods, or materials, as the case may be, of the same or similar description to make good:

- (a) such default; or

in the event of the contract being wholly determined the goods or materials remaining to be delivered.

18.1.3 The clause shall further secure that the amount by which the cost of so purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials, if they had been delivered in accordance with the contract, shall be recoverable from the contractor.

18.1.4 Every Relevant Contract/must be in writing and must state clearly:

- (a) what is to be supplied (description and quality)
- (b) payment provisions (amount and timing)
- (c) when the Council will have the right to terminate the contract
- (d) that the contract is subject to the law as to prevention of corruption

18.1.5 The Council's standard terms and conditions must be used where possible.

18.1.6 In addition, every Relevant Contract for purchases over £25,001.00 for works, £25,001.00 for supplies of goods, materials or services and £10,000.00 for consultants must also as a minimum state clearly:

- (a) that the contractor may not assign or sub-contract without prior written consent;
- (b) any insurance and liability requirements;
- (c) health and safety requirements;
- (d) ombudsman requirements;
- (e) data protection requirements if relevant;
- (f) that charter standards are to be met if relevant;
- (g) requirements under the Equalities Act 2010;
- (h) obligations under the Care Act 2014 in safeguarding adults and children;
- (i) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, including obligations under the Freedom of Information Act 2000 and 2015 Transparency Code;
- (j) requirements under the Counter-terrorism and Security Act 2015 and Prevent Strategy where applicable;
- (k) Obligations under the Public Interest Disclosure Act 1998 including employee whistleblowing.
- (l) statement requirements under the Modern Slavery Act 2015.

18.1.7 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer. An award letter is insufficient.

18.1.8 All contracts must include the following paragraph:

'The Contractor recognises that the Council is under a duty to act in a manner which is compatible with the Convention rights as defined by Section 1(1) of the Human Rights Act 1998 ('Convention Rights'). This duty includes a positive obligation on the Council to ensure that contractors providing services on the Council's behalf act in a way which is compatible with the Convention Rights. The Contractor therefore agrees to provide the Services and comply with its other obligations under this contract in a manner which is compatible with the Convention Rights.'

18.1.9 The Officer responsible for securing the signature of the contractor must ensure) that the person signing for the contracting party has authority to bind it.

18.2 **Contract Signature**

18.2.1 A contract entered into by or on behalf of the Council must:

- (a) Where the contract is in the form of a deed, be made under the Council's seal and attested as required by the Constitution, or:
- (b) Where the contract is in the form of an agreement, either:
 - (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:
 - (ii) be formalised by the sending of an award letter and the subsequent issuing of a purchase order.

18.2.2 A contract must be sealed where;

- (a) The Council wishes to enforce the contract for more than six years after it ends
- (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services
- (c) Where there is any doubt about the authority of the person signing for the contracting party
- (d) Where the total value is expected to exceed £75,000.00.

18.3 **Legal Services Review of Tenders and Contracts**

18.3.1 To ensure the integrity of the procurement process:

- (a) All proposed Invitations to Tender, where they are not in compliance with the Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by the Deputy Chief Officer.
- (b) Any proposed Invitations to Tender which are subject to the Public Contracts Regulations 2006, or which are deemed to be of high risk, must be reviewed by the Deputy Chief Officer.
- (c) Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by the Deputy Chief Officer.

19.0 **DIRECT EMPLOYMENT OF LABOUR**

19.1 Every formal written contract for the execution of work shall incorporate the following conditions:

- (a) The Contractor shall be responsible for ensuring that all person employed by the, and by any Sub-Contractor, in the work are in the Contractor's or Sub-Contractor's direct employment and it is expressly agreed between the parties hereto that the Contractor and Sub-Contractor shall not use 'lump labour' on or about the work.
- (b) The expression 'lump labour' shall mean the practice of individual workpeople or groups of workpeople contracting as independent labour only sub-contracts and not being in the direct employment of the Contractor or Sub-Contractor.
- (c) The Contractor will use their best endeavours, utilising the appropriate Government employment agencies if necessary, to employ local persons in the execution of the work.

20.0 **LIQUIDATED DAMAGES, BONDS AND PARENT COMPANY GUARANTEES**

20.1 Every formal written contract which exceeds £75,000.00 in value or amount and is for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.

20.2 The Officer must consult the Deputy Chief Officer when a tenderer is a subsidiary of a parent company and the officer does not think that a parent company guarantor is necessary, and:

- (a) The total value exceeds £75,000.00.
- (b) Award is based on evaluation of the parent company, or
- (c) There is some concern about the stability of the tenderer.

20.3 The officer must consult the Deputy Chief Officer about whether a bond is needed:

- (a) Where the total value exceeds £75,000.00.
- (b) Where it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

21.0 **PREVENTION OF CORRUPTION**

21.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.

21.2 The following clauses must be put in every written Council contract:

'The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- (a) *Offer, give or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or*

- (b) *Commit an offence under the Bribery Act 2010 or Section 117(2) of the 1972 Act; or*
- (c) *Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.*

Any clause limiting the Contractor's liability shall not apply to this cause.'

21.3 Any suspected irregularity shall be referred to the Audit Manager who shall notify the Monitoring Officer where necessary. Any examination of contractors' or tenderers' books and records as a result of any such suspected irregularity shall be conducted by the Audit Manager. If, in the investigation of any irregularity, the Monitoring Officer considers that disciplinary procedures may need to be invoked, the appropriate Chief Officer/Deputy Chief Officer shall also be notified.

22.0 DECLARATION OF INTERESTS

22.1 Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

23.0 CONTRACT MANAGEMENT / MONITORING

23.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Deputy Chief Officer must ensure a Contract Manager is designated prior to award.

23.2 Contract management, monitoring, evaluation and review must be conducted in line with any guidance detailed in the Procurement Guidance for Officers.

24.0 POST CONTRACT MONITORING AND EVALUATION

24.1 During the life of the contract the Officer must monitor in respect of:

- (a) performance
- (b) compliance with specification and contract
- (c) cost
- (d) any Best Value requirements
- (e) user satisfaction and risk management

24.2 Where the Total Value of the contract exceeds £75,000.00 the Officer must make a written report evaluating the extent to which the purchasing need and contract objectives were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

25.0 INTERNAL PROVIDERS

25.1 Where an in-house Service is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider Service and external bidding organisations.

26.0 EXTERNAL BODY GRANT FUNDING

- 26.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, the Procurement Officer must ensure that any rules or conditions imposed by the funding body are adhered to, in addition to the requirements of these Contract Procedure Rules.
- 26.2 Where there is any conflict between these Contract Procedure Rules and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

27.0 APPOINTMENT OF CONSULTANTS

- 27.1 The engagement of consultant architects, engineers and surveyors or other professional consultants including Counsel shall be subject to completion of a formal letter, contract of appointment or brief.
- 27.2 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Deputy Chief Officer for the periods specified in the respective agreement. The excess for any one claim shall be no more than £1,000.00.
- 27.3 Consultants shall be selected and commissions awarded in accordance with the values and procedures recorded in the table in Rule 0 above.
- 27.4 Records of consultancy appointments shall be maintained in accordance with Rule 0.

28.0 REVIEW AND AMENDMENT OF CONTRACT PROCEDURE RULES

- 28.1 These Contract Procedure Rules shall be reviewed and updated, as necessary, on an annual basis as part of the annual review of the Constitution.

CONTRACT STANDING ORDERS

South Holland District Council – Part Four - Rules of Procedure

Extract from Contract and Procurement Procedure Rules *NB this table is common to all Lincolnshire authorities and is consistent with procedures operated by Lincs Procurement.*

In accordance with the *Constitution* the Head of Finance shall have the power to make amendments from time to time to these Contract and Procurement Procedure Rules. All contracts must be subject to competition, unless there is an exemption, as follows:

Total Contract Value (cumulative value not annual expenditure)		Process	Action / Contract Publication	Documentation
From	To			
(Net of VAT)				
£0	£5,000	One Quotation (written or oral)	A local supplier should be used where they offer value for money	Employee to record details
£5,001	£10,000	Minimum of Two written Quotations	One of the quotations should be from a local supplier and a local supplier should be used where they provide the most economically advantageous offer	
£10,001	£25,000	Minimum of Three written Quotations		
£25,001	£75,000	Three Written Quotations based on a Request For Quotation document (RFQ) with simplified Terms & Conditions (T&Cs)	Web based publications e.g. Source Lincolnshire, Supply2Gov	Must be based on a written specification provided to the <i>Economic Operators</i> by the Council. Quotation may be delivered by e-mail.
£75,001	< EU Threshold	Formal Tender Process	Web based publications e.g. Source Lincolnshire, Supply2Gov & Specialist Publication if appropriate	Pre Qualification Questionnaire (PQQ) and Invitation to Tender (ITT) documentation as relevant with sealed bids which may be submitted via an electronic tendering process.
EU Threshold*	Above	Formal Tender Process and if above £500,00 the Key Decision Process	Official Journal of the European Union (OJEU), Web based publications e.g. Source Lincolnshire, Supply2Gov & Specialist Publication if appropriate	Consult with your <i>Procurement Resource</i>

*Contracts falling within the different categories of Goods, Services and the carrying out of Works have value thresholds placed on them by the EU. When the estimated value of an individual contract (cumulative value not annual expenditure) is likely to exceed these EU thresholds, by law the Council must comply with the full EU procurement regime. NB 'Supply2Gov' is now 'Contract Finder'

Works	Supply of Goods, Materials and Services	Consultants	Tendering Procedure
up to £4,999	up to £4,999	up to £4,999	One quote – this should be a local provider unless not appropriate. This should be done on a purchase card where possible.
£5,000 to £24,999	£5,000 to £24,999	£5,000 to £24,999	At least three quotes. Local providers must have been given an opportunity to provide a quote.
£25,000 to £74,999	£25,000 to £74,999	£25,000 to £74,999	At least five quotes. Local providers must have been given an opportunity to provide a quote.
£75,000 up to EU Procurement threshold	£75,000 up to EU Procurement threshold	£75,000 up to EU Procurement threshold	Open tender including use of Contracts Finder. A social value clause must be built into the specification and contract.
Above £4,104,394 (EU threshold*)	Above £164,167 (EU threshold*)	Above £164,167 (EU threshold*)	EU Procedure – OJEU notice. Local social value clause must be built into the specification and contract.

* Latest published EU Procurement thresholds January 2016. These amounts will need to be updated as and when EU thresholds change

Contract Standing Orders		
Section	Description of Limit or Control	Proposed – Limit or Control
18.3.1	Clauses to include in contracts over a certain value <ul style="list-style-type: none"> • £25,000 for works or supplies of goods, materials or services • £10,000 for consultants 	<ol style="list-style-type: none"> a. that the contractor may not assign or sub-contract without prior written consent b. any insurance requirements c. health and safety requirements d. ombudsman requirements e. data protection requirements if relevant f. that charter standards are to be met if relevant g. race relations requirements h. a right of access to relevant documentation and records of the contractor for monitoring and audit purposes