

## **Part 4.1 – Council Meeting Procedure Rules**

### **1 Definition**

1.1 In these Rules, the following terms shall have the meanings assigned to them:

- a "Committee" - a Committee authorised to exercise non-executive decision-making powers under Section 101 of the Local Government Act 1972, or an Overview and Scrutiny Committee established under Section 21 of the Local Government Act 2000.
- b "Political group" - a political group as defined in the Local Government (Committee and Political Groups) Regulations 1990 (as amended). For clarification a political group will need to comprise of two or more members.

### **2 Suspension**

2.1 With the exceptions listed in (2) below, any of the following Rules may be suspended by a motion approved by at least one half of the members present and voting. A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of members is present.

2.2 The following Council Meeting Procedure Rules may not be suspended;

- a Suspension (Rule 2)
- b Variation and revocation (Rule 3)
- c Annual General Meeting (Rule 4.1)
- d Notice and Summons (Rule 7)
- e Minutes (Rule 10)
- f Voting (Rule 18)
- g Exclusion of the public (Rule 20)
- h Disorderly Conduct by Councillors (Rule 21)
- i Any suspension can only be for the duration of the meeting.

### **3 Variation and Revocation**

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

## **4 Application to Committees and Sub-Committees**

4.1 The following rules will apply to meetings of Committees and Sub Committees with the exception of d) Time of meetings applying to the meeting of Cabinet:

- a Appointment of Deputy Members (Rule 5)
- b Notice and Summons (Rule 7)
- c Chairing the Meeting (Rule 8)
- d Time of Meetings (Rule 9)
- e Quorum (Rule 10)
- f Minutes (Rule 11)
- g Rules of Debate (Rule 17)
- h Voting (Rule 18)
- i Any special provisions

4.2 In the application of these rules to meetings other than Full Council meetings, greater informality may be exercised at the discretion of the chairperson of the meeting.

## **5 Meetings of Full Council**

5.1 This section sets out, in order, the format of the three types of Council meetings. These are the annual meeting, ordinary meetings and extraordinary meetings.

## **6 Annual Meeting**

### **6.1 Timing and Business**

- a The Annual General Meeting of the Council will be held:
  - (i) In a year when there is an ordinary election of Councillors to the Council on such a day within the 21 days immediately following the day of retirement of the outgoing Councillors as the Council may fix.
  - (ii) In any other year, on such a day in the month of March, April or May as the Council may fix; and
  - (iii) At such hour as the Council may fix.

- b At the Annual Meeting, the Council will:
  - (i) Elect a person to preside if the retiring Mayor and Deputy Mayor are not present.
  - (ii) Elect the Mayor for the ensuing year.
  - (iii) Appoint the Deputy Mayor of Council for the ensuing year.
  - (iv) Elect (or confirm, as appropriate) the Leader.
  - (v) Be told by the Leader about the composition and constitution of the Cabinet Members for the ensuing year, and the names of councillors chosen to be Cabinet Members
  - (vi) Determine the Council's Committee structure, the Chairpersons of Council Committees and its membership. In determining the Council's committee structure Full Council must appoint at least one Overview and Scrutiny Committee, a Committee to carry out the functions of a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to Full Council nor are executive functions (as set out in Part 3 of this Constitution); and
  - (vii) Present any certificate or bestow any honour on a Councillor/s or ex-Councillor/s, an individual/s, or group/s, as appropriate.
  
- c Selection of Councillors within the Council Committee structure and, if appropriate, Outside Bodies
  - (i) At the annual meeting Full Council will:
    - (a) decide which committees to establish for the municipal year.
    - (b) decide the size of those committees.
    - (c) decide the allocation of seats and deputies to political groups in accordance with the political balance rules.
    - (d) receive nominations of Councillors to serve on each committee and outside body; and
    - (e) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by Full Council to or is exercisable only by Cabinet.

## 7 Ordinary Meetings

### 7.1 Order of Business

- a Except where Full Council on the ground of urgency vary the order of business in accordance with [Council Meeting Procedure Rule 2](#), the order of business at every ordinary meeting of Full Council shall be:
- (i) To choose a person to preside if the Mayor and Deputy Mayor be absent.
  - (ii) To deal with any business required by statute or subordinate legislation to be done before any other business.
  - (iii) To approve as a correct record and sign the minutes of the last meeting of Full Council except that meetings of the annual or extraordinary meeting will be submitted for confirmation for the next ordinary meeting of Full Council.
  - (iv) To receive any declarations of interest from Councillors.
  - (v) To receive such communications as the Mayor, Leader or Chief Executive may desire to lay before the Council.
  - (vi) To receive apologies.
  - (vii) To answer questions from the Public pursuant to Council [Meeting Procedural Rule 19](#).
  - (viii) To receive petitions in accordance with the Council's Petition Scheme, under [Council Meeting Procedure Rule 22](#).
  - (ix) To deal with business expressly required by statute to be done.
  - (x) To dispose of business (if any) remaining from the last meeting.
  - (xi) To receive and consider reports of the Leader, Cabinet and of Committees and referred minutes which require determination by Full Council. In addition to receive reports on the business of joint arrangements and external organisations as appropriate.
  - (xii) To consider notices of motion in the order in which they have been received.
  - (xiii) To consider any urgent items under [Council Meeting Procedure Rule 18 of this Constitution](#).
  - (xiv) To consider the making or termination of appointments to bodies and changes to memberships of committees set up by Full Council.
  - (xv) To answer questions from Councillors under [Council Meeting Procedure Rule 19 of this Constitution](#).

- b The order of business may be varied by a resolution passed on a motion duly moved and seconded, which shall be put without discussion, provided that business falling under items in (a) i, ii, iii in paragraph 7.1 above shall not be displaced.

## **8 Extraordinary Meetings of the Council**

8.1 Those listed below may request the Chief Executive to call a Full Council meeting in addition to ordinary meetings:

- a The Council by resolution
- b The Mayor – as a result of a requisition signed by any five councillors of the Council.
- c The statutory officers: the Head of Paid Service, the Monitoring Officer or the Section 151 Officer
- d Any five councillors of the Council (in accordance with Paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), if they have signed a requisition presented to the Mayor and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition
- e The Chief Executive on a matter of urgency or emergency in consultation with the Mayor and the Leader.

8.2 The business to be conducted at an extraordinary meeting shall only relate to the issue which has caused the meeting to be convened. There will be no public or Councillor questions under **Council Meeting Procedure Rule 19 unless related to the matter of the extraordinary meeting.**

Other matters shall await the next ordinary meeting of Full Council.

## **9 Appointment of Deputy Councillors**

9.1 A Deputy Councillor shall only serve as a Councillor of the relevant body at any meeting at which another Councillor of the same political group is absent for the entire meeting. No substitutions of membership may be made during the course of the meeting **and explicitly in circumstances where a meeting is adjourned and reconvened at a later date.**

9.2 Deputy Councillors will have all the powers and duties of any ordinary Councillor but will not be able to exercise any special powers or duties exercisable by the person they are deputising for.

9.3 There shall be no Deputy Members in Cabinet.

9.4 Deputy Councillors may be appointed to Committees and Sub-Committees on the following basis:

- 9.5 When appointments are made to any Committee or Sub-Committee.
- 9.6 The number of deputies in respect of each Committee shall be up to two deputy members per group.
- 9.7 The Democratic Services Team Manager shall amend the standing membership of Committees and joint Committees in accordance with the above and the wishes of the political groups to whom seats on these Committees have been allocated.

## **10 Notice of and Summons to Full Council**

- 10.1 The Chief Executive will give notice to the public of the time and place of any Full Council meeting in accordance with the Access to Information Rules at least five clear working days before a meeting.
- 10.2 A signed summons will be communicated to every member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted.

## **11 Chairing the Meeting**

- 11.1 The Mayor's ruling on any point of order, interpretation of these Council Procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion nor challenged at the meeting.
- 11.2 The Mayor may, from time to time, issue guidance as to how they will discharge their responsibility in chairing Full Council.
- 11.3 Any power or duty assigned to the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.
- 11.4 The Mayor has discretion to:
- 11.5 order the adjournment of any meeting.
- 11.6 following consultation with the Leader of the Council, alter the date or time of any meeting; and
- 11.7 cancel or postpone a meeting in the event of an emergency or where there is no business requiring Council approval.

## **12 Time of meetings**

- 12.1 Meetings of Full Council will usually be at 6.30pm or any other such time as the Mayor agrees.

### **13 Quorum (minimum number of members)**

- 13.1 Subject to any specific statutory requirement, the quorum of a meeting will be one third of the whole number of voting members, or three voting members, whichever is the greater.
- 13.2 If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.
- 13.3 During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.
- 13.4 Subject to these rules remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.
- 13.5 The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment under 10.2 that there are sufficient members present to constitute a quorum.

### **14 Minutes**

- 14.1 The Mayor shall put the question that the minutes of the meeting of Full Council held on the relevant date be approved as a correct record.
- 14.2 No discussion shall take place upon the minutes, except upon their accuracy and any question of their accuracy shall be raised by motion. If no such question on their accuracy is raised, or if it is raised then as soon and has been disposed of, the Mayor shall sign the minutes.
- 14.3 Where in relation to any meeting of Full Council if the next such meeting is a meeting called under paragraph 4 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following Ordinary meeting of Full Council (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purpose of signing the minutes in accordance with that Schedule.

### **15 Notices of Motion**

- 15.1 Scope
  - a Motions must be about matters for which the council has a responsibility, or which affects part or all of the District. The Mayor may, on the advice of the Monitoring Officer, refuse a motion which is illegal, scurrilous, improper, relates to a matter which has been the subject of debate or decision by Full Council in the previous six months, or is otherwise out of order. The member intending to give notice of the motion should, in good time, consult the Strategic Director(s) with responsibility for the matter, or their nominee, and determine the context and possible consequences for what is proposed prior to submitting the motion.

## 15.2 Exceptions

- a Where, following publication of the agenda for a meeting of Full Council, an urgent matter for which the council has responsibility and affects part or all of the District arises and it is not practical to defer consideration of the motion to the next ordinary meeting of Full Council a motion signed by two Councillors may be accepted by the Mayor following consultation with the Monitoring Officer.

## 15.3 Notice

- a Except as provided by this Council Procedure Rule 12, notice of every motion shall be in writing, signed by the Councillor or Councillors giving the notice and the seconder and delivered to the Democratic Services Team by 10 am, 10 clear days before the day of the Full Council meeting. This notice of motion will confirm the names of the Councillors proposing and seconding the motion.

## 15.4 Summons

- a The Chief Executive shall set out in the summons for every meeting of Full Council all motions of which notice has been duly given in the order in which they have been received unless the member giving such a notice has, when giving it, intimated in writing that they propose to move it at some later meeting or has withdrawn it in writing.

## 15.5 Motions set out in the agenda.

- a If a motion thus set out in the summons be not moved it shall, unless postponed by consent of Full Council, be treated as abandoned and shall not be moved without fresh notice in accordance with this procedure rule.
- b A motion shall only be moved by a Councillor by whom notice has been given or by a Councillor authorised by such a Councillor in writing and prior to the commencement of the relevant meeting.
- c A period of up to twenty minutes shall be allowed for Full Council to have a discussion about the motion, such period to be in addition to any introductory speech by the mover (which may be up to eight minutes) and a seconder whether their right to speak is reserved or not (which may be up to five minutes). The mover has a total of five minutes at the end of the discussion to sum up.
- d A summary of that discussion will be included in the minutes of the meeting.

## 15.6 Motions which may be moved without Notice

- a The following motions may be moved without notice:-
- b Appointment of a Chairperson of the meeting at which the motion is made.



- c Motions relating to the accuracy of the minutes, closure, adjournment, order of business, next business, or reference to the Leader or Cabinet or a Committee.
- d Appointment Committees or councillors thereof, so far as arising from an item mentioned in the summons to the meeting.
- e Adoption of reports and recommendations of the Leader, Cabinet, Committees or officers and any consequent resolutions.
- f That leave be given to withdraw a motion.
- g Amendments to motions.
- h Suspending a Council Meeting Procedure Rule.
- i To exclude the public and press in accordance with the Access to Information Rules.
- j That a Councillor named under Council Meeting Procedure **Rule 21** be not further heard or do leave the meeting.
- k Giving consent of Full Council where the consent of Full Council is required by this Constitution.
- l To refer something to an appropriate body or individual.
- m That the question now be put.
- n To refer something to an appropriate body or individual.

## **16 Rescinding Resolutions**

- 16.1 At any meeting of Full Council, no motion to rescind any resolution which has been passed within the preceding six months and no motion to the same effect as any motion which has been moved within the previous six months shall be in order. **The Mayor may, acting on the advice of the Chief Executive, refuse such a motion.** This Council Meeting Procedure Rule shall not apply to motions in pursuance of the report or recommendations of the Leader, Cabinet or of a Committee.

## **17 Presentation of Referred Minutes**

- 17.1 The Chief Executive shall be authorised to determine the order in which the referred minutes shall be debated, having regard to the relative importance of each matter, and shall arrange the agenda accordingly.
- 17.2 The **Leader or** Chairperson of the relevant Committee, or Cabinet Member will be deemed to have moved that the minutes of the Cabinet or of their Committee be adopted, unless they indicate to the contrary at the meeting.
- 17.3 The heading of each minute will be called in order whereupon:
- a The **Leader** or Chairperson of the relevant Committee or Cabinet Member will make no introduction unless the minute is of special importance.

- b If no councillor rises to speak that minute will be deemed to be confirmed and the next minute will be called.
  - c If discussion of a minute commences the Mayor will permit questions and then debate (and appropriate votes) on that minute but councillors may only question matters of fact arising during the debate.
- 17.4 Where Full Council has before it referred minutes of more than one body on the same subject the following procedure shall apply (unless Full Council resolves otherwise in any particular case):-
- a All such minutes shall be taken together when the minute of the earliest meeting is presented.
  - b Any introductions by the **Leader** or Chairpersons of the relevant Committee or Cabinet Member shall be made in the same order as the dates of the relevant meetings, unless in the opinion of the Mayor it would assist the decision-making process to take the minutes in another order;
  - c If no Councillor rises to speak on any of the minutes, they shall all be deemed to be confirmed;
  - d Motions or amendments may be moved in respect of any of the referred minutes before Full Council, but any amendments may only relate to one minute;
  - e The **Leader** or Chairpersons of the relevant Committee or Cabinet Member exercising their right of reply under **Council Meeting Procedure Rule 17.3** shall do so in the same order as the dates of the relevant meetings, notwithstanding (b) above and provided that the Leader shall have the final right of reply.

## **18 Urgent Business**

- 18.1 If, after the despatch of the agenda and summons for any meeting of Full Council, any item of business arises which requires the urgent attention of the Council and cannot be dealt with under executive/delegated powers by the Leader or Cabinet or any Committee or any officer, the Chief Executive in consultation with the Leader (or in their absence the Deputy-Leader) shall:-
- a Where practicable summon a meeting of the Cabinet and/or the appropriate Committee for a date or time prior to the meeting of Full Council to consider the matter and make recommendations to Full Council.
  - b Place the item before Full Council together with any recommendation of the Leader, Cabinet or the Committee (which may be reported orally if the presentation of written minutes is impracticable) and so far as necessary, the suspension of **Council Meeting Procedure Rule 13** shall be moved to enable other motions to be moved.

## 19 Questions for Full Council

### 19.1 Questions on notice

- a Appropriate questions may be asked by members of the public who live or work in the Winchester District and by Councillors at Full Council meetings.
- b A 'question on notice' means that the question must be in writing, including email, and submitted to the council at least 5 working days before the day of the meeting (not including the day of the meeting). A working day is defined for this purpose as Monday through Friday, excluding days designated as bank holidays in England and Wales.

### 19.2 General

- a Members of the public may ask one question to either the Leader, a Cabinet Member or Committee Chair at Ordinary Meetings of Full Council. The total time allocated for questions by the public shall normally be limited to 20 minutes.
- b Councillors may ask questions to either the Leader, a Cabinet Member or Committee Chair at Ordinary Meetings of Full Council. The total time allocated for questions by Councillors shall normally be limited to 40 minutes.

### 19.3 Order of Questions

- a Members of the public and Councillors who are at the meeting will have opportunity to ask their question.
- b Questions by Members of the public will be asked in the order in which notice of them was received, except that the Mayor may group together similar questions which shall be asked in the order they were received unless the Mayor considers business may be better transacted by varying such order and with fairness in mind.
- c Questions by Councillors for the first question put will be asked in the order in which notice of them was received except that questions will rotate between the political groups and independent Councillors to ensure a fair distribution across all Councillors. At the end of all first questions the same will apply to the second and subsequent questions until either all questions have been heard or the time allocated for Councillor questions has expired. The Mayor may group together similar questions where they consider the business may be better transacted by varying such order of questions and with fairness in mind.

### 19.4 Notice of Questions

- a A question may only be asked if notice has been given by delivering it in writing, including email, to the Democratic Services Team no later than 10

am, 5 clear working days before the day of the Council meeting (email to democracy@winchester.gov.uk). In addition, for members of the public each question must also give the name, address, email address and telephone number of the questioner.

#### 19.5 Scope of Questions

- a Questions must relate to matters for which the Council has a responsibility, or which affect the district. The Chief Executive may reject a question if:
  - (i) it is within the terms of reference of a Committee; or
  - (ii) it is or relates to matters of a quasi-judicial nature; or
  - (iii) it is defamatory, frivolous or offensive; or
  - (iv) it refers to legal proceedings being taken or being anticipated by or against the Council; or
  - (v) it is substantially the same as a question which has been put at a meeting of Full Council in the past six months; or
  - (vi) it requires the disclosure of confidential or exempt information; or
  - (vii) it relates to the provision of personal services; or
  - (viii) the questioner has a commercial or financial interest in the issue; or
  - viii. It relates to an identifiable individual or employee of the council; or
  - x. it relates to a planning or licensing application.
- b If rejected, the questioner shall be advised accordingly by the Democratic Services Team.

#### 19.6 Record of Questions

- a Copies of all questions will be circulated electronically to all Councillors and will be published alongside the agenda as a supplemental item.

#### 19.7 Asking the Question at the Meeting

- a The Mayor will invite the questioner to put their question as written to the Councillor named in the question. Each questioner has 2 minutes in which to ask their question (the questioner may prefer to simply state to “refer to the order paper”). If a questioner who has submitted a question is unable to be present, the Mayor may ask the question on their behalf, or invite another Councillor to do so, or indicate that a written reply will be given and published on the website following the meeting. or decide, in the absence of the questioner, that the question will not be dealt with.

#### 19.8 Supplementary Question

- a A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to their original question. A supplementary question must be a question and not a statement and arise directly out of the original reply. The Mayor may reject a supplementary question for that reason or on any of the grounds set out above.

#### 19.9 Written Answers

- a Every member of the public and Councillor who asks a question within the scope of these Council Procedure Rules is entitled to an answer. The answer may be either a direct oral answer, a referral to an existing publication, or a referral to an officer to respond in writing. Any question which cannot be dealt with during the permitted question time will be dealt with by a written answer.
- b For members of the public and Councillors written answers will be published to questions submitted (but not the supplementary questions) on the website following the meeting and all members of the public who have asked a question will be notified accordingly.

#### 19.10 Questions on a referred Committee minute

- a A Councillor may ask the Mayor, the Leader, Chairperson of a Committee, or Cabinet Member within their area of responsibility any question upon any referred minute of the Cabinet or of a Committee when that minute is under consideration by Full Council.

#### 19.11 Urgent Questions

- a A Councillor may, with the permission of the Mayor, put to them or to the Leader, Chairperson of a Committee, or Cabinet Member within their area of responsibility any question relating to urgent business, of which such notice could not have been given; but a copy of such question shall be sent to the Democratic Services Team Manager (email to [democracy@winchester.gov.uk](mailto:democracy@winchester.gov.uk)) not later than 10 am on the day of the meeting.

#### 19.12 When questions cannot be asked at a public meeting

- a No questions may be asked at the annual meeting of council.
- b No questions may be asked at an extraordinary meeting of council except in relation to reports published with the agenda.

## 20 Rules of Debate

### 20.1 Motions and Amendments

- a Except for a motion deemed to have been moved by the Leader or a Committee Chairperson, or Cabinet Member under Council Meeting Procedure Rule 13(2) (that the referred minutes be adopted), every motion or amendment shall be put in writing and handed to the Mayor before it is put to Full Council by the Mayor. An amendment to a motion can be moved and seconded at any appropriate time; however, motions and amendments shall be moved and seconded before they are discussed.

#### 20.2 Secunder's Speech

- a A Councillor seconding a motion or amendment has the right to speak upon seconding a motion or an amendment or later in the debate where they have reserved their right to speak unless, before they have spoken, a closure motion has been passed.

#### 20.3 Councillors to Stand when Speaking.

- a Councillors of the Council shall stand when speaking (unless unable to do so) and shall always address the Mayor. If two or more Councillor rise, the Mayor shall call on one to speak; the other or others shall then sit. While a Councillor is speaking the other Councillor shall remain seated, unless rising on a point of order or in personal explanation.

#### 20.4 Relevancy and Length of Speech

- a A Councillor shall only direct their speech to the question under discussion or to an explanation or to a question of order. No speech shall exceed eight minutes in the case of only a mover of the motion and five minutes in all other cases (including the mover/secunder of amendments/summing up by mover) except at the discretion of the Mayor.

#### 20.5 When a Councillor may Speak Again

- a A Councillor who has spoken on a motion or on a minute may not speak again whilst it is the subject of debate, except:
  - (i) To speak once on an amendment moved and seconded by other Councillors.
  - (ii) To move a further amendment if the motion has been amended since they last spoke;
  - (iii) If their speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - (iv) In exercise of a right of reply;
  - (v) On a point of order;
  - (vi) By way of personal explanation.

## 20.6 Point of Order

- a A Councillor may rise on a point of order at any time. The Councillor who is then speaking shall thereupon resume their seat and the member so rising shall be entitled to be heard forthwith.
- b A point of order shall relate only to an alleged breach of a Council Meeting Procedure Rule or statutory provision. The Councillor must indicate the Council Meeting Procedure Rule or statutory provision and the way in which they consider it has been broken.
- c The ruling of the Mayor on a point of order shall not be open to question or discussion.

## 20.7 Personal Explanation

- a A Councillor may rise by way of a personal explanation at any time. The Councillor who is then speaking shall thereupon resume their seat and the member so rising shall be entitled to be heard forthwith.
- b A personal explanation shall be confined to some material part of a former speech by them at the same meeting which may appear to have been misunderstood in the present debate.
- c The ruling of the Mayor on the admissibility of a personal explanation shall not be open to question or discussion.

## 20.8 Motions which may be moved during debate.

- a When a motion is under debate no other motion shall be moved except the following:
  - (i) To amend the motion;
  - (ii) To postpone consideration of the motion;
  - (iii) To adjourn the meeting;
  - (iv) To adjourn the debate;
  - (v) To proceed to the next business;
  - (vi) That the question be now put;
  - (vii) That a Councillor be not further heard;
  - (viii) That a Councillor does leave the meeting;
  - (ix) A motion to exclude the press and public in accordance with the Access to Information Rules.

## 20.9 Amendments to Motions

- a Every amendment shall be relevant to the motion on which it is moved and shall be either:
  - (i) To leave out words;
  - (ii) To insert or add words;
  - (iii) To leave out words and insert or add others;
  - (iv) To refer back the whole or any part of a recommendation of the Leader, Cabinet or a Committee;
  - (v) To convey a direction to the Leader, Cabinet or a Committee or an individual making the decision to consider some particular aspect of their powers and duties;
  - (vi) To refer the matter under consideration to the Leader, Cabinet or the appropriate body.
  
- b Provided that the omission, insertion or addition of words under a), b) or c) shall not have the effect of introducing an entirely new proposition or negating the motion before Full Council.
  - (i) Whenever an amendment upon an original motion has been moved and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been disposed of.
  - (ii) If an amendment is not carried, other amendments to the original motion may be moved.
  - (iii) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments are moved.
  - (iv) After an amendment has been carried, the Mayor or a person directed to do so will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 20.10 Alteration to Motions

- a A Councillor who has proposed a motion may with the consent of the seconder and Full Council and signified without discussion:
  - (i) Alter a motion of which they have given notice, or
  - (ii) Alter a motion which they have moved without notice with the consent the seconder and of Full Council

#### 20.11 Withdrawal of Motions



- a A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council, which shall be signified without discussion and no member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

#### 20.12 Closure Motions

- a A Councillor may move, without comment, the following motions at the end of a speech of another member:
  - (i) "that the Council proceed to the next business;"
  - (ii) "that the question be now put;"
  - (iii) "that the debate be now adjourned", or
  - (iv) "that the Council do now adjourn"

- b On the seconding of which the Mayor shall, unless in their opinion, the matter before the meeting has been insufficiently discussed, proceed as follows:

- (i) On a motion to proceed to the next business:

The Mayor shall put to the vote the motion to proceed to the next business;

- (ii) On a motion that the question be now put:

The Mayor shall put to the vote the motion that the question be now put, and if it is passed, then give the mover of the original motion their right of reply before putting their motion to the vote;

- (iii) On a motion to adjourn the debate or the meeting

The Mayor shall put the adjournment motion to the vote without giving the mover of the original motion their right to reply on that occasion.

#### 20.13 Right of Reply

- a The proposer of a motion (but not the proposer of an amendment) shall have a right to reply at the close of the debate upon such motion, immediately before it is put to the vote.
- b If an amendment is proposed the proposer of the original motion shall be entitled to reply at the close of the debate upon the amendment. A member exercising a right of reply shall not introduce a new matter.
- c After every reply to which this Procedure Rule refers the Mayor will put the motion or amendment to the vote without further discussion.

#### 20.14 Rights of the Leader, Chairperson of a Committee or Cabinet Member during debate.

- a The Leader, a Chairperson of a Committee or Cabinet Member, may during the debate on a minute of their Committee or area of responsibility, reply to a question or clarify some matter without precluding their right to speak subsequently to a motion.

20.15 Mayor or Leader or Chairperson of a Committee or Cabinet Member Holder may call on an Officer

- a The Mayor may during a debate call on an officer present in the meeting to speak or invite or allow the Leader, Chairperson of a Committee or Cabinet Member so to do.

## 21 Voting

### 21.1 Majority

- a Unless the law or 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.

### 21.2 On the voices and show of hands

- a Unless a recorded vote is requested the Mayor will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the chairperson will take the vote by a show of hands or by any electronic means available to the meeting.

### 21.3 Mayor's Casting Vote

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

### 21.4 Recorded Vote

- a If five Councillor present at the meeting demand it the names for or against the motion or amendment or abstaining from voting will be taken down in writing and entered in the minutes. A demand for a recorded vote will override a demand for a ballot. A recorded vote may be facilitated by electronic means where available.
- b There will also be a recorded vote when required by law. This includes that a recorded vote will be required at a meeting of Full Council on motions, amendments or substantive motions relating to the approval of the budget or the setting of the Council tax, whereby there shall be recorded in the minutes the names of the Councillor who cast a vote for

the motion/amendment or against the motion/amendment or who abstain from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 it cannot be suspended under the Council Meeting Procedure Rules.

#### 21.5 Right to Require Individual Vote to be Recorded

- a Where any Councillor requests it immediately after a vote is taken the vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### 21.6 Voting on Appointments

- a 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.
- b In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining (and that candidate does not have a majority), the above provision will not apply and the Chief Executive (or their representative) will draw lots to determine which of the candidates with fewest votes will proceed to the next round.
- c In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Chief Executive (or their representative) to decide which person is elected.

## 22 Presentation of Petitions

22.1 Winchester City Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Details of when and how a petition to the council may be presented is set out in [Council's Petition Scheme in the Council's website](#).

## 23 Budget Setting

23.1 The budget of the council will be set at an ordinary meeting of Full Council.

#### 23.2 Alternative Budget

- a An alternative budget is one which contains more than one amendment, omission or addition.
- b Where an alternative budget is being proposed, the proposing group or Councillor, must have secured confirmation from the Section 151 Officer

that the alternative budget meets the statutory requirements and that the alternative budget proposed is deliverable. This must be confirmed within sufficient time to allow for 6 clear days prior to the budget meeting.

- c Proposed alternative budgets for consideration at the Full Council meeting will be published 48 hours (excluding Bank Holidays and weekends) prior to the budget meeting and be taken in the order in which they have been proposed to the Section 151 Officer.

## **24 Disturbance by Members of the Public**

- 24.1 If a member of the public interrupts the proceedings at any meeting the person presiding after warning shall order their removal from the room where the meeting is being held. In case of general disturbance in any part of the meeting room open to the public the person presiding shall order that part be cleared.

## **25 Exclusion of the Public**

- 25.1 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 Council Meeting Procedure Rule 21 (Disturbance by Members of the Public)

## **26 Disorderly Conduct by a Councillor**

- 26.1 When the Mayor stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.
- 26.2 If, at any meeting, a Councillor, in the opinion of the Mayor, on the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the meeting, it shall be competent for the Mayor to move that the Councillor shall not further be heard or that the Councillor shall leave the meeting and the motion if seconded shall be put and determined without discussion.
- 26.3 If after a motion under the foregoing paragraph has been carried the misconduct or obstruction is continued, and in the opinion of the Mayor renders the due and orderly despatch of business impossible, in addition to any other power vested in them, the Mayor may adjourn or suspend the sitting for such period as they shall consider expedient.
- 26.4 The decision as to whether misconduct is taking place shall rest with the Mayor who will have due regard to the councillor code of conduct.

## **Part 4.2 - Cabinet Procedure Rules**

### **1 Executive Functions**

1.1 The Cabinet is the Council's Executive body and is responsible for carrying out those functions which by law or under this Constitution are designated as Executive functions. The Leader decides how the Executive functions shall be discharged. This may be by:

- a The Cabinet as a whole;
- b A Committee of the Cabinet;
- c An individual Member of the Cabinet;
- d A Cabinet Member at a Cabinet Member Decision Day;
- e An officer;
- f An area Committee;
- g Joint arrangements; or
- h Another local authority.

### **2 Delegation by the Leader**

2.1 The Cabinet shall consist of the Leader, as Chairperson and not more than nine other members appointed by the Leader.

2.2 The Leader shall announce the initial appointments to Cabinet at the Annual Meeting of the Council.

2.3 The Leader appoints one of the members of the Cabinet (a Portfolio Holder) to be their deputy and be Vice-Chairperson of Cabinet.

2.4 The Deputy Leader will hold office until the end of the term of office of Deputy Leader (unless the person resigns as a Deputy Leader, ceases to be a Councillor or is disqualified or removed from Cabinet by the Leader).

2.5 The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. The Leader may at any time remove Portfolio Holders from the Cabinet and change Portfolio Holders' areas of responsibility.

2.6 The Leader will report to the Council on all appointments and changes to the Cabinet. No member of the Cabinet may also serve as a member of The Overview and Scrutiny Committee, the two Policy Committees, or the Audit and Governance Committee.

### **3 Absent Leader**

3.1 If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.

### **4 Removal of Leader from office**

4.1 The Leader may be removed during the four-year term of office by way of resolution by a simple majority of the Council. If the Council passes a resolution to remove the Leader, a new Leader is to be elected: -

a At the meeting at which the Leader is removed from office, or

b At a subsequent meeting.

### **5 Appointment of Cabinet Committees**

5.1 The Leader or Cabinet may appoint Cabinet Committees on a continuing or ad hoc basis to deal with any matter relevant to the business or responsibility of the Cabinet and may delegate authority for action to such Committees. No Member may be appointed to or serve on a Committee of the Cabinet unless that Member is at that time a Member of the Cabinet.

5.2 Each Cabinet Committee may appoint Sub-Committees on a continuing or ad hoc basis to consider any matter relevant to the business or responsibility of the Committee, subject, in all cases, to no objection being raised by the Leader or Cabinet to the principle of the appointment of a Sub-Committee in each case, and to the terms of reference. If the Leader or Cabinet raises objection in respect of a body to deal with non-executive functions, the matter will be referred to Council for determination.

5.3 Only a member of a Sub-Committee who is a member of the parent Committee may be elected as Chairperson of that Sub-Committee, but this requirement shall not debar the election (in the absence of the Chairperson) of a Member who is not a member of the parent Committee to preside at a particular meeting.

## **6 Appointment of informal working groups**

6.1 The Leader or Cabinet may appoint informal Working groups on a continuing or ad hoc basis to deal with any matter relevant to the business or responsibility of the Cabinet. Only a member of Cabinet may be elected as Chairperson of an Informal Working Group. Informal working groups should where relevant include a Member of the Town Forum or a Ward Councillor.

## **7 Meetings of the Cabinet and its Committees and Cabinet Member Decision Days**

7.1 Meetings of the Cabinet and its Committees and Cabinet Member Decision Days will be determined by the Leader in consultation with the Chief Executive or Monitoring Officer and will be convened in accordance with the Access to Information Procedure Rules set out in this Constitution.

7.2 Advance notice of Cabinet Meetings and its Committees will be published on the Council's website in accordance with the usual statutory requirements that apply to meetings, namely five clear working days in advance together with any accompanying reports thereby enabling opportunity for other Members and the public to consider matters prior to the decision to be made.

7.3 Meetings of Cabinet and its Committees will be held in public, except where dealing with confidential or exempt matters.

7.4 Public speaking will be permitted at Cabinet Meetings and its Committees provided it relates to an item on the agenda for decision and at least three clear working days prior notice has been given. Contributions are also permitted on general matters relating to Cabinet or Cabinet Members. Members of the public will each be limited to a maximum of three minutes, subject to a maximum of fifteen minutes per decision being made or at the discretion of the Chairperson.

7.5 Visiting Councillors will be allowed to speak at meetings of Cabinet and its Committees, provided at least three clear working days prior notice has been given. Visiting Councillors will be given a maximum of five minutes per decision being made, which includes their original question/comment and any additional supplemental points.

## **8 Quorum**

8.1 The quorum of Cabinet shall be a third of the whole number of member's on the committee and subject to a minimum quorum of three.

## **9 Conduct of Cabinet Meetings**

9.1 The Leader will preside at any meeting of the Cabinet or its Committees or may appoint another person to do so. If the Leader is not present and has not appointed another person to preside at the meeting the Members of the Cabinet who are present shall choose a Member to preside.

## **10 Management of Cabinet Business**

10.1 At each meeting of the Cabinet or a Committee of a Cabinet the following business will be conducted:

- a Leader's announcements
- b Apologies for Absence
- c Minutes of the Last Meeting – confirmation as a correct record and signing
- d Matters referred to the Cabinet
- e Consideration of reports from Cabinet Sub-Committees/Overview and Scrutiny Committees/Audit and Governance Committee
- f Matters set out on the Agenda of the Meeting which will indicate which are key decisions and which are not in accordance with the Access to Information Rules set out in Part 4 of this Constitution.

g The Forward Plan

## **11 Items on the Cabinet Agenda**

11.1 The person presiding at a meeting of the Cabinet, or its Committees may vary the Order of the Agenda or adjourn matters for further consideration.



## **12 Councillors**

12.1 A councillor shall be entitled to request that an item be placed on the agenda of a meeting of the Cabinet or its Committees provided that (a) the particulars thereof are given to the Monitoring Officer at least 14 working days prior to the date of the meeting (b) no councillor (other than the person presiding) may give notice of more than one item of business for any one meeting. The Chairperson shall determine whether to take the item on the agenda. The agenda for the meeting will give the name of the Councillor who asked for the item to be considered.

## **13 Officers**

13.1 The Chief Executive, the Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the Agenda of the Cabinet or its Committees and may require that such a meeting to be convened in pursuance of their statutory duties.

## **14 Cabinet Member Decision Days**

14.1 Advance notice of Cabinet Member Decision Days will be published in accordance with the usual statutory requirements that apply to meetings, namely five working days in advance together with any accompanying reports thereby enabling opportunity for other Members and the public to consider matters prior to the decision to be made. Decision Day agendas will be published on the Council's website.

14.2 Cabinet Member Decision Days will be held in public, except where dealing with confidential or exempt matters.

14.3 Public speaking will be permitted at Cabinet Member Decision Days provided it relates to an item on the agenda for decision and at least three clear working days prior notice has been given. Contributions are not permitted on general matters relating to Cabinet or Cabinet Members (which is permissible only at a Cabinet meeting). Members of the public will each be limited to a maximum of three minutes, subject to a maximum of fifteen minutes per decision being made or at the discretion of the Chairperson.

14.4 Visiting Councillors will be allowed to speak at a Cabinet Member Decision Day, provided at least three clear working days prior notice has been given. Visiting Councillors will be given a maximum of five minutes per decision being made, which includes their original question/comment and any additional supplemental points.

- 14.5 No public speaking will be permitted on the same or similar topic within a period of six months.
- 14.6 No discussion shall take place with the person(s) addressing the Cabinet Member Decision Day. The Cabinet Member may advise how, if at all, the public comments will be dealt with by noting, action or referral.

## Part 4.3 - Overview and Scrutiny Procedure Rules

### 1 The Three Overview and Scrutiny Committees

1.1 The Council will have three Overview and Scrutiny Committees. The terms of reference for each Committee are set out in [Article 7 of the Constitution](#).

### 2 The arrangements for Overview and Scrutiny Committees

2.1 The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each Overview and Scrutiny Committee, but it may resolve to vary this provision by unanimous vote at the Annual Meeting. Up to 2 deputies can be appointed per group.

2.2 The Overview and Scrutiny Committees may appoint Sub-Committees and/or panels which shall be given a brief to consider a specified subject area and report back to Committee on a regular basis as determined by the Committee.

### 3 Who may sit on Scrutiny Committees?

3.1 All Councillors except Members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

3.2 In order to maintain public confidence and to increase the effectiveness of the scrutiny function, there will be a clear “firebreak” period between a person ceasing to be a Cabinet Member of the Executive and then becoming involved in the overview and scrutiny function.

3.3 A former Cabinet Member may not be appointed as a member of the Scrutiny Committee or any of its sub-committees or panels for a period of six months starting on the date they ceased to be a Cabinet Member of the Executive. This will not apply if –

- a there is a change in political control on Full Council, and a former Cabinet Member Councillor to whom the bar would otherwise apply becomes a member of the Opposition because their group no longer forms the administration; or
- b they change their political group or resign from their group membership; or
- c Full Council resolves otherwise.

3.4 The firebreak period may only be waived by Full Council where those three limited circumstances do not apply. As a safeguard, Council Procedure Rule

10, a motion with notice, will apply to such a motion before Full Council to do so.

3.5 Any Member who is appointed to an Overview and Scrutiny Committee or Panel who has provided support, advice or assistance to the Executive or member of the Executive in relation to a particular issue, must declare a conflict of interest and withdraw from the Scrutiny of that particular issue.

#### **4 Appointment of members and deputies**

4.1 Members and Deputies on Overview and Scrutiny Committees shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.

#### **5 Co-optees**

5.1 Each Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

#### **6 Meetings of the Scrutiny Committees**

6.1 Meetings of the Overview and Scrutiny Committees shall be held in accordance with the approved timetables of meetings.

6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. Such extraordinary meetings shall be convened by the Strategic Director Resources following consultation with the Chairperson of the relevant Overview and Scrutiny Committee concerned and the Chief Executive.

6.3 Where any five members of an Overview and Scrutiny Committee make a request for the committee to be convened this shall be communicated to the Strategic Director Resources who will convene such a meeting subject to a discussion with the Members and the Chairperson of the relevant Overview and Scrutiny Committee as to the reasons and the agenda items.

#### **7 Quorum**

7.1 The quorum for an Overview and Scrutiny Committee and the quorum for any sub-committee shall be one third of the whole number of members on the committee and subject to a minimum quorum of three.

## **8 Who chairs Overview and Scrutiny Committees?**

8.1 The Chairperson for each Overview and Scrutiny Committee shall be appointed by the Council.

8.2 The Chairperson in respect of the Scrutiny Committee shall be a Member from an opposition party. The Chairpersons for the other two Overview and Scrutiny Committees shall be drawn from Members of the majority party.

## **9 Work programme**

9.1 The Overview and Scrutiny Committees/Sub-Committees will be responsible for setting their own work programme **with reference to the forward plan**

## **10 Agenda items**

10.1 Any Member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the chairperson of that Committee, in consultation with the Strategic Director Resources that they wish an item relevant to the functions of the Overview and Scrutiny 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 Strategic Director Resources will ensure that it is included on the next available agenda, subject to having had the opportunity to scope out the work required to deliver the item and considered the feasibility of this work in terms of officer/other resources.

10.2 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee at its next available meeting.

## **11 Reports from Scrutiny Committees**

11.1 Executive arrangements by local authorities must ensure that Overview and Scrutiny Committees have the power to make report or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet. The following paragraphs set out a procedure for compliance with this statutory framework.

11.2 Where an Overview and Scrutiny Committee proposes to deliver a report then, once it has formed recommendations on proposals, the Scrutiny

Committee (with support from officers) will prepare a formal report and submit it via the Strategic Director Resources for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

11.3 If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Executive with the majority report with the agreement of the Committee.

11.4 The Council or Cabinet shall consider the report of the Scrutiny Committee at its next meeting.

## **12 Making sure that Scrutiny reports are considered by Cabinet**

12.1 The final report will be allocated to either or both the Cabinet and Full Council for consideration, according to whether the contents of the report would have implications for the Council's policy and budget framework. This procedure will be overseen by the Strategic Director Resources.

12.2 When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the policy and budget framework, the Cabinet must be given the opportunity to respond to the Overview and Scrutiny Committee report before the Council meets to consider it and the Council shall also consider any response of the Cabinet to the Overview and Scrutiny Committee proposals.

## **13 Members and officers giving account**

13.1 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 within the terms of reference of the relevant committee.

13.2 As well as reviewing documentation, in fulfilling their role, it may require any member of the Cabinet, the Head of Paid Service and/or any other senior officer to attend before it to explain in relation to matters within their remit:

- a Any particular decision or series of decisions;
- b The extent to which the actions taken implement Council policy; and/or

c Their performance;

13.3 And it is the duty of those persons to attend if so required.

13.4 Where any Councillor or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairperson of that Committee will inform the Strategic Director Resources giving at least seven working days' notice of the meeting which the officer is asked to attend, and state the nature of the item on which the officer is required to give account.

## **14 Attendance by Others**

14.1 An Overview and Scrutiny Committee may invite people 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 address it.

## **15 Call-in**

15.1 Operation only by the Scrutiny Committee

- a The following procedure will not be operated by all three Overview and Scrutiny Committees. The Call-In function will solely be in the remit of the Scrutiny Committee. The two policy-driven Committees (Business and Housing Policy Committee and Health and Environment Policy Committee) will not operate the Call-In procedures.
- b A key element of the overview and scrutiny role concerns the arrangements for the "call-in" of a key decision taken by or on behalf of the Cabinet.
- c This Call-In Procedure only applies to decisions that have been made but not implemented at the date of deposit of the Call-In Notice referred to below.
- d Key decisions by the Cabinet, a Committee of the Cabinet or an individual Cabinet Member and key decisions made by an officer with delegated authority from the Cabinet, may be "called in" by five members of the Council submitting a request in writing on the call-in request form to the Monitoring Officer within five working days of the date of publication of that decision. No implementation of the decision being called in can be made while being heard by the Scrutiny Committee.

### **15.2 Ground for Call-In**

- a Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in the Articles of the Constitution (Decision Making).
- b The grounds of call-in are:
  - (i) The decision is outside the terms of reference of the Cabinet, or delegated powers of the decision-maker; and or
  - (ii) The decision appears to be contrary to, or not wholly consistent with, the Council's Budgetary and Policy Framework or other Council Policy: and or
  - (iii) The information contained within the report, and/or considered by the Cabinet (or other decision-maker) was incomplete or inaccurate: and or
  - (iv) New information has come to light which might cause the decision to be changed; and or
  - (v) The decision was not made in accordance with the 'Principles of Decision making' set out in the Articles of the constitution or gives rise to significant legal, financial or propriety issues not already addressed in the report.

### 15.3 This Call-In Procedure shall not apply to –

- a Relevant Decision where the Chair of Scrutiny Committee (in accordance with paragraph 16 of these Rules) has agreed that the particular matter is urgent and the taking of the decision cannot be reasonably deferred; or
- b any hearing or allegation of misconduct being considered by the Standards Sub-Committee; or
- c decisions made by specialist committees where an appeals procedure already exists, i.e. decisions made in respect of Development Control, Licensing, consents and other permissions where an appeals procedure already exists.

### 15.4 Valid and Non-Valid Call-In Requests

- a If the Monitoring Officer on assessing the call-in submitted considers the call-in to be valid they will convene a meeting of the Scrutiny Committee within fifteen working days in consultation with the Chair of the Committee.



Any signatories to the Call-In Notice who are not members of the Scrutiny Committee shall have the right to attend and speak (but not vote) at the Committee meeting.

- b If, however, a Call-In Notice is considered not to be valid in the opinion of the Monitoring Officer, having regard to the procedures in these rules and the law, it will not be accepted without prior discussion with the Chair of the Committee.
- c Where a Call-In Notice is not accepted the Monitoring Officer will submit a report to the next available meeting of the Scrutiny Committee giving details of the request and the reasons for not accepting it.

#### 15.5 Limitation on Call-In

- a 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:
  - (i) A decision must be called-in by at least five Members of the Council; and
  - (ii) A decision on the same item may only be “called in” for scrutiny by the Committee on one occasion within a six-month period. The six-month period is to commence from the date the “call-in” request is received by the Monitoring Officer;
  - (iii) Members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Monitoring Officer.

#### 15.6 Publication of the Notice of Decisions

- a The following arrangements for the call-in will apply:
  - (i) When a key decision is made by the Cabinet (or by any Committee or Members of the Cabinet with a delegated authority or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published electronically. Notification of all such decisions will also be issued to all Members by the person responsible for publishing the decision;
  - (ii) The relevant 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 five working days after the publication of the decision, unless it is called in;

- (iii) The Monitoring Officer shall call-in a decision for scrutiny by the Committee if so, requested by members (in accordance with the procedure above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chairperson of the committee, they may call an extraordinary meeting of the committee on such date as they may determine (in accordance with the Access to Information Procedure Rules in this Constitution);

## 15.7 Procedural Matters

- a Any member considering calling in a decision must first make every effort to discuss the issue with the relevant Cabinet Member or the Leader of the Council and this must be confirmed in the call-in notice;
- b Members using the call-in arrangements have the right to address the Committee when it deals with the issue;
- c Normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Cabinet. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Cabinet that further work be carried out and that the Scrutiny Committee makes recommendations at a later date. In these circumstances, the Cabinet will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matters and the provisions of the Policy and Budget Framework Rules;
- d If the Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Scrutiny Committee meeting;
- e If, through the scrutiny process and/or in pursuance of the [Policy and Budget Framework Procedure Rules set out in Part 4 of this constitution](#), a called-in decision is deemed to be contrary to the policy framework, and/or contrary to or not wholly consistent with the budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made; and
- f If the called in decision does not contradict the policy and/or budget framework the Committee decides to make an alternative

recommendation, this will be considered by the Cabinet at its next meeting and no action on implementation of the decision shall be taken until a final decision has been made by the Cabinet.

#### 15.8 Call-in and Urgency

- a The call-in procedure set out above shall not apply where the decision being taken by the Cabinet 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 interest. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.
- b The Chairperson of the Scrutiny Committee must agree both that the decision proposed is reasonable and that there are reasonable grounds for treating the decision as a matter of urgency. In the absence of the Chairperson, the Vice-Chairperson of the Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or their 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.

### 16 Procedure at Overview and Scrutiny Committee meetings

#### 16.1 Agenda Business

- a Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
  - (i) Minutes of the last meeting;
  - (ii) Declarations of interest;
  - (iii) Consideration of any matter referred to the Committee;
  - (iv) Responses of the Cabinet to reports of the Scrutiny Committee;
  - (v) Consideration of the forward plan; and
  - (vi) The business otherwise set out on the agenda for the meeting, including the Committee's work plan.
- b Cabinet Members
  - (i) The Cabinet members will be individually invited to give an account of their portfolio to one of the Scrutiny Committees at least once annually and will answer any questions posed by Committee Members. This

attendance shall be in addition to any attendance required or invited by the Committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be at the discretion of the Chairperson.

c Investigations

- (i) Where the Overview and Scrutiny Committees conduct investigations (for example, with a view to policy options), 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:
- (ii) 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;
- (iii) That those assisting the Committee by giving evidence be treated with respect and courtesy at all times; and
- (iv) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (v) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless there is reason for the some of the contents to be exempt in accordance with the Local Government Act 1972.

16.2 Matters within the remit of more than one Overview and Scrutiny Committee

- a 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, the Monitoring Officer has the discretion to determine which of the Overview and Scrutiny Committees are appropriate for pre-scrutiny purposes. The Committees, through their Chairpersons and with agreement of the Monitoring Officer, may decide to hold a joint meeting of Overview and Scrutiny Committees if they feel this would be a more effective way of carrying out occasional business where there is clearly value in both Committees considering a report simultaneously.

## 17 The Party Whip

17.1 For the purpose of this section, reference to “the party whip” shall mean:

- a *“Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should they speak or vote in any particular manner.”*
  
- b As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with each Committee’s terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committees.

## **18 Councillor Call for Action (CCfA)**

18.1 Any Councillor may request that a Scrutiny Committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below. The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.

18.2 Councillor Call for Action (CCfA) Protocol

- a Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Member may call for debate and discussion at Committee of a topic of neighbourhood concern. These powers are limited to an issue which affects a single Council ward. CCfA will be considered by the Scrutiny Committee, whose terms of reference include within its remit, the subject of the CCfA. If in doubt, the Monitoring Officer shall determine which Overview and Scrutiny Committee would be the relevant recipient. In order to initiate the CCfA process, the Chairperson of the relevant Overview and Scrutiny Committee in conjunction with the Monitoring Officer will need to be satisfied that the following criteria have been met:

18.3 Criteria

- a Statutory Regulations specify matters that are excluded from CCfA:

- (i) Any matter which is vexatious, discriminatory or not reasonable;
- (ii) Any matter which is the subject of an individual complaint;
- (iii) Any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
- (iv) The matter must be one where all other attempts at resolution have been exhausted.

18.4 The following process will need to be followed:

18.5 Process

- a A Member should direct a CCfA request in writing to the Chairperson of the Scrutiny Committee and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
  - (i) The ward concerned and how the issue relates only to that ward;
  - (ii) The views and concerns of local residents;
  - (iii) How existing mechanisms for resolution have been tried and exhausted; and
  - (iv) The desired outcomes for resolving the issue.
- b The scrutiny Chairperson, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the relevant Overview and Scrutiny Committee is appropriate or if an additional meeting needs to be convened.
- c The Overview and Scrutiny Committee, subject to the necessary notice being given, will be able to request attendance from the relevant Cabinet Member and/or representatives of partner organisations, and/or to request information.
- d The Overview and Scrutiny Committee should discuss how to achieve the desired outcomes that the member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The Overview and Scrutiny Committee may decide to challenge whether the desired outcome is reasonable.

- e Whilst there will be no specified procedure for the discussions at Committee, the Scrutiny Chairperson, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
  
- f All CCfA requests, whether pursued or not, should be reported to the next relevant Overview and Scrutiny Committee for information. This will enable Overview and Scrutiny Committees to take account of all requests in determining work programmes.

## **Part 4.4 - Access to Information Procedure Rules**

### **1 Scope**

1.1 These Paragraphs apply to all meetings of the Council, Scrutiny Committees, regulatory Committees, joint Committees, Sub- Committees, panels and public meetings of the Cabinet (together called meetings). Some aspects also apply to Cabinet Member Decision Days, as indicated.

### **2 Additional rights to information**

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

### **3 Rights to attend meetings of Cabinet and Cabinet Member Decision Days**

3.1 Members of the public may attend all meetings and Decision Days subject to the exceptions in these paragraphs and any contrary provision in the Constitution.

3.2 Any person is permitted to film or record any meeting of Council, a Committee, Sub-Committee or the Cabinet or Cabinet Member Decision Day, save where the public have been excluded for the consideration of exempt or confidential business. The paragraphs, as prescribed by legislation, will allow for this reporting via social media of any kind. The Council will provide reasonable facilities to facilitate reporting.

3.3 Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to, moving outside the area designated for the public, making excessive noise, intrusive lighting/flash or asking a Member to repeat a statement. In addition, members of the public or the public gallery should not be filmed as this could infringe on an individual's right to privacy, if their prior permission had not been obtained. Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairperson and may be asked to leave the meeting.

### **4 Notices of meeting and Cabinet Member Decision Day**

4.1 The Council will give at least five clear working days' notice of any meeting except where an urgent meeting is convened by posting details of the meeting. This includes Cabinet Member Decision Days.

### **5 Access to agenda and reports before the meetings of Cabinet and Cabinet Member Decision Day**

5.1 The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the designated office



at least five clear working days before the meeting or Cabinet Member Decision Day. If an item is added to the agenda after publication, this will be included on a supplementary agenda (where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) which will be open to inspection from the time the item was added to the agenda.

## **6 Access to documents after the meeting**

6.1 In addition to publishing information on the Council's website, the Council will make available upon request, copies of the following for six years after a meeting:

6.2 The minutes of the meeting, reports and records of decisions taken, together with reasons, for all meetings which were open to the public. However, where the meetings discuss exempt or confidential information, the minutes open to the public will only include a record of the proceedings and the decision. The Council aims to publish draft minutes of meetings as soon as reasonably practicable following the meeting;

6.3 Records of Executive decisions taken by Individual Cabinet Members or Officers including the reasons for the decision and any alternative options considered and rejected. They will be published and made available as soon as reasonably practicable after they have been taken;

6.4 The agenda for the meeting;

6.5 The decision made at a Cabinet Member Decision Day.

6.6 The Council will itself record and stream the proceedings of meetings, as standard save when the public have been excluded for the consideration of exempt or confidential business.

6.7 The recording will be available for public viewing via the Council's website

6.8 for access after the meeting has taken place. Recordings of meetings will be made available in accordance with the Council's retention policy and in accordance with data protection law.

6.9 The Council reserves the right to terminate or suspend the webcasting of the meeting, The Council has the discretion to terminate or suspend the webcast if in its opinion that continuing to would disrupt or prejudice the proceedings, infringe the rights of any individual or may lead to the breach of a legal obligation by the council.

## **7 Background papers**

7.1 List of background papers

7.2 The author of the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in the report author's 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;

7.3 But do not include published works or those which disclose exempt or confidential information (as defined in Paragraph 8.4 below).

7.4 Public inspection of background papers The Council will make available for public inspection for six years after the date of the meeting or Cabinet Member Decision Day, one copy of each of the documents on the list of background papers.

7.5 Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection. Arrangements for inspection should be made through Democratic Services Team at the designated office and on the Council's website. In the case of reports to the Executive or Cabinet Member Decision Day, the background papers will be published on the Council's website, subject to Paragraph 9 below. The Council may make a reasonable charge for access to background papers to be inspected at the Council's offices.

## **8 Exclusion of access by the public to meetings and Cabinet Member Decision Days**

8.1 Confidential information – requirement to exclude the public

- a The public must be excluded from meetings or Cabinet Member Decision Days 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.
- b A decision to exclude the public is to be made by resolution of the meeting (or, in the case of a Decision Day, the Cabinet Member).

8.2 Meaning of confidential information

- a 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 or other

information provided by a third party who is owed a statutory or common law duty of confidentiality.

### 8.3 Exempt information – discretion to exclude the public

- a The public may be excluded from meetings or Cabinet Member Decision Days 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 which falls into one of the seven definitions of information that is exempt from disclosure to the public and press which is at paragraph 9.4 below.

### 8.4 Meaning of exempt information

- a Exempt information means any information falling within the following seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):
  - (i) Information relating to any individual
  - (ii) Information which is likely to reveal the identity of an individual
  - (iii) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  - (iv) Information is not exempt information if it is required to be registered under:
    - (v) The Companies Act 2006;
    - (vi) The Friendly Societies Act 1974;
    - (vii) The Friendly Societies Act 1992;
    - (viii) The Industrial and Provident Societies Acts 1965 to 1978;
    - (ix) The Building Societies Act 1986; or
    - (x) The Charities Act 1993.
- b “Financial and business affairs” includes contemplated, as well as past or current activities.
- c 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. Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1) (a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992.

8.5 These matters also apply to office holders as to employees.

- a Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- b Information which reveals that the authority proposes:
  - (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) To make an order or direction under any enactment.

8.6 Information relating to any action, or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.

8.7 Notes:

- a Information falling within any of categories 1-7 is not exempt by virtue of that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992;
- b Information which:
  - (i) Falls within any of categories 1 to 7 above; and
  - (ii) Is not prevented from being exempt by virtue of the condition 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;
  - (iii) Where the meeting will determine any person's civil rights or obligations, 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 that Article.

## **9 Exclusion of access by the public to reports**

9.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Paragraph 9, 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.

## **10 Application of paragraphs to the Executive**

10.1 1 Paragraphs 12 – 23 apply to the Executive, its Committees and Executive Members.

## **11 Procedures prior to private meetings**

- 11.1 At least 28 clear days before a private meeting of the Cabinet
- a Notice of Intention to hold the meeting must be made available at the Council's offices; and
  - b That Notice must be published on the Council's website.
- 11.2 The Council's Forward Plan will be used to publish notice under this paragraph.
- 11.3 The Notice under paragraph 12.1 must include:
- a A statement of the reasons for the meeting being held in private.
  - b Details of any representations received by the Cabinet about why the meeting should be open to the public; and
  - c A statement of its responses to any such representations.
- 11.4 Where the date by which a meeting must be held makes compliance with paragraph 12.1 impracticable, the Chief Executive must obtain agreement from:
- 11.5
- a The Chairperson of the Overview and Scrutiny Committee; or
  - b If the Chairperson of the Overview and Scrutiny Committee is unable to act, the Chairperson of the Council; or
  - c Where there is no Chairperson of either the Overview and Scrutiny Committee or of the Council, the Vice-Chairperson of the Council, that the meeting is urgent and cannot reasonably be deferred.
- 11.6 As soon as reasonably practicable after the Chief Executive has obtained agreement under paragraph 15.3 to hold a private meeting, they must:
- a Make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
  - b Publish that notice on the Council's website

## **12 Attendance at private meetings of the Cabinet**

- 12.1 All Members of the Cabinet will be served notice of, and are entitled to attend, all private meetings of the Cabinet. The Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and Directors in light of

items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend.

12.2 The provisions of [paragraph 3.2](#) will not apply.

### **13 Rights of non-executive members**

13.1 Any request for documentation **made to Democratic Services** will be provided as soon as reasonably practicable, but no later than 10 clear days after the request is made, subject to [paragraph 14.3](#).

13.2 If the Executive determines that material will not be provided, it must provide the Member with a written statement, setting out its reasons for that decision.

13.3 **Please note that any request made will have the usual tests applied under Access to Information rules and consequentially any such request must relate only to documentation that is in the possession or under the control of the executive and contain material relating to any business to be transacted at a public meeting.**

### **14 Procedures prior to public meetings of Cabinet and Cabinet Member Decision Days**

14.1 The Council will give notice of the time and place of a public meeting by displaying it at the Council's offices and publishing it on the Council's website,

- a At least five clear working days before the meeting; or
- b Where the meeting is convened at short notice, at the time that the meeting is convened.

14.2 An item of business may only be considered at a public meeting:

- a Where a copy of the agenda or part of the agenda including the item has been available for inspection by the public for at least five clear working days before the meeting; or
- b Where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened;
- c Where an item which would be available for inspection by the public is added to the agenda, copies of the supplementary agenda and any report relating to the item for consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.

14.3 Provisions of these procedure rules apply to Cabinet Member Decision Days.

## **15 Access to agenda and connected reports for public meetings and Cabinet Member Decision Days**

15.1 A copy of the agenda and every report for a meeting will be made available for inspection by the public at the Council's offices and on the Council's website.

15.2 If the Monitoring Officer thinks fit, there may be excluded from the copy of any report the whole, or any part which relates only to matters during which, in the opinion of the Monitoring Officer the meeting is likely to be a private meeting.

15.3 A copy of the agenda item or report will not be available for inspection by the public until a copy is available to Members of the Council. Where the whole or a part of a report for a public meeting is not available for inspection by the public:

- a Every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication" and
- b There must be stated on every copy of the whole or part of the report
  - (i) That it contains confidential information; or
  - (ii) The description of exempt information by virtue of which the Cabinet or Cabinet Member is likely to exclude the public during the item to which the report relates.

15.4 Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

15.5 Unless they contain confidential or exempt information, following a request made by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council will supply to that person or newspaper:

- a A copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;
- b Such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and
- c If the Monitoring Officer thinks fit in the case of any item, a copy of any other document supplied to Members of the Cabinet in connection with the item.

- 15.6 Provisions of these procedure rules apply to Cabinet Member Decision Days.

## **16 Publicity in connection with key decisions; the ‘forward plan’**

- 16.1 Where a decision maker intends to make a key decision, the Council will publish, a document, known as the ‘Forward Plan’ which states:
- a That a key decision is to be made on behalf of the Council;
  - b The matter in respect of which the decision is to be made;
  - c Where the decision maker is an individual Cabinet Member or officer, that individual’s name and title/ area of responsibility as appropriate, or if the decision maker is the Cabinet, a list of Cabinet Members;
  - d The date on which, or the period within which, the decision is to be made;
  - e A list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
  - f The address from, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed are available;
  - g That other documents relevant to those matters may be submitted to the decision maker; and
  - h The procedure for requesting details of those documents (if any) as they become available.
- 16.2 At least 28 clear days before a key decision is made, the document must be made available for inspection by the public at the Council’s offices and on the Council’s website.
- 16.3 Where, in relation to any matter:-
- a The public may be excluded from the meeting at which the matter is to be discussed; or
  - b Documents relating to the decision need not, be disclosed to the public, the document will contain particulars of the matter but many not contain any confidential or exempt information.

## **17 General exception and special urgency**

- 17.1 If it is not possible to meet the requirements to give notice of a key decision laid out in paragraph 17.2 below, the making of the key decision can proceed so long as:
- a The Monitoring Officer has sought and received in writing the agreement of the Chairperson of the Overview and Scrutiny Committee or, in their absence, the Vice-Chairperson of the Overview and Scrutiny Committee, to the general exception to the notice requirements; and



- b The Monitoring Officer has made available at the Council's offices for inspection by the public and has published on the Council's website, a copy of the notice of the decision, including the reasons why compliance with the publicity requirement is impracticable; and
- c Five working days have elapsed following the day on which the Monitoring Officer made

17.2 Where there is special urgency, the requirement in paragraph 17.1(c) above to give five working days' notice of the key decision may be withdrawn so long as requirements (a) and (b) in paragraph 17.1 above are met. In such cases, the notice of the key decision must include the reasons for the special urgency.

## **18 Recording of Executive decisions made at meetings**

18.1 As soon as reasonably practicable after any meeting of the Cabinet or its Committees or Cabinet Member Decision Day at which an Executive decision was made, the Monitoring Officer, must ensure that a written statement is produced for every Executive decision made which includes the information specified in paragraph 19.2.

18.2 The statement referred to in paragraph 19.1 must include:

- a A record of the decision including the date it was made;
- b A record of the reasons for the decision;
- c Details of any alternative options considered and rejected by the Chief Executive at the meeting which the decision was made;
- d A record of any conflict of interest relating to the matter decided which is declared by any Member of which the decision was made;
- e In respect of any declared conflict of interest, a note of the dispensation granted.

## **19 Recording of Executive decisions made by Cabinet Members and key decisions made by officers acting under delegated authority**

19.1 As soon as reasonably practicable after a Cabinet Member has made an Executive decision or an officer has made a key decision, the Monitoring Officer will produce a written statement of that Executive decision which should include the information specified in paragraph 20.2.

19.2 The Statement referred to in paragraph 20.1 must include:

- a That a key decision has been made and details of the matter excluding any confidential or exempt information;
- b The date it was made;
- c The reasons for the decision;
- d Details of any alternative options considered and rejected by the decision maker when making the decision;
- e A record of any conflict of interest declared by any Executive Member who was consulted in relation to the decision; and
- f In respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

## **20 Recording of other decisions by officers**

20.1 Officer decisions of a significant nature, though not executive decisions made under delegated authority nor meeting the criteria for a key decision, should be recorded in writing as soon as reasonably practicable after the decision has been made. Such decisions are likely to be significant within the meaning of this rule where they:

- a Grant a permission or
- b Affect an individual's rights; or
- c Award a contract; or
- d Incur expenditure at a level which does not render it a key decision but would reasonably be expected to materially affect the Council's finances; or
- e May be reasonably expected to have an impact on the Council's reputation.

20.2 The written record must contain the following information:

- a The date the decision was made;
- b A record of the decision taken along with the reasons for the decision;
- c Details of alternative options, if any, considered and rejected; and
- d Where relevant, any conflicts of interest declared.

## **21 Inspection of documents following Executive decisions**

21.1 Unless they contain confidential or exempt information, after a meeting of the Cabinet or its Committees or Cabinet Member Decision Days at which

an Executive decision has been made, or after a Cabinet Member or an officer has made an Executive decision the Monitoring Officer must ensure that a copy of:

- a Any record of the decision; and
- b Any report considered at the meeting or Cabinet Member Decision Day or, considered by the Cabinet Member or officer and relevant to a decision record or, where only part of the report is relevant to such a decision, that part must be available for inspection by members of the public as soon as is reasonably practicable, at the Council's offices, and on the Council's website.

21.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection, those documents will be supplied for the benefit of the newspaper by the Council on payment by the newspaper of postage, copying or other necessary charge for transmission.

## **22 Additional rights of access to documents for Members of Local Authorities**

22.1 Subject to paragraphs 23.5, any document which

- a Is in possession or under the control of the Cabinet; and
- b Contains material relating to any business to be transacted at a public meeting, will be available for inspection by any Member of the Council.

22.2 Any document which is required by paragraph 23.3 to be available for inspection by any Member of the Council must be available for such inspection for at least five clear days before the meeting except that:

- a Where the meeting is convened at shorter notice, such as a document must be available for inspection when the meeting is convened; and
- b Where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 23.1 in relation to that item must be available for inspection when the item is added to the agenda.

22.3 Subject to paragraphs 23.5 to 23.6, any document which:

- a Is in the possession or under the control of the Cabinet; and
- b Contains material relating to:
  - (i) Any business transacted at a private meeting;
  - (ii) Any decision made by a Cabinet Member;

(iii) Any decision made by an officer in accordance with Cabinet arrangements;

22.4 Must be available for inspection by any Member of the Council when the meeting concludes or where an Executive decision is made by a Cabinet Member or an officer immediately after the decision has been made.

22.5 Any documents which are required by paragraph 22.3 to be available for inspection by any Member must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

22.6 Paragraphs 22.1 and 22.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

22.7 Notwithstanding paragraph 22.5, paragraphs 22.1 and 22.3 do require the document to be available for inspection if the information:

- a Relates to the financial or business affairs of any particular person (including the authority holding that information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or
- b Reveals that the authority proposes:
  - (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) To make an order or direction under any enactment.

22.8 Where there is uncertainty the Monitoring Officer will determine what information can be accessed.

22.9 These rights are in addition to any other rights that a Member may have.

## **23 Document retention schedule**

- a The Council's document retention schedule can be found on the Council's website

## **Part 4.5 - Policy and Budget Framework Procedure Rules**

### **1 The framework for executive decisions**

1.1 The Council will be responsible for the adoption of its Policy and Budget Framework. Once a policy or budget framework is in place, it is the responsibility of the Cabinet to implement it.

### **2 Process for developing the Policy Framework**

2.1 Normally, in the development of the Policy Framework, the Cabinet will liaise with the Overview and Scrutiny Committees and the Audit and Governance Committee, as appropriate and within their terms of reference, to ensure that matters can be given proper consideration as part of the work programmes of these Committees.

2.2 However, the formal process by which the Policy Framework shall be developed is as follows.

2.3 Prior to Cabinet consideration:

- a The Cabinet will publicise, by including in the Forward Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any new or significantly revised policy or strategy that forms part of the Policy Framework. Where consultation on a draft policy is due to take place, the Forward Plan will also set out the timetable for Cabinet consideration of the draft for consultation; and
- b Regarding consultation on draft policies, where a policy is to be consulted on in draft form, the Overview and Scrutiny Committees and the Audit and Governance Committee may wish to investigate, research or report in detail with policy recommendations before the end of the consultation period.

2.4 Preparation of final proposals by Cabinet

- a At the end of any consultation period, the Cabinet will approve its own final proposals for submission to Full Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Overview and Scrutiny Committees or Audit and Governance Committee. Its report to Full Council will reflect the comments made by consultees and/or the Committees and the Cabinet's response.
- b Full Council will consider the proposals of the Cabinet and may:
  - (i) Adopt them;

- (ii) Amend them;
- (iii) Refer them back to the Cabinet for further consideration; or
- (iv) Substitute its own proposals in their place.

2.5 In considering the matter, Full Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny Committees or Audit and Governance Committee.

2.6 The Council's decision will be published on the Council's website and drawn to the attention of the Leader.

2.7 The notice of decision shall be dated and state either that the decision shall be effective immediately (if the Full Council accepts the Cabinet's proposals without amendment). Alternatively, if the Cabinet's proposals are not accepted without amendment, the decision must inform the Leader of the reasons and any objections which the Full Council has and require the Cabinet to reconsider, in the light of those objections, the proposals submitted to it.

2.8 The Full Council's decision will become effective on the expiry of five clear days after the publication of the notice of decision, unless the Leader objects to it in that period.

2.9 If the Leader objects to the decision of Full Council, they shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must either:

- a Submit a revision of the proposals as amended by the Cabinet (the "revised proposals"), with the Cabinet's reasons for any amendments made to the proposals, to Full Council for the Council's consideration; or
- b Inform Full Council of any disagreement that the Cabinet has with any of the Full Council's objections and the Cabinet's reasons for any such disagreement.

2.10 Where such notification is received, the Chief Executive shall refer the matter to the next ordinary meeting of Full Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an extraordinary meeting of Full Council if the matter is too urgent to await the next ordinary meeting.

2.11 At that Full Council meeting, the decision of Full Council shall be reconsidered in the light of the revised proposals or the objections which shall be available in writing for the Council.

2.12 Full Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public **unless exemptions apply** and shall be implemented immediately.

2.13 In approving the Policy Framework, Full Council will also specify the degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet. Any other changes to the Policy and Budget Framework are reserved to the Council.

### **3 Process for developing the budget framework**

3.1 The Cabinet shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:

- (i) An early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium-term financial situation of the Council;
- (ii) An overview of the financial position in the coming financial year following publication of the settlement details of the anticipated funding from Central Government; and
- (iii) Detailed consideration of items of growth or potential savings.

3.2 Prior to Cabinet consideration, the Cabinet will publicise, by including in the Forward Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget Framework, and its arrangements for consultation. The Chairpersons of the Overview and Scrutiny Committees and Audit and Governance Committee will be notified. The consultation period shall in each instance be not less than six weeks.

3.3 If the Overview and Scrutiny Committees and Audit and Governance Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As these Committees have responsibility for fixing their own work programme, it is open to either Committee to investigate research or report in detail to Cabinet with budgetary recommendations before the end of the consultation period.

3.4 If the Overview and Scrutiny Committees and Audit and Governance Committee all wish to respond to the Cabinet, a joint meeting of the Scrutiny Committee may be called.

3.5 Preparation for the formal budget meeting shall be as follows.

- a Full Council will hold its formal budget meeting in February or March when the Cabinet will present its proposals.
- b The budget proposals presented by the Cabinet will have taken consideration of the views of the public, staff, members of the Overview and Scrutiny Committees and Audit and Governance Committee, as appropriate and within their terms of reference and other consultees.
- c All potential amendments to the budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and Section 151 Officer.
- d At the budget meeting, the Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the Council and its preceptors can be collected.

#### **4 Decisions outside the Budget and Policy Framework**

4.1 Subject to the provisions of Rule 6 (virement) below and Financial Procedure Rule 8.2, the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging executive functions may only take decisions which are in line with the Policy and Budget Framework.

4.2 If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to Rules 5 (urgency) and 7 (in year changes) below.

4.3 If the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and the Section 151 Officer as to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget or contrary or not wholly in accordance with the Financial Procedural Rules in this Constitution.

4.4 If the advice of either of those officers is that the decision would not be in line with the existing budget and Policy Framework, then the decision must be



referred to Full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 (Urgency) shall apply.

## **5 Urgent decisions outside the Budget and Policy Framework**

5.1 The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet, officers or joint arrangements discharging executive functions may take a decision which is contrary to policy or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. However, the decision may only be taken if:

- a It is not practical to convene a quorate meeting of the Full Council. The reasons for not being able to achieve a quorum must be recorded; and
- b The Chairperson of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency. In the absence of the Chairperson of the Overview and Scrutiny Committee the consent of the Vice-Chairperson of the Scrutiny Committee will be sufficient; and
- c The Council's Financial Procedure Rules are complied with in all other respects.

5.2 Following the decision, the decision maker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **6 Virement**

6.1 The Council shall have sufficient budget holders to enable service delivery and effective budgetary control in line with the Council's Policy and Budget Framework.

6.2 Steps taken by the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed the budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads – as follows:

- a The Cabinet – non-recurring expenditure of up to £1,000,000 in any one case within budget allocations to functions which are the responsibility of the Cabinet;

- b Authorised officers – provided that it does not constitute a Key Decision, Chief Officers and Strategic Directors shall be authorised to undertake virements of up to £250,000 on behalf of the Cabinet in any one case between the budgets under their control, subject to consultation with the relevant Cabinet Member(s), the Leader and the Section 151 Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the Section 151 Officer in a format approved by them and reported to Cabinet via budget monitoring reports; and

6.3 One-off revenue budgets may be created in-year through a budget virement funded by an earmarked reserve. The budget must be in line with the purpose of the earmarked reserve and approved by the Section 151 Officer. Any in-year unbudgeted contributions from reserves exceeding £500,000 will need to be approved by Cabinet; those at the year-end are seen by Full Council as part of approving the Council's financial statements.

6.4 Where external revenue funding is received in-year the budget holder must ensure a budget virement creates the necessary income and expenditure budgets which are in line with the award of funding. Prior approval must be sought from the Section 151 Officer and does not apply to any capital expenditure which must follow normal capital procedures even where external funding is received.

## 7 In-year changes to Policy and budget Framework

7.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet an individual member of the Cabinet, officers or joint arrangements discharging executive functions must (subject to Rule 5 urgency) be in line with that framework. No changes to the Policy and budget Framework may be made by those bodies or individuals except those changes:

:

- a Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b Which are necessary to implement a budget decision made by the Council;
- c Necessary to ensure compliance with the law, ministerial direction or government guidance where there is no discretion how to act; or
- d 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.

## **8 Call-in of decisions outside the Policy and Budget Framework**

8.1 Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made, would be contrary to policy, or contrary to or not wholly in accordance with the budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

8.2 The Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer or Section 151 officer's report. The Cabinet must prepare a report to the Council if the Monitoring Officer or the Section 151 Officer concludes that the decision was a departure; and the Scrutiny Committee if the Monitoring Officer or the Section 151 Officer concludes that the decision was not a departure.

8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to Full Council. In such cases, no further action will be taken in respect of the decision or its implementation until Full Council has met and considered the matter. The matter will be referred to the next ordinary meeting of Full Council except in cases of urgency when an extraordinary meeting will be called. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. Full Council may either:

- a Endorse a decision or proposal of the Cabinet decision maker as falling within the existing budget and Policy Framework. In this case no further action is required;
- b Amend the Council's Financial Procedure Rules or policy concerned and agree to the decision with immediate effect; or
- c Accept the decision or proposal is contrary to policy or contrary to or not wholly in accordance with the budget, and not amend the existing framework to accommodate it, but require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Section 151 Officer.

## Part 4.6 – Financial Procedure Rules

### 1 General Matters

- 1.1 In accordance with the Policy and Budget Framework Rules the allocation and control of financial resources is the responsibility of Cabinet.
- 1.2 Where these regulations refer to Cabinet or a Committee this is intended to include any Cabinet Committee, Sub-Committee or **Cabinet Member Decision Day or by** making decisions under the powers delegated to them in this Constitution.
- 1.3A Strategic Director within these rules is defined as a member of the Executive Leaders' Board.
- 1.4 Where these Regulations refer to the Chief Executive, the Section 151 Officer, a Strategic Director, Corporate Head of Service **or Head of Programme** this is intended to include their authorised representative.
- 1.5A Team within these regulations is defined as an area of activity or group of activities under the direction of a Corporate Head of Service. A Strategic Director may also undertake any function allocated to a Corporate Head of Service **or Head of Programme** in the areas for which they are responsible.
- 1.6 Cabinet and each Committee with a budget shall be responsible for ensuring that these Financial Procedure Rules shall be observed as they relate to areas under its control.
- 1.7 The Section 151 officer shall be consulted with respect to any matter within an officers area of responsibility which is liable to have a material impact on the Council's finances before any provisional or other commitment is entered into or before reporting thereon to Cabinet or any Committee.

### 2 Accounting

- 2.1 All accounting arrangements and appropriate records shall be subject to the approval and control of the Section 151 officer.
- 2.2 Disposal of accounting and other financial records shall be carried out in accordance with instructions issued by the Section 151 officer.
- 2.3 Each Corporate Head of Service shall be responsible for ensuring that financial records within their control are reconciled to the Council's

computerised financial management system in accordance with instructions issued by the Section 151 officer.

2.4 The Section 151 officer shall report to the appropriate performance monitoring body at regular intervals, or as appropriate, on the current financial position of the Council and shall report as soon as possible after the end of the financial year on the Council's annual accounts. Within the statutory period the Section 151 officer shall present the Statement of Accounts to the appropriate Committee as determined by Council for consideration and final approval. In the absence of any Committee being established by Council for this purpose the Accounts shall be submitted to Council for approval.

2.5 During the course of the year the Section 151 officer shall produce for the guidance of Officers and Members such financial information as may be necessary for the efficient conduct of their business.

### **3 Authorisations to certify payments to creditors**

3.1 The maximum value of each invoice which an officer is authorised to certify is restricted to the following:

- a Officer holding a budget responsibility – up to £20,000
- b Service Lead (depending on delegation) - up to £50,000
- c Corporate Head of Service/Head of Programme – up to £250,000
- d Strategic Director – up to £500,000
- e Chief Executive/Section 151 Officer – over £500,000

3.2 Prior approval must be obtained from the Section 151 Officer if an officer is to certify payments in excess of those limits shown above.

3.3 These limits do not automatically authorise all officers to certify invoices, only those officers who are specifically designated to do so.

### **4 Audit**

4.1 The Section 151 officer shall be responsible for providing a continuous internal audit service in accordance with the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom.

4.2 To enable them to carry out their responsibilities under Financial Procedural Rule 4.1 above, the Section 151 officer or, if appropriate, the Chief Executive, shall be entitled:

- a To have access to all appropriate records, documents, correspondence, etc. including all those in electronic form;
- b To enter at reasonable times on any Council premises or land; and
- c To require such information and explanations from any Officer or Member of the Council as are necessary concerning any matter under examination.

4.3 To enable them to carry out their responsibilities under Financial Procedure Rule 4.1 above, the Section 151 officer, in consultation with the Strategic Director or Corporate Head of Service/Head of Programme concerned or the Chief Executive, as appropriate, shall be authorised to seek information from the public.

4.4 The Section 151 officer shall have the authority to require any officer of the Council to produce on demand cash, stores or any other Council property under their control. The Section 151 officer shall be notified immediately, by the Service Lead concerned, of any circumstances that may suggest the possibility of any irregularity affecting cash, stores or any other property of the Council.

4.5 Officers shall notify the Section 151 officer and/or Internal Audit of any circumstances that may suggest the possibility of suspected fraud.

4.6 The Section 151 officer shall report to the relevant Strategic Director, Corporate Head of Service/Head of Programme, Service Lead and to the Chief Executive as appropriate of any suspected fraud or irregularity.

## **5 Banking Arrangements**

5.1 All arrangements with the Council's bankers concerning the Council's bank accounts and the issue of cheques shall be made through the Section 151 officer who is authorised to operate such bank accounts as may be necessary.

5.2 All cheques drawn on behalf of the Council shall bear the facsimile signature of the Section 151 officer or shall be signed by them, or such other officer authorised by them.

5.3 The Section 151 officer shall be responsible for the ordering and safe custody of new cheques.

5.4 No cash payments in excess of £10,000 will be accepted unless procedures in compliance with money laundering regulations are observed.

## **6 Borrowing and Investments**

6.1 All investments and borrowings shall be made in the name of the Council.

6.2 All securities that are the property of, or are in the name of, the Council shall be held in the custody of the Section 151 officer.

6.3 The Section 151 officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowings by the Council.

6.4 This Council adopts the key principles of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code of Practice).

6.5 Accordingly, this Council will create and maintain, as the cornerstones for effective treasury management:

- a A treasury management policy statement, stating the policies and objectives and approach to risk management of its treasury management activities
- b Suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

6.6 The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code of Practice, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.

6.7 Full Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Section 151 officer, who will act in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice.

6.8 Full Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year.

6.9 The Council nominates the Audit and Governance Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies, including a mid-year review and an annual report after

close of the year. The Committee shall also review and approve changes to the TMPs.

## 7 Budgets

7.1 The detailed form of capital programmes and revenue budgets shall be determined by the Section 151 officer.

7.2 Capital programmes and revenue budgets shall be prepared by each Service Lead in consultation and jointly with their Corporate Head of Service and the Section 151 officer who shall collate them for consideration by the Executive Leadership Board and the appropriate Committees.

7.3 The Section 151 officer shall submit to the Cabinet a capital programme and revenue budget for such future periods and by such dates as the Cabinet shall require.

7.4 The inclusion of a scheme in a capital programme shall not constitute authority to incur expenditure until **the details of such expenditure** has been submitted by the appropriate Service Lead in consultation with their Corporate Head of Service/Head of Programme and the Section 151 officer and the scheme approved by:

- a For schemes up to £250,000 - the Section 151 officer;
- b For schemes up to £2,000,000 - **by a Cabinet Member at a Decision Day**
- c For schemes over £2,000,000 - Cabinet or relevant Cabinet Committee

7.5 In the case of all proposed schemes a financial appraisal shall be included in the decision-making report or otherwise set out by the Section 151 officer or deputy.

**7.6** Winchester Town Forum may authorise incurring expenditure up to a limit of £250,000 on Town Account capital schemes within the approved capital programme without a separate report to Cabinet.

7.7 The Corporate Head of Housing, in consultation with the Section 151 officer, shall present a draft Business Plan, including the Housing Investment Programme (HIP), to The Overview and Scrutiny Committee which shall make recommendations to the Cabinet and Full Council on the Programme to be approved, including the likely implications in respect of the current capital controls.



7.8 The Corporate Head of Housing, in consultation with the Section 151 officer, shall present a draft Housing Revenue Account (HRA) budget to the Scrutiny Committee which shall make recommendations to Cabinet and Full Council on any rent increase that may be necessary to ensure that the appropriate regulations relating to the HRA are complied with.

7.9 The Section 151 officer will report to the Cabinet on the capital programme with an indication of the likely implications in respect of the Prudential Code for Capital Finance in Local Government.

7.10 The Section 151 officer will report to the Cabinet on the General Fund budget including the resources available to meet the net expenditure at a date which will allow appropriate time to make recommendations to the Council in accordance with the legislation relating to setting the annual local tax.

## **8 Budgetary Control**

8.1 It shall be the duty of each Strategic Director to monitor and regulate the financial performance in relation to budgets under their control during the currency of each budget period.

8.2 Requests for changes to the Capital Programme of up to £100,000 can be authorised by the Programme and Capital Strategy Board and then signed off by the Section 151 Officer. Requests for changes over £100,000 and up to £500,000 must be submitted for approval to the Cabinet after consultation with the Section 151 Officer. Requests for supplementary capital estimates in excess of £500,000 must be approved by Full Council.

8.3 Where the provision in a revenue budget will be exceeded (whether through excess expenditure or reduced income) the relevant Director, may request that a supplementary estimate be approved by the Cabinet or, if in excess of £500,000, by the Council. Before supplementary estimates are approved during any financial year, the costs, if any, in future years must also be reported.

8.4 A supplementary estimate will not be required if, in the opinion of the relevant Corporate Head of Service/Head of Programme and the Section 151 officer, the additional net expenditure can be met by transferring budget provision from one budget head to another (subsequently referred to as virement) provided that:

- a Virement within a services budget is delegated to Corporate Heads of Service/Head of Programme and;

- b Virement across services can be approved by Corporate Heads of Service/Head of Programme
- c Any virement which may commit the Council to increased net expenditure during any future year will require the approval of the Cabinet.
- d Virement in excess of £250,000 in total in relation to a Corporate Head of Service as outlined in (a) above in any one year shall require the approval of the Cabinet and in excess of £1,000,000, the Council.

8.5 Subject to, in respect of virements under (a) and (b) above: -

8.6 The virement being in respect of a budget over which the Corporate Head of Service/Head of Programme has direct control and that the base budget is not increased; and

8.7 Where the virement would affect budgets over which the Corporate Head of Service/Head of Programme does not have direct control the Corporate Head of Service/Head of Programme for the service agreeing that service's base budget will not be increased.

8.8 Please also refer to Part 4.5 of the Policy and Budget Framework Procedure Rules section 6 (virement).

8.9 Virement is not appropriate where there will be savings in one Fund and additional costs incurred in another Fund (for example, a virement between the General Fund or the Housing Revenue Account).

8.10 Winchester Town Forum may authorise virement of a sum of £250,000 or less in total in any one year between budget heads subject to:

- a The virement being in respect of a budget within the S35 Town Account and that the base budget is not increased; and
- b Where in the opinion of the Section 151 officer the provisions of the Council's Financial Procedure Rules on virement (Rules 7.4 (b) to (d) are met.

8.11 Whenever it is proposed to seek approval of Full Council to incur expenditure, whether capital or revenue, for which there is no budget provision, the Cabinet shall consider a report from the Strategic Director or Corporate Head of Service/Head of Programme concerned which shall incorporate a statement prepared jointly with the Section 151 officer on the financial aspects of the proposal.

- 8.12 Carry forward to a future financial year of any unspent one-off budget is delegated in full to the Section 151 officer where they are satisfied that the proposals for spending them in the following year are consistent with the relevant policies.
- 8.13 Proposals to make prior commitments with regard to future budgets, but within existing baseline budgets, either capital or revenue, require Section 151 officer approval if they exceed £250,000.
- 8.14 Nothing in these Regulations shall prevent a Strategic Director, Corporate Head of Service/Head of Programme or Service Lead from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency subject to its emergency status being approved where possible by the Chief Executive, or in their absence, a Strategic Director or the Section 151 officer, or Monitoring Officer, and a report made to Cabinet as soon as practicable thereafter on the use of emergency powers and the budget implications.
- 8.15 The estimated final cost of every capital scheme shall be reported to the Cabinet, together with explanations of variations in expenditure from the approved estimate.
- 8.16 Any scheme in the capital programme which is over £1m in total requires the business case to be approved by Cabinet.
- 8.17 The Section 151 officer must be notified of any application for or receipt of any credit approval, supported capital expenditure approval or revenue or capital grant as these may have Prudential Code implications.
- 8.18 In respect of asset disposals, the relevant Corporate Heads of Service for Asset Management responsibilities have delegated authority for asset disposals up to £250,000 subject to the proviso that any disposal that is being sought at less than best value receives approval from the **Cabinet Member with responsibility for Asset Management** and approval of Section 151 Officer. For asset disposals above £250,000, Cabinet approval must be sought.

## 9 Contracts

- 9.1 All contracts on behalf of the Council shall be subject to the Contract Procedure Rules which should be read in conjunction with these Financial Procedure Rules.

- 9.2 Each Corporate Head of Service/Head of Programme and Service Lead shall comply with instructions issued by the Section 151 officer and Monitoring Officer on the procedures for compiling the List of Tenderers as referred to in the Contract Procedure Rules relating to contracts.
- 9.3 The Section 151 officer shall be informed of all contracts, agreements, awards or other instruments, money or other consideration on behalf of the Council where the value involved shall be more than £100,000 before a commitment is entered into.
- 9.4 If any variation to a contract in excess of £1m for building or construction works (including the cumulative effect of previous variations to the contract) will result in the total cost of the scheme exceeding the approved estimate by more than 10% then the appropriate Corporate Head of Service/Head of Programme and Service Lead, in conjunction with the Section 151 Officer, will present an updated financial appraisal to the next meeting of The Overview and Scrutiny Committee and Cabinet explaining the reasons for the increased cost.
- 9.5 In respect of contracts of more than £50,000 the appropriate Service Lead shall keep appropriate records of payments to contractors to show the state of account of each contract (including related professional fees). These payments on account shall be authorised only by a certificate signed by the appropriate Service Lead showing the total value of the contract, the value of work executed to date, the value of retentions to date, the amount paid to date and the amount certified for payment.
- 9.6 Each Corporate Head of Service/Head of Programme responsible for contracts shall ensure that there are suitable monitoring procedures in place within their Team to ensure adequate control of all contracts in accordance with instructions issued by the Section 151 officer.
- 9.7 The final certificate on a contract or accepted estimate shall not be issued by the appropriate Service Lead until a detailed statement of account has been produced together with such vouchers and documents as the Section 151 officer may require.
- 9.8 Where a consultant has been appointed it shall be the duty of the appropriate Service Lead to ensure that these Financial Procedure Rules are complied with.
- 9.9 Where works, goods or services of a particular kind are likely to be required regularly or frequently during any period not exceeding two years their price or value shall be aggregated for the purposes of the Contract Procedure Rules relating to contracts where it would be practicable for the Council to enter into a single contract. Each Service Lead shall be responsible for identifying

works, goods or services to which this regulation applies as regards their own team.

## **10 Petty Cash Accounts**

- 10.1 The Section 151 officer will authorise such petty cash accounts as they consider appropriate for such Officers of the Council as may need them for the payment of expenses of the Council.
- 10.2 No income received on behalf of the Council may be paid into a petty cash account but must be banked or paid to the Authority as provided for in Procedural Rule 12.2 (income).
- 10.3 Petty cash payments shall be limited to minor items of expenditure and such other items as the Section 151 Officer may approve and shall be supported by receipted vouchers and proper VAT receipts where appropriate.
- 10.4 Petty cash must not be used to reimburse personal staff expenses.
- 10.5 Petty cash accounts shall be operated in accordance with instructions issued by the Section 151 officer.

## **11 Credit and Business Cards /Government Procurement Cards**

- 11.1 The Section 151 officer shall authorise such credit and business card accounts as they consider appropriate for such Officers of the Council as may need them for the payment of expenses of the Council.
- 11.2 Credit and business cards shall be operated in accordance with instructions issued by the Section 151 officer.

## **12 Income**

- 12.1 The arrangements for the collection of all money due to the Council shall be under the control of or approved by the Section 151 officer.
- 12.2 All money received on behalf of the Council shall be paid in without delay in accordance with instructions issued by the Section 151 officer and banked in the Council's name. Procedures for banking must be approved by the Section 151 officer. All receipts, refunds, banking, cash handling and credit card income shall comply with instructions issued by the Section 151 officer.

- 12.3 All receipt forms, tickets and other documents of a similar nature shall be ordered and controlled by the Section 151 officer or under arrangements that they have approved.
- 12.4 Subject to the appropriate powers delegated to them, each Service Lead shall, in conjunction with the Section 151 officer, determine at least annually the charges to be made for services under their control and shall provide the Section 151 officer with a list of all such charges to enable the annual review to be undertaken. Where charges have to be approved by Members, this shall be done at a time that will allow any revised charges to be incorporated within the draft budget for the next financial year.
- 12.5 Each Corporate Head of Service/Head of Programme shall follow instructions issued by the Section 151 Officer regarding the prompt recording and effective recovery of all debts due to the Council.
- 12.6 Each Corporate Head of Service/Head of Programme shall be responsible for ensuring recovery of all debts in respect of services within their control including being alert to the risk of potential bad or doubtful debtors.
- 12.7 Writing off debts due to the Council shall be authorised as follows on the recommendation of the appropriate Service Lead and after consultation with the Section 151 Officer where such debts arise from the operation of the Council's employment policies:
- a Amounts up to £10,000 in respect of council tax and business rates by the Service Lead: Revenues & Benefits.
  - b Amounts up to £10,000 in respect of Housing Benefit overpayments and sundry debts by the Service Lead: Revenues & Benefits.
  - c Amounts up to £10,000 in respect of dwelling and garage rents, housing service and support charges and tenancy related recharges by the Corporate Head of Housing
  - d Amounts up to £25,000 by the Section 151 officer.
  - e Amounts in excess of £25,000 and up to £50,000 by the Section 151 Officer in consultation with the Leader or Cabinet Member with responsibility for Finance.
  - f Amounts in excess of £50,000 and up to £250,000 by the Cabinet.
  - g Amounts in excess of £250,000 by Full Council.
- 12.8 Each Corporate Head of Service is responsible for ensuring that procedures are in place for the proper recovery of sums due and for the action to be taken before recommending that debt be written off. Such procedures shall comply with instructions issued by the Section 151 Officer.

## **13 Insurances**

- 13.1 The Section 151 Officer shall affect all insurance cover, maintain appropriate records and negotiate claims in consultation with other officers where necessary.
- 13.2 Each Service Lead shall co-operate with the Section 151 Officer in maintaining a constant review of insurances and keep them informed of all new risks to be insured or any variations to insurable risks. The Section 151 officer shall provide each Service Lead with an annual statement of all insurances in force as they affect their department for checking and review.
- 13.3 All Officers of the Council shall be included in a fidelity guarantee policy.
- 13.4 Each Service Lead shall notify their Corporate Head of Service/Head of Programme and the Section 151 Officer immediately in writing of any loss, liability or damage or any event that may give rise to a claim on the Council's insurers or its own Insurance Fund.
- 13.5 Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without their express approval.

## **14 Driving Licences and Vehicle Insurances**

- 14.1 Each Service Lead is responsible for ensuring that staff within their Team have appropriate driving licences and vehicle insurance for business use and shall comply with instructions approved by the Strategic Director: Resources.

## **15 Security**

- 15.1 Each Service Lead is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under their control. They shall consult with their [Corporate Head of Service/Head of Programme](#) and the Section 151 officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 15.2 Arrangements shall be made for safe custody of keys to buildings and safes or similar receptacles; the loss of any such keys must be reported to the

Section 151 officer and, in the case of keys for buildings the Corporate Head of Asset Management, as soon as the loss is known.

- 15.3 Each Service Lead is responsible for ensuring security arrangements are in accordance with instructions issued by the Section 151 Officer.

## **16 Stores and Inventories**

- 16.1 Each Service Lead shall be responsible for the care and custody of stores in their Team and, except for minor items of stationery, shall issue an annual certificate, in a form approved by the Section 151 Officer, certifying the stores held at 31 March.
- 16.2 Each Service Lead shall ensure that an adequate inventory of the Council's property under their control shall be maintained and kept up to date and recorded in a manner approved by the Section 151 Officer.
- 16.3 Each Service Lead shall keep stores and inventories records, carry out periodic stock and inventory checks and maintain stock levels in accordance with instructions issued by the Section 151 Officer.
- 16.4 Disposal of surplus stores, equipment or other articles shall be carried out in accordance with instructions issued by the Section 151 Officer.

## **17 Land and Buildings**

- 17.1 The Corporate Head of Asset Management shall maintain a terrier of all land and buildings in which the Council has a freehold or leasehold interest, denoting powers under which it was originally acquired and the purpose for which it is currently held.
- 17.2 The Service Lead - Legal shall have the custody of all deeds under secure arrangements.
- 17.3 All proposals for the acquisition or disposal of land and buildings or interest therein shall be submitted to the Section 151 Officer for consultation irrespective of whether or not monetary consideration is involved as there may be Accounting, Prudential Code or Tax implications.



- 17.4 All proposals for the acquisition or disposal of land and buildings which cumulatively have a total estimated disposal or purchase value of over £250,000 or are a key decision shall be submitted to Cabinet for a decision.

## **18 Leasing Agreements**

- 18.1 Before entering into any leasing agreement, the Section 151 Officer must be consulted in order that the nature of the lease can be determined as to whether it is a finance lease with Prudential Code implications, or an operating lease and so that details can be recorded correctly for inclusion in the statutory Statement of Accounts.

## **19 Purchasing Works, Goods and Services**

- 19.1 Except as otherwise approved by the Section 151 Officer, an official order shall be issued for all work, goods and services to be supplied to the Council.
- 19.2 HMRC requirements for work that falls within the Construction Industry Scheme must be complied with before contractors are engaged.
- 19.3 Purchasing of works, goods and services shall comply with instructions issued by the Section 151 Officer.

## **20 Payment of Accounts**

- 20.1 All payments shall be made by the Section 151 officer or under arrangements approved by them.
- 20.2 Invoices or other requests for payment shall be certified in accordance with instructions issued by the Section 151 Officer.
- 20.3 All authorisations to certify invoices etc. shall be approved by the Section 151 officer.
- 20.4 Payments made to contractors under the Construction Industry Scheme must be verified in accordance with HMRC requirements.

20.5 The Section 151 Officer shall examine, so far as they consider necessary, certified accounts passed to them for payment and shall be entitled to withhold payment of any account until such time as adequate explanations are given as to the validity of the account.

20.6 Each Corporate Head of Service/Head of Programme and Service Lead shall provide, by not later than a date determined by the Section 151 officer, sufficient information to allow them to identify accounts outstanding at 31st March of each year.

## **21 Value Added Tax**

21.1 The Section 151 officer shall provide guidance and advice on the administration of VAT.

21.2 Each Corporate Head of Service/Head of Programme is responsible for ensuring that transactions within their responsibility comply with the law relating to VAT and are in accordance with instructions issued by the Section 151 Officer.

21.3 All matters of both principle and practice, including any errors or discrepancies, shall be immediately referred to the Section 151 officer.

21.4 Estimated costs of any proposed capital scheme or significant additional or new revenue expenditure on any service where exempt income is, or may be, involved must be notified to the Section 151 officer as early as possible to ensure that the Council's VAT exemption limit is not breached.

21.5 Contacts with HMRC concerning matters of VAT must be through the Section 151 officer or their appointed representative.

## **22 Salaries and Wages**

22.1 Appointments of all employees, unless temporary employees approved by Strategic Directors (for which there must be adequate budget provision), shall be made in accordance with the Officer Employment Procedure Rules.

22.2 Any change to the establishment in terms of full-time equivalents (FTEs) or costs will not be implemented without **approval from Strategic Directors** and confirmation to the satisfaction of the Section 151 Officer that there are:

- a Sufficient resources available to meet any costs involved within the approved budgets under the control of the Strategic Director concerned, and
- b That there will be no implications for future financial years that would involve growth in the Council's net expenditure under the relevant or any related budget.

22.3 Each Service Lead shall notify the Service Lead - Human Resources and the Human Resources team as soon as possible of all appointments, dismissals, resignations, transfers, changes in the remuneration (including increments), absences, sick leave and unpaid leave of employees, including casual staff, so that proper records are maintained on the HR system and payments made.

22.4 The payment of all salaries, wages, compensation or other emoluments to employees including casual staff or former employees shall be made under the control of the Strategic Director: Resources using procedures approved by the Section 151 officer.

22.5 All-time records, time sheets or other pay documents shall be certified by the line manager and shall be submitted to the Human Resources section in accordance with instructions approved by the Section 151 Officer.

## **23 Travelling, Subsistence, Other Allowances and Expenses**

23.1 The payment of travelling, subsistence, other allowances and expenses shall be claimed in accordance with instructions approved by the Section 151 officer and submitted to the Human Resources section. Such claims will be certified by the appropriate Service Lead and their certification will indicate that they are satisfied that the journeys were authorised and necessary, the expenses properly and necessarily incurred, and the allowances are properly payable.

23.2 Claims by Members for all allowances due in accordance with the appropriate legislation and Regulations shall be made on a form prescribed by the Section 151 officer and certified by the Member concerned. Claims must be made on a regular basis and submitted to the Democratic Services Team Manager in accordance with the provisions of the Members' Allowances Scheme and in any case by the end of April in respect of the previous financial year.

## Part 4.7 - Contract Procedure Rules

### 1 Introduction

- 1.1 The Contracts Procedure Rules (CPRs) set out the key responsibilities and actions that Council staff must follow when buying or undertaking procurements on behalf of Winchester City Council (the Council).
- 1.2 Under Section 135 of the Local Government Act 1972 the Council must make standing orders with respect to contracts for the supply of goods and services or for the execution of works which provide for:
  - a Securing competition; and
  - b Regulating the manner in which tenders are invited.
- 1.3 They support staff to meet legislative requirements, and to meet the Council's ambitions for procurement and related policies and procedures. They support staff to deliver effective procurement.
- 1.4 CPRs are a legal requirement and constitute standing orders for the purpose of s135 of the Local Government Act 1972.
- 1.5 With the exception of procurements in Bands A1 and A2, B1 and B2 (as detailed in Table 1) ("Low Value Transactions"), officers must not engage with a supplier without first engaging with the Procurement Team.
- 1.6 Strategic Directors are responsible for ensuring that their officers comply with these Rules.
- 1.7 The Procurement Team will advise on whether and how the Rules apply in any particular case. Where appropriate, the Procurement Team may seek legal advice from the Council's Legal Team.
- 1.8 A range of procurement templates are also available. Further support and guidance on these CPRs is available from the Service Lead - Corporate Support.
- 1.9 **Non-compliance with CPRs, Financial Procedure Rules or UK and European Union legal requirements can have serious consequences for the Council. Following CPRs allows the Council to comply with both procurement and data transparency legislation and Officers should be aware that any non-compliance may result in disciplinary action by the relevant Strategic Director or Statutory Officer.**

## 2 Compliance

2.1 Every procurement undertaken by or on behalf of the Council and every contract entered into by the Council will comply with:

2.2 All applicable EU and UK Legislation This is specifically (but not limited to):

- a The Local Government Act 1972
- b Public Contract Regulations 2015 (PCRs)
- c Concession Contracts Regulation 2016 (CCRs)
- d Equality Act 2010
- e Bribery Act 2010
- f Localism Act 2011
- g Social Value Act 2012
- h Modern Slavery Act 2015
- i General Data Protection Regulation (GDPR) 2016
- j Freedom of Information Act 2000
- k Transparency Code 2015
- l TUPE 2006 (Staff Transfers)
- m Council Regulations 2015 (State Aid)
- n Landlord & Tenants Act 1985, Section 20
- o Housing Grants, Construction & Regeneration Act 1996 – (Pay Less Notice)

2.3 These Contracts Procedure Rules, and the Council's Financial Procedure Rules.

2.4 The Council's strategic objectives and policies and the Council's Employee and Members Code of Conduct; and

2.5 The Council's Constitution in particular; Part 2 (Articles of the Constitution), Part 3 (Responsibility for Functions), Part 4 (Rules of Procedures, Part 3.4 (The Scheme of Delegation to Officers) and Part 5 (Codes and Protocols).

2.6 Where there is a discrepancy between these CPRs and legislation, the legislation is the dominant authority.

2.7 Central Government Procurement Policy Notes (PPNs) are to be treated as “best practice” –they do not override these rules.

2.8 These Contract Procedure Rules apply to all procurements except those set out below in 2.4 and Exempt Contracts (CPR41).

## 2.9 Safeguarding Obligations

a Before commencing a procurement process, the following need to be considered.

(i) Is the interaction in a public or private setting

(ii) Is the interaction on an individual or group basis

(iii) Is the target group known to be covered under the classification of ‘vulnerable’ adults or children.

(iv) What risks does the contract create for ‘vulnerable’ individuals

(v) How can the identified risks be mitigated

(vi) Is a Safeguarding Policy and process required.

2.10 The term ‘procurement’ in these CPRs includes any arrangement whereby a new, replacement, amended or extended contract for the supply of goods, works or services is to be put in place. This includes circumstances where more than one provider is invited to tender and also where goods, works or services are procured through a negotiation with a single provider. This includes the award of concessions (a concession contract is the grant by the Council of the right to exploit something that the Council owns or controls. The Council will receive some form of benefit and the person who is granted the concession will exploit the opportunity at their own risk). Grant funding arrangements should be considered carefully to decide whether they are in fact procurement for the purpose of these CPRs. A genuine grant funding arrangement is not procurement. However, officers should consider whether the purpose that the grant is being provided for could be achieved through procurement.

2.11 The following are not procurements for the purposes of these CPRs:

a A joint or shared services arrangement with another public body; (provided that the Public Contracts Regulations 2015 do not apply),

- b An arrangement with a statutory body (e.g. the police) to provide a service that only the statutory body can legally provide; and
- c A contract or other arrangement with a company that is controlled by the Council (whether wholly or jointly with another public body.)

d Employment contracts

e Sponsorships

f Grants and funding arrangements

g Disposal of land

h Services excluded under PCR2015 Reg 10.

2.12 Where any Agents or Consultants are acting on behalf of the Council in connection with the letting of a contract, the Officer must ensure that the Agent or Consultant agrees in writing to comply with these CPRs.

2.13 Guidance on this matter is available on the national audit office website. <http://www.nao.org.uk/successful-commissioning/successful-commissioning-home/sourcing-providers/>

### **3 Requirements for Procurement and Contracts**

**3.1** The principles underpinning these Procedure Rules are:-

- a The need to ensure that competition and propriety are present in the Council's procurement and the award of contracts.
- b The need to secure best value from procurement.
- c The need to maintain fairness, transparency, equality and integrity in the Council's procurement activity; and
- d The need to comply with applicable legal requirements.

3.2 All procurement by the Council shall comply with the Council's statutory duties in respect of equality (including age, gender, race, and disability) with the objective of eliminating unlawful discrimination and promoting equality of opportunity. At all times during the procurement, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

**3.3** All contracts shall be executed in accordance with **Articles 14.03 and 14.04 of this Constitution.**

## **4 Achieving Best Value**

**4.1** Every procurement process and contract must be designed to achieve best value for the Council, in accordance with applicable procurement guidance issued by the Service Lead - Corporate Support.

**4.2** Before undertaking a new procurement, process or awarding a new contract the Service Lead must establish whether the Council's requirement can be met through any existing contract and ensure that the estimated value can be met from the appropriate budget.

**4.3** In relation to all contracts, the Service Lead concerned shall consider matters of quality and reliability as well as price and shall not accept, or recommend acceptance of, the lowest tender or quotation if the Service Lead is not satisfied that it is likely to represent the best value for money.

## **5 Social Value**

**5.1** The Public Services (Social Value) Act 2012 requires contracting authorities to consider at the pre-procurement stage of any service contract and service Framework Agreement (including good and works contracts procured in combination with services) above **Public Procurement** Thresholds:

- a How the proposed procurement may improve the economic, social and environmental wellbeing of an area.
- b How the contracting authority may act with a view to securing that improvement in conducting the process of procurement; and
- c Whether to undertake any community consultation on the above

**5.2** Appropriate records should be kept of these considerations, including the reason for any decision regarding the matter of community consultation.

**5.3** The Council has been granted The Living Wage Foundation Accreditation, (this differs from the National Living Wage) and this applies to both our own employees and our suppliers. The Living Wage will form part of our social value criteria and where relevant.



- a Existing contractors should be encouraged to apply the Living Wage Foundation rates of pay.
- b New suppliers should be encouraged to pay the living wage foundation rates of pay and should be required to submit a plan on how they will implement the Living Wage Foundation rates of pay should they be awarded the contracts, when bidding for contracts.

5.4 Additional guidance is available from the Procurement Team to ensure compliance to the Council's Procurement and Contract Management Strategy in relation to evaluating social value.

## **6 Interests of Officers in Contracts and Other Matters**

6.1 All officers engaged in a procurement process shall comply with The Employee Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of a contract. High standards of conduct are obligatory.

6.2 In addition to their duty under Section 117 of the Local Government Act 1972 (direct or indirect pecuniary interests in a contract) notice shall be given to the Monitoring Officer, if it comes to the knowledge of any officer of the Council that they have a personal and/ or prejudicial interest in any contract which has been, or is proposed to be, entered into by the Council, or in some other matter which is to be considered by the Council, the Cabinet, any Committee or Sub-Committee, or by a Cabinet Member under the scheme of delegation in the Constitution and which (in either case) is not:

- a The contract of employment (if any) under which they serve to the Council, or
- b The tenancy of a dwelling provided by the Council,

6.3 They shall as soon as practicable give notice in writing to the Monitoring Officer of the fact that they are interested therein.

6.4 For clarity under these Contract Procedure Rules, a personal and prejudicial interest is an interest that, if the officer were a member of the Council and if the contract or other matter were to be considered at a meeting of the Council at which they were present, they would have to disclose under the Members' Code of Conduct in Part 5 of this Constitution prior to providing such advice.

6.5 The Monitoring Officer shall keep a record for the purpose of particulars of any notice of pecuniary or personal and prejudicial interest given by an officer of the Council under Section 117 of the Local Government Act 1972 or Rule

6.2 of this Rule. The record shall be open for inspection by members of the Council during the ordinary office hours of the Council.

6.6 Where an officer submits a report to a meeting on a matter in which they have declared an interest under Section 117 of the Local Government Act 1972 or paragraph 6.2 of these Contract Procedure Rules, then they shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report.

6.7 Where any officer advises orally a meeting of the Council, the Cabinet, a Committee or a Sub-Committee, on any contract, grant, proposed contract or other matter and has declared a personal and prejudicial interest in that matter, whether under the requirements of Section 117 of the Local Government Act 1972 or Rule 6.2 of these Contract Procedure Rules, they shall remind the meeting orally of that interest.

## **7 Joint Procurement / Collaboration**

7.1 Any joint procurement for the benefit of the Council together with one or more public bodies will be approved by the relevant Strategic Director before the procurement commences.

7.2 Where the Council conducts the procurement on behalf of itself and one or more other public bodies these CPRs will apply, and the Service Lead must ensure the other public bodies that are to be included in that arrangement are listed in the Find a Tender Service FTS advertisement and contract documents individually or as an identified class. The estimate of contract usage given must include the potential usage of that joint arrangement by those public bodies listed.

7.3 Where the Council is going to take part in a procurement that is conducted by another public body the procurement must be carried out in accordance with the procuring body's procurement rules and the Public Contracts Regulations, but the Service Lead will in any event comply with the need to demonstrate and secure best value and of the principles of openness, fairness and transparency.

## **8 Assessing the need and estimating the Contract Value / Aggregation**

8.1 With the exception of Low Value Transactions, the Service Lead wishing to undertake a procurement must engage with the Procurement Team as soon as a need which may result in a procurement is identified.

8.2 Prior to commencing a procurement, the following options for delivery of the need must be considered:

- a The consequences of not buying the goods or services or having the works done at all.
- b The Council making the goods or delivering the services or works in-house.
- c The Council providing the goods, services or works as part of a partnership arrangement with another party.
- d The Council commissioning jointly with another contracting authority.
- e The Council participating in a shared services arrangement with another council or other public sector entities for services delivery.
- f The Council utilising a pre-existing Council Contract to fulfil the requirement; or
- g The Council achieving delivery through any combination of the above.

8.3 Where the assessment of the need determines that a procurement is required, the appropriate procedure shall be undertaken in accordance with Table 1.

8.4 The contract value is calculated by multiplying the (annual price) by the (contract length + possible contract extensions) whether or not the Public Contracts Regulations 2015 are applicable.

8.5 Contracts whose value cannot be estimated must be treated as being equal to the relevant public procurement threshold, and thus subject to the full regime (Procurement Policy Note 05/23).

8.6 Where the period of a contract is indefinite or cannot be ascertained, it shall be assumed to be for a period of four years for the purpose of these CPRs.

8.7 The Service Lead will ensure that values are not split (dis-aggregated) and therefore remain in compliance with these CPRs and the Public Contracts Regulations 2015.

## **9 Authority to Purchase**

9.1 The Constitution governs the limits within which the Strategic Directors and their authorised officers may authorise purchases on behalf of the Council and

these limits must not be exceeded. The Service Lead - Finance maintains a list of authorisation limits which specifies a maximum financial limit for each transaction for each authorised officer.

9.2 Strategic Directors must ensure that procurement activity is undertaken by authorised officers who can demonstrate knowledge and understanding of these Rules and skills appropriate to the task. These officers should already have authority under the above list and if not, must be granted authority by the Section 151 Officer or their deputy.

9.3 Officers must ensure that the appropriate budget holder has the funds in place for any proposed contracts and that the necessary budget approval from Finance has been obtained in accordance with Financial Procedure Rules prior to commencement of the procurement process. This must be validated before a decision is made to award a contract.

## **10 Pre-Contract and Budget Approval**

10.1 Before commencing a procurement process the Service Lead undertaking a procurement must ensure that:

a the procurement is properly authorised either: -

- (i) By Council, Cabinet a Committee or a Cabinet Member, OR
- (ii) In accordance with the Scheme of Delegation to Officers

10.2 The value of the procurement has been calculated in accordance with these CPRs and that appropriate budgetary provision is available.

## **11 Pre-Market Engagement**

11.1 Before commencing a procurement process, it may be beneficial to conduct market consultations in order to:

- a establish the supply market and/or market interest.
- b gauge whether the proposed procurement will be affordable.
- c determine the most appropriate procurement process.
- d assist with the development of documentation; and
- e inform potential bidders of the nature of the procurement.

11.2 Contact the Procurement Team if pre-market engagement is to be undertaken.

11.3 In the event of a procurement process proceeding following Preliminary Market Engagement, the Bidders who participated should be notified of the opportunity.

## **12 Framework Agreements**

12.1 Frameworks are normally used where it would be useful to have a pool of pre-selected bidder to draw from, as the bidder quality assessment procedure has already taken place.

12.2 A Framework Agreement is an agreement with one or more bidders that sets out the terms and conditions under which specific purchases can be made (or 'called off') throughout the term of the agreement.

12.3 Framework Agreements may be established by the Council, or by other public bodies or public sector buying consortia as arrangements through which the Council, along with other public bodies, may make specific purchases.

12.4 The use of a Framework Agreement should be considered prior to commencing any procurement process.

12.5 Advice should be sought from the Service Lead - Corporate Support on whether it is appropriate to use a Framework Agreement and, if so, how it should be accessed or put in place.

12.6 Where a framework is used, The Service Lead - Legal must be consulted on the proposed contractual terms and conditions before they can be accepted.

## **13 Dynamic Purchasing System (DPS)**

13.1 A DPS is similar to a Select List or Framework Agreement but is an entirely electronic system that admits all suppliers able to meet the defined selection criteria.

13.2 Additional suppliers can be added throughout the life of the arrangement and the term can be for a period that is proportionate to the nature of the Goods, Services or Works to be procured under it.

13.3 New applicants meeting the requirements must be evaluated and admitted to set timescales at any point during the duration of the DPS. Call-off contracts from a DPS invite all suppliers on the DPS or relevant category of it to submit a tender and must have a Contract Award Notice published in the FTS.

13.4 As with Framework Agreements, there are a number of established central purchasing bodies who DPS which the Council can utilise.

13.5 The use of a Dynamic Purchasing System may be appropriate where:

- a Quotations or Tenders are regularly obtained for the same or similar types of Goods, Services or Works; and
- b It is not practical or appropriate that the Goods, Services or Works in question be aggregated into a single requirement and/or competed under one procurement.

13.6 Advice on setting up or using an established DPS should be sought from the Service Lead - Corporate Support and the Service Lead - Legal.

## 14 Procurement Thresholds

14.1 The procedure to be adopted in relation to contracts shall be in accordance with the following table:

**TABLE 1**

	<b>Estimated Total Value of Contract</b>	<b>Procedure / Tender Requirement</b>
A1	£10,000 or less	Obtain <b>single verbal</b> or written quotation, or use suitable framework agreement or DPS in accordance with the framework/DPS terms and CPR 11 or 12.
A2	<b>£25,000 or less</b> <b>Works contracts ONLY</b>	The Service Lead concerned may agree contractual terms with any person that they consider competent for the relevant purpose, subject to achieving Best Value and Social Value.



	<b>Estimated Total Value of Contract</b>	<b>Procedure / Tender Requirement</b>
	<b>Values are ex VAT.</b>	For Concession and light touch contracts contact the Procurement team
C1	Over £100,000 Supplies and Service contracts (but outside scope of Public Contracts Regulations 2015)	No contract may be entered into unless formal competitive tenders have been invited either:  C1 by Public Invitation to Tender (Open Tender) in accordance with CPR 16 and 29 or
C2	Over £250,000 Works contracts ONLY	C2 by Public Invitation to Tender (Open or Restricted) in accordance with CPR 16 and/or 18 and 29  Use of a suitable framework agreement or DPS in accordance with the framework terms and CPR 11 or 12
C3	Over £250,000 concession and light touch contracts ONLY  <b>Values are ex VAT.</b>	C3 by Public Invitation to Tender (Open or Restricted) in accordance with CPR 16 and/or 18 and 29  For Light Touch Contracts use of a suitable framework agreement or DPS in accordance with the framework terms and CPR 11 or 12  For competitive restricted tender process, not publicly advertised, Approval to proceed must be obtained from the Service Lead - Corporate Support
D	Over the UK Public Procurement Thresholds	Where the value exceeds the UK Public Procurement Thresholds, the procurement must be undertaken in accordance with one of the following procedures as defined by the Public Contract Regulations 2015:



	Estimated Total Value of Contract	Procedure / Tender Requirement
	<p><b>UK Public Procurement Thresholds effective from 1 January 2022 are calculated incl VAT:</b></p> <p>Works Contracts: £5,336,937 (Based on 20% VAT this figure is £4,447,448 ex VAT)</p> <p>Supplies Contracts:- £213,477 (Based on 20% VAT this figure is £177,898 ex VAT)</p> <p>Services Contracts: £213,477 (Based on 20% VAT this figure is £177,898 ex VAT)</p> <p>Light Touch Contracts: £663,540 (Based on 20% VAT this figure is £552,950 ex VAT)</p>	<p>Open Restricted Competitive with Negotiation Competitive Dialogue Innovation Partnership Negotiated procedure without prior publication.</p> <p>The Service Lead may select the Open or Restricted Procedure without Member approval and shall determine the evaluation criteria and model (based on either price or most economically advantageous tender) and obtain any necessary approval prior to inviting tenders in accordance with <b>CPR29</b>.</p> <p>In all other cases (except for Light Touch Regime) the choice of Procedure must be approved prior to inviting tenders either by Cabinet or by the relevant Cabinet Member under the scheme of delegation in the Constitution.</p> <p>Use of a suitable framework agreement or DPS is permitted in accordance with the framework or DPS terms and <b>CPR 11 or 12</b>.</p>

## 15 Procurement and Contract Risk Assessment

- 15.1 Before the commencement of procurement activity for any category other than A1 and A2, a risk assessment should be completed. The approach to the procurement and subsequent contract management arrangements will

be proportionate to the risk of the contract. Further guidance is available from the Service Lead – Corporate Support.

## **16 Contracts up to £100,000 / £250,000 - (Band A1 and A2 and Band B1 and B2)**

- 16.1** For contracts of a value of £10,000 or less (Band A1 - Supplies and Services) and £25,000 or less (Band A2 - Works only) at least one written quotation should be sought.
- 16.2** For Band B1 Supplies and Services contracts valued above £10,000 – £100,000 and Band B2 Works contracts valued above £25,000 - £250,000 where there are a sufficient number of providers, at least three written quotations should be sought and a detailed brief / specification should be issued, along with the evaluation criteria.
- 16.3** A Framework Agreement or DPS may also be used as an alternative to inviting quotations. See CPR 11 and 12. Concession and Light Touch contracts valued up to £250,000; contact the Procurement Team.
- 16.4** Where quotations are sought, the Procuring Officer must always consider whether the procurement would be of interest to local suppliers and/or third sector organisations and, if it would, at least one of the organisations invited to quotation should be local suppliers and/or third sector organisations.
- 16.5** Quotations should be invited via an e-procurement system where it is available, or by e-mail (unless it is a requirement of a Third-Party Agreement that another means be used i.e. an alternative e-procurement system.) Where e-mail is used to issue and receive quotations, it is recommended that local processes are put in place to ensure the integrity of a fair, open and transparent process.
- 16.6** Where relevant, a third-party pre-qualification system such as Construction Line may be used to invite a minimum of three quotations in accordance with the relevant terms. Use of a pre-qualification system should be reviewed by the Service Lead - Corporate Support and Service Lead - Legal to ensure that it is a legally viable option and allows the Council to demonstrate suppliers' suitability.
- 16.7** For the avoidance of doubt the return of a single bid does not require the Authorised Officer to seek a waiver of this CPR but consideration should be given to why only a single bid has been received and the requirements of the specification reviewed to establish if viable changes would encourage more competition.

16.8 Officers must provide the Procurement Team with any and all requested information relating to the contracts and suppliers to facilitate completion of the Contract Register and to enable the Council to meet its obligations in respect of the Local Government Transparency Code 2015.

## 17 Contracts Over £100,000 / £250,000 – (Band C1 and C2)

17.1 The Service Lead - Corporate Support must be notified of the commencement of all new Band C and procurements.

17.2 For Band C1 Supplies and Services contracts valued above £100,000 but below Public Procurement thresholds (See CPR 13), an 'open' tender procedure must be followed or a suitable framework agreement or DPS utilised (See CPR 11 and 12).

17.3 For Band C2 'Works' contracts valued above £250,000 but below Public Procurement thresholds (See CPR 13), an 'open' or 'restricted' tender procedure may be followed or a suitable framework agreement or DPS utilised (See CPR 11 and 12).

17.4 For Band C3 'concession' or Light Touch' contracts valued above £250,000 but below Public Procurement thresholds (CPR 13) an 'open' or restricted tender procedure by public invitation may be followed. A suitable framework agreement or DPS can be utilised for Light Touch contracts, See CPR11 and 12), or a competitive restricted tender process, not publicly advertised, can be followed. Approval shall be obtained from the Service Lead - Corporate Support.

## 18 Open Tender Procedure

18.1 Under the 'open' tender procedure, any bidder can respond to an advert and submit a tender. However it is permitted to include 'suitability' questions in the tender documents. Where relevant, Constructionline can be used as a pre-qualification system to assess and evidence a bidders suitability. However, this cannot be mandated, and suitability questions should be completed and submitted by bidders that are not Constructionline members.

18.2 Use of pre-qualification systems should be reviewed periodically by the Service Lead - Corporate Support to ensure that their use continues to be used in a way that promotes the principles of openness, fairness and transparency.

18.3 A Contract Notice (advert) must be placed on Find a Tender Service (FTS), Contracts Finder<sup>1</sup> (and any other electronic advertising portal as determined by the Service Lead - Corporate Support).

18.4 The Contract Notice shall:

- a Express the nature and purpose of the contract.
- b Invite tenders for its execution.
- c State where tender documents may be obtained.
- d State either the last date and time when tenders will be received or the Last date when applications for tender documents will be accepted.
- e State the full evaluation criteria and scoring model.

18.5 All Invitations to Tender must include instructions to tenderers stating that the Council reserve the right to accept a tender other than the lowest, or to accept no tender at all. The process for receiving tenders shall be either a paper process or an electronic process (**See CPR 28**).

## **19 Above UK Public Procurement Thresholds – (Band D)**

19.1 The Service Lead - Corporate Support must be notified of the commencement of all new Band D and procurements.

19.2 Where a procurement process is being carried out for an UK Public Procurement Procedure contract the procedures set out in the Public Contracts Regulations 2015 (PCR2015) as well as these CPRs must be followed.

19.3 For tenders above the UK Public Procurement Threshold, the following procedures are available:

- a Open
- b Restricted
- c Competitive Dialogue
- d Competitive with Negotiation
- e Innovation Partnership
- f Negotiated procedure without prior publication.

19.4 Use of the Competitive Dialogue and Competitive Negotiation procedures should only be used where certain criteria (as prescribed by the

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<sup>1</sup> The Governments Contracts Finder website can be found here - <https://www.gov.uk/contracts-finder>

PCR2015) are met, including where the contract requirement is complex or cannot be purchased 'off the shelf'.

- 19.5 Before adopting any of the above procedures, guidance must be obtained from the Service Lead - Corporate Support and the Service Lead - Legal.

## **20 Restricted procedure**

20.1 Under the 'restricted' procedure a number or bidders are selected from those who express an interest in response to a FTS Contract Notice. It is similar to the open procedure, except that:

- a The Contract Notice shall state that a restricted tendering procedure will be used.
- b The notice/contract should specify that information is to be provided by interested parties for the short-listing process, either by specifying the information required in the public notice/advert or by their completion and return of a standard selection questionnaire (SQ). A draft ITT must also be published at this stage which includes the specification, evaluation award criteria and contract.
- c At the end of the period specified in the public notice, an invitation to tender shall be issued to tenderers selected by means of predetermined and objective selection criteria.

20.2 Guidance should be sought from the Service Lead - Corporate Support on this process.

## **21 Competitive with Negotiation Procedure**

21.1 Under this procedure a selection is made from those bidders who respond to a FTS Contract Notice and only they are invited to submit an initial tender for the contract requirement. The Council may then open negotiations with the tenderers in order to seek improved offers.

## **22 Competitive Dialogue Procedure**

22.1 Under this procedure a selection is made from those bidders who respond to a FTS Contract Notice and the Council enters into dialogue with potential bidders, to develop one or more suitable solutions for its contract requirements and on which chosen bidders are then invited to tender.

## **23 Innovation Partnership Procedure**

23.1 Under this procedure a selection is made from those bidders who respond to a FTS Contract Notice. The Council may then use a negotiated approach to invite bidders to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' or available from the market. The Council would be allowed to award partnerships to more than one 'partner'.

## **24 Negotiated procedure without prior publication.**

24.1 In the specific cases and circumstances laid down in PCR2015, this procedure may be used to award public contracts by a negotiated procedure without prior publication. Guidance must be sought from the Service Lead - Corporate Support on this process.

## **25 Reserved Contracts for Mutuals**

25.1 The UK Procurement Directives permit competition for certain contracts, mainly in the social and health sectors, to be 'reserved' to such organisations as mutual and social enterprises meeting certain limited criteria. The 'Light Touch' procedure would be used, and tenders would only be allowed from organisations meeting the mutual and social enterprise criteria. Any contract awarded under this procedure would be limited to a term of 3 years and could not be limited to a term of 3 years and could not be awarded to an organization who had been awarded a previous contract for the services concerned by the Council within the previous 3 years.

25.2 Use of this procedure would require the prior approval of the relevant Cabinet Member and/or Cabinet.

## **26 Light Touch Contracts**

26.1 There are specific rules in PCR2015 covering contracts for social and other specific services, that include certain health, social, educational and other services.

26.2 Above the threshold set out in **CPR 13 D**, these services must be procured following the placement of a FTS Contract Notice and using a selection process that follows the principles of transparency and equal treatment and in particular covers the following:

- a Conditions for participation must be clear.

- b Time limits must be clear; and
- c The award procedure must be clear.

26.3 Advice shall be sought from the Service Lead - Corporate Support to ascertain whether the service you are procuring needs to be advertised in accordance with PCR2015 and how the procurement for these services should be run.

26.4 Below the threshold set out in **CPR 13 D** these services must be procured following the advice of the Procurement team.

26.5 Officers conducting above threshold procurement of goods, works and services should note that they must consider dividing contracts in to lots and justify any decision not to do so in either the procurement documents or an evaluation report and that all procurement documents must be published at the time that the FTS Contract Notice is published in accordance with PCR2015.

## 27 Contract Notice

27.1 The requirement for advertising opportunities is summarised in the table below:

Total Contract Value	Contracts Finder	FTS
< £100,000 (B1) / £250,000 (B2)	< Optional	Optional
> £100,000 (C1) / £250,000 (C2)	> Mandatory	Optional
Above UK Public Procurement Threshold	Mandatory	Mandatory

27.2 Where an advert is used it should always be placed on Contracts Finder. Other media may be considered as appropriate.

27.3 Failure to publish on Contracts Finder will lead to the Council being in breach of data transparency legislation.

## 28 Bidder Suitability

- 28.1 In all UK Public procurements, the Council will only enter into a contract with a Contractor if it is satisfied as to the Contractor's eligibility, financial standing and technical capacity. The initial suitability of Bidders shall be assessed by way of self-declarations of preliminary evidence in accordance with PCR2015.
- 28.2 A standard Selection Questionnaire (SQ) is used to assess a tenderer's ability to perform the contract in question (selection criteria) and must not be used to assess how a contractor will perform the contract (award criteria). A Selection Questionnaire can only be used for contracts valued above the UK threshold for goods and services.
- 28.3 A bidder who is considered for contract award will be required to provide certificates and supporting documents at this stage.
- 28.4 In all below UK Public Procurement threshold exercises, Officers need to undertake a risk assessment (CPR14) to determine whether it is necessary and proportionate to assess a supplier's eligibility, financial standing and technical capacity. If it is decided that this assessment is appropriate an SQ is not allowed at this level of spend except for Works contracts in excess of the Goods and Services Threshold. Instead, suitability questions must be included as part of the tender assessment. Further guidance should be sought from the Service Lead - Corporate Support.

## **29 Invitation to Tender (ITT)**

- 29.1 Bidders should ordinarily be allowed not less than four weeks for the return of tenders. This can be amended accordingly to reflect the complexity of the procurement or where the period is set by agreement with the bidders. Above UK Public Procurement Threshold procurements are subject to statutory timescales. Further guidance can be sought from the Service Lead - Corporate Support.
- 29.2 Where using a Framework Agreement, this may provide for carrying out a mini-tender exercise. In such cases, the rules of the Framework Agreement will govern the process where there is any conflict with these CPRs.
- 29.3 The Officer will ensure that tenders are invited, and Contracts are entered into on the Council's terms and conditions. These must be included with each purchase order or ITT. Where this is not possible, because the Council's terms and conditions are not suitable or a Third-Party Framework Agreement is being used, and other terms and conditions are proposed, those terms and conditions must be approved by the Service Lead - Legal before they can be accepted.



### **30 Pre-tender submission clarification**

- 30.1 Prior to the tender submission deadline either the Council or a tenderer may seek to clarify any aspects of the issued tender documentation. Adequate time must be allowed for both the clarification question and the response.
- 30.2 Both the clarification question and response must be in writing and recorded in a log. A minimum of 6 calendar days must be allowed between the last clarifications question or response issued by the Council and the tender submission date (although note that different timescales apply to procurements that are subject to the PCR2015 and have required the publication of a Contract Notice). Except for a very limited set of circumstances both the question (anonymised) and the response should be issued to everyone who has been invited to tender.

### **31 Submission, Receipt, Opening and Recoding of Tenders**

- 31.1 The use of e-procurement is encouraged for all procurements for an efficient and transparent process but is not mandatory for non-UK Public Procurement threshold tenders.
- 31.2 Electronic signatures on e-tenders are acceptable.
- 31.3 Invitations to tender for procurements that have a value above £100,000 (C1) / £250,000 (C2) or more should be transmitted electronically using an e-procurement system as determined by the Service Lead - Corporate Support. This includes mini competitions under Third Party Framework Agreements.)
- 31.4 Invitations to tender for procurements that have a value in excess of Public procurement thresholds must be transmitted electronically using an e-procurement system as determined by the Service Lead - Corporate Support. This includes mini competitions under Third Party Framework Agreements.)
- 31.5 E-mailed Tender Documents or tender submissions are not acceptable for procurements that have a value above £100,000 (C1) / £250,000 (C2) or more.
- 31.6 In the event of a fault or failure with the e-tendering procurement system, paper tenders may be received in accordance with guidelines given by the Service Lead - Corporate Support. If appropriate, the time and date for receipt of tenders may be extended to allow sufficient time for paper tenders to be received.

31.7 Officers who have been involved in preparing Tender Documents for procurements that have a value above £100,000 (B1) or £250,00 (B2 and C3) must not be involved in the recording or opening of the Tender Documents.

31.8 Tender submissions for procurements that have a value above £100,000 (B1) or £250,000 (B2 and C3) shall be opened by two independent officers of the Council as nominated by the Service Lead – Legal. An immediate record will be made of the Tender submissions received including names, addresses, value and the date, time of opening and reference number (where e-tendering is used). The record of the tender opening shall be signed by all persons present.

## 32 Hard Copy Tendering

32.1 Where hard copy tenders are being accepted (below UK Public procurement threshold only and in exceptional circumstances) they must be addressed to The Service Lead - Legal and sent in a plain envelope with no identifiable markings, clearly labelled as a Tender and as private and confidential.

32.2 Paper tenders shall remain in the secure custody of the Service Lead - Legal, and electronic tenders will not be accessible, until the time appointed for their opening. **The Service Lead legal may delegate authority for the opening of the tender submission if they are not able to be present.**

32.3 Where a tender is accidentally opened prior to the formal tender opening, the person opening the tender shall make a full report and submit such report, the tender (and the envelope in the case of paper tenders) to the Service Lead - Legal. The tender shall then be retained by the Service Lead - Legal until the formal tender opening, when it shall be processed as set out above, and a note of the accidental opening added to the tender record.

## 33 Tender Evaluation (Applies to all Band A, B C and D contracts)

33.1 The Service Lead shall select an evaluation model based on: -

- a Lowest price (or highest bid in contracts where payment is to be made to the Council) alone; or
- b Most Economically Advantageous Tender (MEAT) - a combination of price and up to and including 40% for quality, technical capability and other similar criteria.

33.2 In-line with the council's Procurement and Contract Management Strategy, where the MEAT evaluation model is used, a minimum of 10% must be allocated to environmental and social value, unless an alternative evaluation model is approved by the responsible Cabinet Member or Cabinet.

33.3 In all other cases, the evaluation model must be approved prior to inviting quotations or tenders either by the Section 151 Officer for procurements with a total value of up to £100k for goods and services and £250k for works: or if above these values by Cabinet, Committee or the relevant Cabinet Member under the scheme of delegation in the Constitution;

33.4 Selection and award criteria must be distinguished and fully disclosed, along with weightings, as part of the tender documentation. The evaluation criteria will be predetermined and approved as required. Published criteria may not be changed and will apply throughout all stages of procurement. The evaluation criteria and methodology must be set in accordance with the PCR 2015 (including an assessment of cost effectiveness such as lifecycle costing).

33.5 For contracts which are to be evaluated using the "MEAT" criteria, the evaluation is to be carried out by a minimum of two appropriate officers nominated by the relevant Service Lead. A moderation meeting will be held to agree the scores in each area and the evaluation comments. An evaluation report should be produced post the moderation meeting and should provide a full audit trail of the decision reached. For procurements that have a value in excess of UK Public Procurement thresholds, a member of the Procurement Team must lead the moderation.

33.6 Elected Members shall not participate in the tender evaluation procedure but may in appropriate cases be invited to attend any presentations given by tenderers and to review submission documents related to those presentations. Any such Elected Member participation shall be on the basis that Elected Members shall treat all information as commercially sensitive and confidential.

33.7 All contracts must be awarded on the basis of the offer which represents Best Value to the Council.

## **34 Errors in Tender Submissions**

34.1 Where a tenderer has made a genuine error, they may be given an opportunity to correct that error prior to tender evaluation. If correction is permitted the tenderer must submit, supplement, clarify or complete the relevant information or documentation within a strict time limit that represents the minimum time that a tenderer needs to make the correction.

- 34.2 If a tender submission is incomplete or has specific documents missing and correction is permitted the tenderer must submit, supplement, clarify or complete the relevant information or documentation within a strict time limit that represents the minimum time that a tenderer needs to make the correction.
- 34.3 Other errors in tender submissions must be dealt with either by asking the tenderer to confirm that they will honour their tender submission despite the error or if not withdraw the tender from the procurement process.
- 34.4 If a tenderer uploads documents onto an e-procurement system which cannot subsequently be opened by the Council at the tender opening ceremony, the Authorised Officer should ask the tenderer to re-submit its documents to them in a format that can be accessed by the Council.
- 34.5 Tender Documents must state how errors in tenders will be dealt with. Whichever process is followed it must be transparent and fair to all tenderers.
- 34.6 If a Contractor agrees to stand by an error which will cast doubt on its ability to perform the contract, or to the standard required, or may result in legal dispute, consideration should be given to dealing with this as an abnormally low tender.

### **35 Post Tender Clarification and Negotiation**

- 35.1 Post tender submission, the Council may ask tenderers to clarify any aspects of the submitted tender but only if it is genuinely unclear. If the submission is clear and incorrect this is not clarification. If any amended or new documentation is submitted as part of a clarification response it must only clarify the original response and not contain any new information. Anything that is submitted and goes above and beyond clarification must be disregarded in the evaluation and a note made to that effect. All clarifications and responses must be in writing and recorded in a log.
- 35.2 There are specific rules in PCR2015 dealing with the negotiated procedure without publication of a notice, the competitive procedure with negotiation, the competitive dialogue procedure, the innovation partnership procedure and the procurement of Social and Other Specific Services (as defined in PCR 2015).
- 35.3 Officers are expected to take advice from the Service Lead - Corporate Support and the Service Lead - Legal when using these procedures. The Council may clarify, specify and fine tune final tenders and submissions that are received through the competitive dialogue procedure and (for this

procedure only) can enter into negotiations with the best value tenderer to confirm financial commitments or other terms contained in the tender by finalising the terms of the contract, provided this does not have the effect of materially modifying essential aspects of the tender and does not distort competition or cause discrimination.

## **36 Awarding Contracts**

- 36.1 A contract will only be awarded subject to the tender evaluation criteria.
- 36.2 The results of the tender evaluation process must be recorded.
- 36.3 A contract may only be awarded and signed by an officer Authorised to do so under the scheme of delegation in the Constitution, or by the Service Lead - Legal subject to them having produced and/or approved a suitable set of contract conditions.
- 36.4 Contracts procured under a UK Public Procurement Procedure must be awarded in accordance with the procedure set out in PCR2015. Guidance on this can be obtained from the Service Lead - Corporate Support or the Service Lead - Legal.
- 36.5 Once a contract has been awarded the procuring Officer must update the Corporate Contract Register and Contracts Finder with:
- a Contract Title.
  - b Supplier Name.
  - c Description of Services
  - d Contract term including details of any provisions for extension.
  - e Contract Start Date.
  - f Total contract value.
  - g Whether the successful contractor is local and/or a small and medium enterprise (SME) and/or a voluntary, community, social enterprise (VCSE) organization and;
  - h Name of Contract Manager.
- 36.6 If an existing Framework Agreement is utilised the published information include:
- a Framework title and Reference Number (if applicable).
  - b Lead buying organisations name.

36.7 Following completion of the tender evaluation process, all tenderers must be notified in writing of the results in accordance with PCR 2015 and the principles of openness, fairness and transparency.

36.8 For all contracts awarded via a UK Public Procurement procedure, a Regulation 84 should be produced and held on file for Audit purposes. Further guidance on Regulation 84 reports can be sought from the Service Lead – Corporate Support.

36.9 Where the winning Contractor has identified itself as being within the scope of IR35 Legislation via the tender process, the Officer must check the Contractor's employment status for tax on the HMRC website to determine whether the Contractor should be paid via the Council's payroll system or via the raising of an invoice on the Financial Management System. Advice must be sought from the Finance Manager if there is any doubt about the application of this.

### **37 Documentation, Liquidated Damages, Insurance, and Bonds**

#### 38 Documentation

38.1 Every contract under the value of £10,000 made verbally or otherwise will be recorded by the raising of a purchase order that is subject to authorisation by the relevant officer. All expenditure over £500 will be published on the Council's website. <https://www.winchester.gov.uk/transparency-and-open-data/expenditure-over-163-500>

38.2 Every contract or order exceeding £10,000 in value or amount shall be in writing, and shall specify

- a The work, services, materials, matters or things to be furnished had or done including the required standard and/or the relevant specification.
- b The price to be paid with a statement of discounts or other deductions; and
- c (Where appropriate) the time or times within which the contract is to be performed and whether the time or times so specified is or are to be of the essence of the contract.

38.3 The Service Lead - Legal shall be informed of every proposed contract which exceeds £10,000 in value or amount and if they so determine a formal contract shall be prepared or approved by them. All contracts shall be executed in accordance with Articles 14.03 and 14.04 of this Constitution.

## 39 Liquidated Damages

39.1 Every contract for the execution of works which exceeds £100,000 in value or amount shall, unless otherwise agreed by the SECTION 151 Officer, provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed. The value or formula for calculating liquidated damages shall be specified in the contract.

## 40 Insurance

40.1 Every contract for the provision of goods and services or execution of works shall require the appointed contractor to provide policies of insurance for the relevant sum specified in the Council's Contract Insurance Guide.

40.2 Unless otherwise agreed by the Section 151 Officer, every contract for the execution of works exceeding £100,000 in value or amount shall require the contractor to produce satisfactory insurance policies in respect of employers liability, third party and fire risks in a sum of not less than £5,000,000 (or such other sum as may be specified in the Council's adopted Insurance Guide) in respect of any one accident.

40.3 Insurance policies shall be maintained by or on behalf of the contractor during the term of the contract. The SECTION 151 Officer shall be consulted, and a risk assessment carried out before an insurance level is agreed which is outside the Council's Contract Insurance Guide.

## 41 Bonds<sup>2</sup>

41.1 For contracts estimated to be greater than £1,000,000 and/or deemed by the Section 151 Officer to be 'high risk' the contractor shall be required to provide a bond for ten per cent (10%) of the contract sum. In the case of term contracts, the bond value will be based on the total value of the contract but reduced pro-rata on each anniversary date of the contract term. To amend or waive this requirement, the Service Lead should seek authority from the Section 151 Officer.

41.2 For contracts estimated to be greater than £500,000 and/or deemed to be 'medium risk' consideration should be given to requiring a bond a written

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<sup>2</sup> Procurement Policy Notes PPN 02/13 Supplier Financial Risk Issues - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/137569/PPN\\_Supplier\\_financial\\_risk\\_Feb-18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/137569/PPN_Supplier_financial_risk_Feb-18.pdf)

decision is to be made by the Service Lead in consultation with Section 151 officer or Service Lead – Finance.

41.3 The purpose of the bond is to provide financial surety against which the Council may claim for financial loss incurred because of default action or non-action by the contractor. The bond shall cover the period of the contract up to the issue of the certificate of practical completion or end of the contract term, as appropriate.

41.4 A bond shall only be acceptable from a Bank, or an approved Insurance Company authorised and regulated by the Financial Services Authority (FSA) (or equivalent for non-UK companies), as determined by the SECTION 151 Officer.

41.5 Where a bond is required, the contract shall not commence until the Service Lead - Legal or Finance Manager is assured by the relevant officer that the bond is in force.

41.6 For all other 'medium risk' contracts consideration should be given to requiring a parent company guarantee and a written record made of the decision by the Service Lead.

41.7 In addition, where a bidder's financial stability is not satisfactorily evidenced by a financial appraisal (either by using a credit rating report or submitted company accounts); a parent company guarantee may be sought. The purpose of a parent company guarantee is to secure continuity of the contract and/or indemnify the Council against any losses.

41.8 Where a parental company guarantee is required, the contract shall not commence until the Service Lead - Legal or Finance Manager is assured by the relevant officer that the parental company guarantee is in force.

## **42 Prevention of Corruption**

42.1 In every formal contract a clause shall be inserted to secure that the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by them or acting



on their behalf (whether with or without the knowledge of the contractor) or, if in relation to any contract with the Council the contractor or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under the provisions of Section 117 of the Local Government Act 1972.

### **43 Partnering Arrangements**

**43.1** No Partnership or Joint Venture Arrangement shall be entered into by the Council except with the approval of Cabinet or the relevant Cabinet Member except:

- a Where there is no on-going commitment by the Council and the payment by the partner(s) to the Council does not exceed £25,000 or
- b Any payment by the Council does not exceed £25,000 and is provided for in existing budgets and
- c The Section 151 Officer has been consulted.

### **44 Contracts Register**

**44.1** A contracts register shall be maintained by the Section 151 Officer, containing details of:

- a Any contract that is for a finite period, that will need to be reviewed at the end of that period, regardless of value;
- b Any other contract that is above the value of **£5,000**.

**44.2** The Service Lead who is responsible for a procurement shall ensure that details of contracts are entered onto the Contracts Registers and Contracts Finder within 30 days of the contract being entered into.

**44.3** The contracts register will also be published quarterly on the Council's website as part of the Government's transparency agenda.

### **45 Contract Management**

**45.1** The Service Lead must ensure that all contracts are monitored and managed throughout the contract period, and that the performance of

contractors is reviewed regularly against the terms of the contract and any performance monitoring schedules including sustainability.

**45.2** For each medium and high-risk contract, the Service Lead must designate an appropriate lead officer as primary contact and Contract Manager. Contracts must be managed in accordance with the requirements of the Council's Contract Management Framework and any guidance issued by the Service Lead - Corporate Support.

45.3 In particular, the Service Lead shall ensure that where the contractor has been required to submit Health and Safety Policies in accordance with these Contracts Procedure Rules, the contract monitoring process includes on-going monitoring of the implementation and effectiveness of such Health and Safety Policies.

45.4 Records of review meetings or site meetings (as applicable) shall be kept on the contract file.

45.5 Where contracts include retention of monies provision the Service Lead shall ensure that release of such monies is managed in accordance with the contract terms.

45.6 The Service Lead shall monitor contract expenditure and report on any contractual overspend in accordance with the relevant provisions of the Financial Procedure Rules.

45.7 The Service Lead must ensure that contracts are reviewed within adequate timescales to agree and implement any action required i.e., re-tender, implement exit management plan etc.

## **46 Contract Extensions and Variations**

46.1 Extensions

- a Contract extensions are only permitted if they are put in place before the contract expiry date. Prior to seeking approval from the relevant Strategic Director or Statutory Officer to take up a contract extension the Service Lead must comply with the requirements to establish whether the extension will deliver Best Value. This process must be recorded in writing.
- b Any Contract extension must be approved by and dealt with by the relevant Strategic Director or Statutory Officer. The Section 151 Officer must be consulted if the extension relates to a high-risk contract. The decision to extend a contract will be treated as a new decision that is not a consequence of the initial decision to procure. It may be an Administrative or Significant Operational or Key decision, depending on value and impact

of the decision and the decision must be published in accordance with Part 2 Article 13 Decision Making.

- c All extensions to any Council contracts must be in writing and the Corporate Contracts Register and Contracts Finder updated accordingly. Extensions of a Contract that are categorised as “variations” in the Contract terms and conditions will be governed by rules 38.5 to 38.9 and CPR 31.1 and 31.2 will not apply.
- d Once a Contract has expired it cannot then be extended.

#### 46.2 Variations / Modifications

- a Variations to contracts will be dealt with in accordance with these Contracts Procedure Rules and the Council’s Financial Regulations.
- b All Contract variations/modifications must be carried out in accordance with PCR2015 (Reg 72) and within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed.
- c All Contract variations must be in writing and signed by both the Council and the provider except where different provisions are made within the Contract documentation. The value of each variation must be assessed by the Service Lead and a Delegated Decision taken by the relevant Strategic Director or Statutory Officer. The Section 151 Officer **must** be consulted if:
  - (i) The variation relates to a high-risk contract and involves a change to the terms and conditions of the contract (rather than the scope or price); and
  - (ii) If there is any possibility that **CPR 38.9** might apply.

46.3 Where appropriate, (taking into account any change in contract value, contract term, range of services provided etc.), contract variations must be reported to the Service Lead - Corporate Support in order that Corporate Contracts Register and Contracts Finder can be updated.

46.4 A new procurement is required in case of material change where one or more of the following conditions are met:

46.5 The variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of other tenderers than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure.

46.6 The variation increases the value of the contract or the framework agreement substantially in favour of the provider in a manner which was not provided for in the initial contract or framework agreement.

46.7 The modification extends the scope of the contract or framework agreement considerably.

46.8 You must consult the Service Lead - Legal if you are considering varying a Contract that you have procured under **CPR 17**.

#### 47 Transfer of contracts – novation and assignment

47.1 Transfer, assignment and novation of contracts can only be carried out by the Service Lead - Legal.

#### 48 Termination of Contract

48.1 Any Contract will only be terminated early if this action is authorised by the relevant Strategic Director or Statutory Officer through a Delegated Decision. A copy of the report and decision for termination of any contract exceeding £100,000 in value must be sent to the Section 151 Officer for monitoring purposes. All termination letters under this rule will be drafted and issued via The Service Lead - Legal in conjunction with the Service Lead.

48.2 A contract must not be terminated to avoid international obligations.

#### 49 Nominated and Named Sub-Contractors

49.1 If a sub-contractor or sub-consultant is to be nominated or named to a main Contractor, they must have been procured in accordance with these Contracts Procedure Rules and the terms of the tender and appointment must be compatible with the main contract.

49.2 It shall be a condition of the employment by the Council of any person (not being an officer of the Council) to supervise a contract that in relation to such contract, they shall comply with the requirements of Contracts Procedure Rules as if they were an officer of the Council.

#### 50 Exceptions to Contracts Procedure Rules

**50.1** Every contract shall comply with these CPRs and no exception from any of the following provisions of these CPRs shall be made except in exceptional circumstances where it can be demonstrated that:

- a There is an urgent requirement to secure the provision of works, services or supplies and it is not practical to seek competitive quotations or tenders.
- b By applying the Procedure Rules, it would not be possible to obtain genuine competition.
- c The works, services or supplies required are of a specialist nature, such that competitive prices cannot be obtained.
- d Professional services, such as Counsel, are required urgently.
- e By extending the term (either by exercising an option within the contract or otherwise), or varying and/or extending the scope an existing contract, it is in the best interests of the Council.
- f By appointing a bidder to carry out further work in connection with a main project following provision by such contractor of feasibility or initial work, it would be advantageous to the successful delivery of the main project; or
- g By applying the Procedure Rules, it would not be possible to satisfy the best interests of the Council in terms of delivering one of social, or economic or well-being benefits.
- h The works, services or supplies are legally required to be provided by a specific supplier.
- i When carrying out security works where the publication of documents in the tendering process could prejudice the security of the work to be done.

**50.2** Approval for an Exception shall only be given by the following persons:

<b>Contract value (or additional contract value where approval is being sought pursuant to paragraphs 3.1 € and (f))</b>	<b>Authorised person</b>
< £100,000	Corporate Head of Service within whose area of responsibility the contract falls
< £250,000	Strategic Director and Section 151 Officer
> £250,000	Cabinet Member / Cabinet

50.3 CPRs cannot be waived where the contract value is in excess of the relevant **Public Procurement** threshold.

50.4 A waiver of CPRs may not be sought retrospectively, unless it can be demonstrated to be essential for reasons of business continuity or recovery.

50.5 A request to waive CPRs must be made in writing (using the Exception Form) to the Service Lead - Corporate Support in the first instance, who will review the request and endorse if appropriate and then seek approval from the person authorised under **CPR 41.2**. The request must be accompanied by full reasons as to why the waiver is required, together with evidence and supporting information to demonstrate that the issue of the waiver will not prevent best value being obtained.

50.6 Any decision to waive CPRs must be made in writing by the person authorised under Procedure Rules 41.2 and no action shall be taken to enter into the contract until such time as a request has been submitted and properly approved.

50.7 If any approval to waive these CPRs falls within the key decision criteria, then that procedure must be also be followed.

50.8 The Council is subject to legal requirements to ensure fair competition for contracts of a value exceeding UK Public Procurement thresholds and subject to obligations under EU treaty to ensure that all contracts are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition. It is therefore expected that the waiver of these Contract Procedure Rules will be limited.

## **51 Contract Disputes and Claims**

51.1 Planning, relationship management, risk management and active contract management should be used to keep contract disputes to a minimum. The dispute resolution procedure set out in the Contract should be followed in the event of a contract dispute arising. The Service Lead – Legal shall be informed of a contractual dispute and claim.

## **52 Contract Exit**

52.1 An Exit Plan, which can cover one or more Contracts, must be prepared for every Contract well in advance of contract expiry. It is recommended that this should be put in place at least 6 months in advance in

order to allow for the approvals and pre-planning process and any re-procurement.

### **53 Retention of Contractual Documents**

**53.1** All procurement documentation (successful or unsuccessful) and contracts must be kept in accordance with the Council's adopted Records Retention Policy.

### **54 Concessions**

**54.1** Concession contracts are defined in the Concession Contracts Regulations 2016 and these regulations apply to concessions with a value exceeding approximately five million pounds inc VAT and can be found here: <http://www.legislation.gov.uk/ukxi/2016/273/introduction/made>

**54.2** Officers should note that if the resulting contract would be a mix of services, works and a concession, the PCR2015 shall apply.

**54.3** When letting concessions, you must comply with the Concession Contracts Regulations 2016 where they apply. If there is any inconsistency between the CPRs and these regulations, the regulations apply.

**54.4** Officers shall consult the Service Lead – Corporate Support or Service Lead – Legal if a contract may fall within the Concession Contracts Regulations 2016. Threshold amounts for establishing the value of concession contracts are also set out in Regulation 9 of the Concession Contracts Regulations 2016.

### **55 Contracts outside any of the above provisions in the CPR**

**55.1** Approval for a contract falling outside any of the above provisions, inclusive of property and grant agreements or where there is an element of uncertainty, shall abide by the provisions of this Constitution, in particular Article 15 (Decision Making) and authority is by the following persons:

<b>Contract value (or additional contract value where approval is being sought pursuant to paragraphs 3.1 (e) and (f))</b>	<b>Authorised person</b>
< £100,000	Corporate Head of Service within whose area of responsibility the contract falls
< £250,000	Strategic Director and Section 151 Officer
> £250,000	Cabinet Member / Cabinet