

# **FOLKESTONE AND HYTHE DISTRICT COUNCIL CONSTITUTION**

## **PART 10 – FINANCIAL PROCEDURE RULES, CONTRACT STANDING ORDERS AND AUDITING THE COUNCIL**

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## **PART 10 – FINANCIAL AND OTHER RULES**

### **PART 10.1 – INTRODUCTION AND STATUS OF THE FINANCIAL PROCEDURE RULES**

#### **1. WHAT ARE FINANCIAL PROCEDURE RULES?**

- 1.1** The Financial Procedure Rules provide the framework for managing the Council's financial affairs and for resources that the Council and its employees manage on behalf of others. The rules identify the financial responsibilities of full Council, the Cabinet, the Audit and Governance Committee, the Head of Paid Service, the Chief Finance Officer (S151 Officer), the Monitoring Officer, Directors, and other employees.
- 1.2** The Financial Procedure Rules set out the minimum requirements to be followed and must be read in conjunction with the information and guidelines set out in the Council's Financial Procedure Rules Guidance which is set out on the Council's intranet under the Financial Information section.

#### **2. WHO DO THE RULES APPLY TO?**

The rules apply to every councillor and officer of the Council, and to trustees, directors and officers of council-related trusts, and of any council-related party, trust or company, and to anyone acting on its behalf.

#### **3. WHAT ARE THE GENERAL RESPONSIBILITIES UNDER THE RULES AND FINANCIAL REGULATIONS?**

- 3.1** The principles of sound financial management, proper exercise of responsibility and accountability, as set out in these rules, should be applied in all circumstances.
- 3.2** All councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 3.3** The Chief Finance Officer is responsible for maintaining a continuous review of the rules and for submitting any additions or changes, necessary, to the Audit and Governance Committee, prior to submission to full Council, for approval. The Chief Finance Officer (S151 Officer) is also responsible for reporting, where s/he thinks appropriate, breaches of the rules to the Council and/or to the Cabinet.
- 3.4** The Chief Finance Officer (S151 Officer) is responsible for issuing procedure notes, advice and guidance to underpin the rules and the financial regulations that councillors, officers and others, acting on behalf of the Council, are required to follow.
- 3.5** Chief Officers, and those other officers reporting directly to a chief officer, are responsible for ensuring that all staff are aware of the existence of, and, in consultation with the Chief Finance Officer (S151 Officer), trained in the use and content of the rules, financial regulations and other internal regulatory documents, and that they comply.

#### **4. WHAT HAPPENS IF THE RULES OR FINANCIAL REGULATIONS ARE BROKEN?**

- 4.1.** All councillors and officers must exhibit the highest standards of probity when they deal with the Council's finances. It is a disciplinary offence for an officer to breach these rules or the financial regulations, and a councillor who breaches them may be the subject of a complaint that they are in breach of the councillors' Code of Conduct.
- 4.2.** All councillors and officers have a duty to act if they consider the rules or financial regulations are being broken. In such cases, councillors must inform the Monitoring Officer, and officers must inform their line manager (unless that person is suspected of being involved) and either the Chief Finance Officer or Monitoring Officer.
- 4.3.** Chief officers and must report any breaches to the Chief Finance Officer (S151 Officer) or Monitoring Officer.

#### **5. WHAT HAPPENS IN AN EMERGENCY SITUATION?**

- 5.1.** On rare occasions, officers are faced with an emergency and may need to act swiftly. It is recognised that, in these circumstances, officers need to use their best judgement, balancing the needs of the service, severity of the emergency and the financial consequences of their actions. Detailed notes of actions taken must be kept and wherever possible officers should seek clearance from their chief officer or the Head of Paid Service.
- 5.2.** Officers must seek retrospective approval for their actions. They must contact their chief officer who will be responsible for co-ordinating such information, and report the matter to the Chief Finance Officer (S151 Officer).

#### **6. FINANCIAL REGULATION A – FINANCIAL MANAGEMENT**

- 6.1** Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

##### **6.2 Roles and responsibilities**

##### **6.2.1 Council, Cabinet and other committees**

The roles and responsibilities of the full Council, Cabinet and other committees, in respect of the Budget framework, are set out in the Articles to this Constitution. The Audit and Governance Committee is established by full Council. It has right of access, through the Chief Finance Officer (S151 Officer), to all the information it considers necessary to fulfil its functions, and can consult with internal and external auditors. The Audit and Governance Committee is responsible for making sure the Council has appropriate financial management systems and processes in place, and for checking compliance with them.

##### **6.2.2 The statutory officers**

##### **6.2.3 The Head of Paid Service**

The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. S/he must report to and provide information to the full Council, Cabinet, Overview and Scrutiny and other committees. S/he is responsible for establishing a framework for management direction and standards, and for monitoring the performance of the organisation.

#### **6.2.4 The Chief Finance Officer (S151 Officer)**

**6.2.4(a)** The Chief Finance Officer (S151 Officer) has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- i. Section 151 of the Local Government Act 1972;
- ii. The Local Government Finance Act 1988;
- iii. The Local Government and Housing Act 1989;
- iv. The Local Government Act 2003;
- v. The Accounts and Audit Regulations 2011;
- vi. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 and amendment regulations.

**6.2.4(b)** The Chief Finance Officer (S151 Officer) is responsible for:

- i. The proper administration of the Council's financial affairs;
- ii. Setting and monitoring compliance with financial management standards;
- iii. Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- iv. Providing financial information;
- v. Preparing the Budget and capital programme;
- vi. Treasury management;
- vii. Advising full Council on prudent levels of reserves for the Council, in accordance with Section 25 of the Local Government Act 2003.

**6.2.4(c)** Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (S151 Officer) to report to full Council, Cabinet and the Council's external auditor, if the Council or one of its officers:

- i. Has made, or is about to make, a decision which involves incurring unlawful expenditure;
- ii. Has taken, or is about to take, an unlawful action which has resulted in, or would result in a loss or deficiency to the Council;

- iii. Is about to make an unlawful entry in the Council's accounts.

**6.2.4(d)** Section 114 of the 1988 Act also requires:

- i. The Chief Finance Officer (S151 Officer) to nominate a properly qualified member of staff to deputise should s/he be unable to perform the duties under Section 114 personally;
- ii. The Council to provide the Chief Finance Officer (S151 Officer) with sufficient staff, accommodation and other resources – including legal advice, where this is necessary, – to carry out the duties under Section 114;
- iii. Should a situation arise whereby the Chief Finance Officer (S151 Officer) is not a member of the Corporate Leadership Team, then an appropriate protocol will be submitted, for approval by Council, to facilitate access to this group, to allow him/her to fulfil his/her statutory duties.

**6.2.5 The Monitoring Officer**

**6.2.5(a)** The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and providing support to the Audit and Governance Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law, or maladministration, to the full Council and/or Cabinet.

**6.2.5(b)** The Monitoring Officer and the Chief Finance Officer (S151 Officer), acting together or individually (but in consultation with each other), are responsible for advising the full Council, or Cabinet, about whether a decision is likely to be contrary to, or not wholly in accordance with, the Budget. Actions that may be contrary to the Budget include:

- i. Initiating a new policy;
- ii. Committing expenditure, in future years, above the budget level;
- iii. Incurring transfers above the virement limits;
- iv. Causing the total expenditure financed from council tax, grants and corporately held reserves to increase beyond the agreed Budget and Policy Framework;
- v. Transfers from reserves that are not part of the approved Budget strategy;
- viii. Increasing the level of borrowing beyond that approved in the Budget strategy and the Council's prudential indicators.

**6.2.6 Chief officers and those other officers reporting directly to a chief officer**

**6.2.6(a)** Chief officers, and those other officers reporting directly to a chief officer are responsible for:

- i. Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer (S151 Officer), prior to Cabinet approval.
- ii. Ensuring compliance with Contract Standing Orders and signing contracts, on behalf of the Council, in accordance with them;
- iii. Controlling and monitoring income and expenditure within the approved Budget, and should ensure that anticipated variations, between budget and actual, are highlighted to the Chief Finance Officer (S151 Officer), or his/her representative, at the earliest opportunity.

**6.2.6(b)** It is the responsibility of the chief officers and those other officers reporting directly to a chief officer, to consult with the Chief Finance Officer (S151 Officer) and seek approval on any matter liable to affect the Council's finances, before any commitments are made.

## **6.2.7 Head of Audit and Internal Audit**

**6.2.7(a)** The Chief Finance Officer (S151 Officer) is responsible for Internal Audit. Internal Audit will provide a continuous audit of the accounting, financial and other operations of the Council.

**6.2.7(b)** Internal Audit has authority to:

- i. Enter at any time all Council premises or land;
- ii. Have unrestricted access to all records, documents and correspondence, including computerised hardware and software relating to any financial and other transactions;
- iii. Remove and/or secure any record, document or correspondence of the Council;
- iv. Ask questions and receive explanations concerning any matter under examination by the internal auditor; and
- v. Obtain from Council employees cash, stores or any other property owned, hired, leased or borrowed by the Council.

**6.2.7(c)** The decision to report financial irregularities to the police will be made by the Chief Finance Officer (S151 Officer), who will inform the Head of Paid Service of any such action.

**6.2.7(d)** Internal Audit may report, to any body of the Council, matters which are considered to adversely affect the efficient or proper use of the Council's resources.

## **6.2.8 Other financial accountabilities**

### **6.2.8(a) Virement**

- i. Full Council is responsible for agreeing procedures for virement of expenditure between budget heads. Virements will only be permitted where the expenditure is in accordance with the Budget and Policy Framework agreed by full Council. Chief officers are responsible for agreeing in-year virements, within delegated limits.
- ii. All virements will be reported retrospectively to Cabinet, as part of the Council's budget monitoring procedures.

### **6.2.8(b) Treatment of year-end balances on budgets**

The Chief Finance Officer (S151 Officer) is responsible for agreeing the procedures for the treatment of year-end balances, including carrying forward under and overspending on budget headings, and transfers to reserves.

### **6.2.8(c) Accounting policies**

The Chief Finance Officer (S151 Officer) is responsible for selecting accounting policies and ensuring that they are applied consistently and in accordance with relevant guidelines and regulations.

### **6.2.8(d) Accounting records, procedures and returns**

The Chief Finance Officer (S151 Officer) is responsible for determining the accounting procedures and records for the Council. Such procedures shall include procedures and timetables for the preparation of the Budget and the Council's financial statements.

### **6.2.8(e) The annual Statement of Accounts**

The Chief Finance Officer (S151 Officer) is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with the 'Code of Practice on Local Authority Accounting in the United Kingdom' based on International Financial Reporting Standards (CIPFA/LASAAC) and other regulations, codes and guidance in force, from time to time. The Chief Finance Officer (S151 Officer) has the authority to make such amendments to the treatment of the Council's transactions, as are in the overall interest of the Council, including optimising of the capital financing position and the management of approved reserves, within the framework approved by the Council. The Audit and Governance Committee is responsible for approving the annual Statement of Accounts.

### **6.2.8(f) Bribery, corruption and financial irregularities**

- i. All councillors and employees shall conduct themselves to the highest standards. Bribery, corruption, fraud or deception, by councillors and employees, will not be tolerated by the Council.

- ii. It is a criminal offence for any person to use their position with the Council to accept or ask for any gift, reward or other advantage for work done in an official capacity. Councillors and staff must also act with absolute honesty when dealing with the assets of the Council and any other assets for which the Council is responsible.

**6.2.8(g)** All councillors and staff must ensure that any irregularity, or suspected irregularity, involving Council funds, property or other assets for which the Council is responsible, is reported immediately to the Chief Finance Officer (S151 Officer). The Chief Finance Officer (S151 Officer) will decide how such matters should be investigated.

## **7. FINANCIAL REGULATION B – FINANCIAL PLANNING**

### **7.1 Introduction**

Full Council is responsible for agreeing the Council's Policy Framework and Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- a) The Medium Term Financial Strategy;
- b) The General Fund and Housing Revenue Account (HRA) Budgets and the Capital Programme;
- c) Capital and Investment Strategy;
- d) Minimum Revenue Provision Strategy.

### **7.2 Policy Framework**

**7.2.1** Full Council is responsible for approving the Policy Framework and Budget. The Policy Framework comprises those plans and strategies set out in Part 2 (Article 4) and Part 4 of the Constitution.

**7.2.2** Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework.

**7.2.3** Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities, in order to deliver the Budget and Policy Framework within the financial limits set by the Council.

### **7.3 Budgeting**

#### **7.3.1 Budget preparation**

**7.3.1(a)** The Chief Finance Officer (S151 Officer) is responsible for ensuring that a revenue budget is prepared, on an annual basis, for consideration by the Cabinet, before submission to full Council. The process for budget preparation and approval is set out in the Budget and Policy Framework Rules in this Constitution.



**7.3.1(b)** The Chief Finance Officer (S151 Officer) also has a responsibility, under Section 25 of the Local Government Act 2003, to comment on:

- i. The robustness of the annual estimates submitted to Council for approval; and
- ii. The adequacy of the proposed financial reserves.

**7.3.1(c)** It is the responsibility of chief officers, and those other officers reporting directly to a chief officer, to ensure that the budget estimates, reflecting agreed service plans, are submitted to the Chief Finance Officer (S151 Officer), and that these estimates are prepared in line with guidance issued by the Cabinet.

**7.3.1(d)** The Chief Finance Officer (S151 Officer) is responsible for issuing guidance on the general content of the Budget, as soon as possible following approval by full Council.

### **7.3.2 Budget monitoring and control**

**7.3.2(a)** The Chief Finance Officer (S151 Officer) is responsible for providing appropriate financial information to enable budgets to be monitored effectively. S/he must control expenditure against budget allocations and report to the Cabinet on a regular basis.

**7.3.2(b)** It is the responsibility of chief officers, and those other officers reporting directly to a chief officer, to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer (S151 Officer). They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer (S151 Officer) of any problems, or potential problems, at the earliest opportunity.

### **7.3.3 Preparation of the capital programme**

The Chief Finance Officer (S151 Officer) is responsible for ensuring that a rolling 5-year capital programme is prepared, on an annual basis, for consideration by the Cabinet, before submission to full Council. The process for budget preparation and approval is set out in the Budget and Policy Framework Rules, in Part 4.4 of this Constitution.

### **7.3.4 Budget guidelines**

Guidelines on budget preparation (the Budget Strategy) are issued to councillors, chief officers by the Cabinet, following agreement with the Chief Finance Officer (S151 Officer). The guidelines will take account of:

- a) Legal requirements;
- b) Medium-term planning prospects;
- c) The Corporate Plan;
- d) Available resources;

- e) Spending pressures;
- f) Relevant Government guidelines;
- g) Other internal policy documents;
- h) Relevant cross-cutting issues.

## **8. FINANCIAL REGULATION C – RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **8.1 Introduction**

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant corporate and operational risks to the Council. This must be done in line with the Council's Risk Management Strategy, and should include the proactive participation of all those associated with planning and delivering services.

### **8.2 Risk management**

**8.2.1** Regulation 4 of the Accounts and Audit Regulations 2011 requires the Council to be responsible for ensuring that its financial management is adequate and that it has a sound system of internal control, which facilitates the effective exercise of its functions, including arrangements for the management of risk.

**8.2.2** The Cabinet is responsible for approving the Council's Risk Management Policy and Strategy and reviewing it on an annual basis. Cabinet is responsible for reviewing the effectiveness of risk management. The Cabinet is also responsible for ensuring that proper insurance exists, where appropriate, to mitigate any risks identified.

**8.2.3** The Head of Paid Service is responsible for preparing the Council's Risk Management Policy Statement and for promoting it throughout the Council.

**8.2.4** The Chief Finance Officer (S151 Officer) is responsible for ensuring proper insurance cover and advising Cabinet accordingly.

**8.2.5** Chief officers, and those other officers reporting directly to a chief officer shall promptly notify the Chief Finance Officer (S151 Officer) and Head of Paid Service, in writing, of all insurable risks, and ensure compliance with the Council's Risk Management Strategy.

### **8.3 Internal control**

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

**8.3.2** The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and

used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

- 8.3.3** It is the responsibility of chief officers to establish sound arrangements for planning, appraising, authorising and controlling their operations, in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **8.4 Audit Requirements**

- 8.4.1** The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The role and rights of internal audit are set out in these rules.
- 8.4.2** Public Sector Audit Appointments is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by the Local Audit and Accountability Act 2014.
- 8.4.3** The Council may, from time to time, be subject to audit, inspection or investigation by external bodies, such as, HM Revenue and Customs and Government offices, or personnel working on their behalf, who have statutory rights of access.

#### **8.5 Corporate governance**

- 8.5.1** The Audit and Governance Committee is responsible for approving the Council's Code of Corporate Governance and reviewing the Authority's governance arrangements.
- 8.5.2** The Monitoring Officer is responsible for preparing the Council's Code of Corporate Governance, in line with CIPFA/SOLACE guidance, and promoting it throughout the Council, and for advising the Cabinet, where appropriate.
- 8.5.3** Chief officers shall ensure compliance with the Code of Corporate Governance.

#### **8.6 Preventing fraud and corruption**

The Chief Finance Officer (S151 Officer) is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

#### **8.7 Assets**

Chief officers, and those other officers reporting directly to a chief officer, must ensure that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service, in the event of a disaster or system failure, are in place. Any disposal of an asset, no longer required by the Council, must be done in a manner approved by the Chief Finance Officer (S151 Officer) and in accordance with the relevant law, regulations and government guidance, issued from time to time.

#### **8.8 Treasury management**

- 8.8.1** The Council has adopted CIPFA's 'Code of Practice for Treasury Management in Local Authorities' (the Code).
- 8.8.2** The Council will create and maintain, as the cornerstones for effective treasury management:
- a) A Treasury Management and Investment Strategy, stating the policies and objectives of its treasury management activities;
  - b) Suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 8.8.3** Cabinet is responsible for approving the Treasury Management and Investment Strategy, setting out the matters detailed in Treasury Management Practice 5 of the Code.
- 8.8.4** Cabinet 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, and an annual report, after its close, in the form prescribed in its TMPs.
- 8.8.5** The Chief Finance Officer (S151 Officer) has a delegated responsibility for the implementation and monitoring of treasury management policies and practices, and for the execution and administration of treasury management decisions. He/she will act in accordance with the Council's policy statement and TMPs and, if a CIPFA member, with CIPFA's Standard of Professional Practice on Treasury Management.
- 8.8.6** All money in the hands of the Council is controlled by the Chief Finance Officer (S151 Officer).

## **8.9     Staffing**

- 8.9.1** The Head of Paid Service is responsible for providing overall management of staff, and for ensuring compliance with the Council's employment policies. S/he is also responsible for ensuring that there is proper use of the evaluation, or other agreed systems, for determining the remuneration of posts.
- 8.9.2** Chief officers, and those other officers reporting directly to a chief officer, are responsible for controlling total staff numbers by:
- a) Advising the Cabinet on the budget necessary, in any given year, to cover estimated staffing levels;
  - b) Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision, as necessary, within that constraint, in order to meet changing operational needs;
  - c) The proper use of appointment procedures.

## **9.     FINANCIAL REGULATION D – SYSTEMS AND PROCEDURES**

**9.1** Sound systems and procedures are essential to an effective framework of accountability and control.

**9.2** **General**

**9.2.1** The Chief Finance Officer (S151 Officer) is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by chief officers, and those other officers reporting directly to a chief officer, to the existing financial systems, or the establishment of new systems, must be approved, in advance, by the Chief Finance Officer (S151 Officer). Chief officers, and those other officers reporting directly to a chief officer, however, are responsible for the proper operation of financial processes in their individual departments.

**9.2.2** Any changes to agreed procedures by chief officers, to meet their own specific service needs, must be agreed in advance with the Chief Finance Officer (S151 Officer).

**9.2.3** Chief officers must ensure that their staff receives relevant financial training that has been approved by the Chief Finance Officer (S151 Officer).

**9.2.4** Chief officers, and those other officers reporting directly to a chief officer, must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation. Chief officers must also ensure that their staff are aware of their responsibilities, under Data Protection and Freedom of Information legislation.

**9.3** **Income and expenditure**

**9.3.1** It is the responsibility of chief officers to ensure that a proper scheme of delegation has been established, within their sections, and that it is operating effectively. The scheme of delegation must identify staff authorised to act on the chief officer's behalf, in respect of payments, income collection and placing orders, together with the limits of their authority.

**9.3.2** The Chief Finance Officer (S151 Officer) (or his/her nominated representative) has the delegated authority to write off bad debt, stores deficiencies and surplus goods, in accordance with the Scheme of Delegation.

**9.4** **Payment to employees and members**

The Head of Paid Service is responsible for making all payments of salaries, wages and allowances to all staff, and for making payments of allowances to councillors.

**9.5** **Taxation**

**9.5.1** The Chief Finance Officer (S151 Officer) is responsible for advising chief officers, in the light of guidance issued by appropriate bodies and relevant legislation, on all taxation issues that affect the Council.

**9.5.2** The Head of Paid Service is responsible for maintaining the Council's tax records, making all tax payments, receiving any tax credits and submitting tax returns by their due date.

## **9.6      Trading accounts**

It is the responsibility of the Chief Finance Officer (S151 Officer) to advise on the establishment and operation of any trading accounts within the Council.

## **9.7      Banking**

**9.7.1** All cheques and payment forms, and credit cards, shall be ordered only on the authority of the Chief Finance Officer (S151 Officer), and proper arrangements for their safe custody will be made. The method of electronic payments shall also be controlled by the Chief Finance Officer (S151 Officer).

**9.7.2** Cheques on the Council's banking accounts shall bear the facsimile signature of the Chief Finance Officer (S151 Officer) and be signed by either the Chief Finance Officer (S151 Officer) or his/her representative.

**9.7.3** Every cheque for £20,000, or more, or amendments to cheques, shall bear the personal signature of the Chief Finance Officer (S151 Officer) or his/her authorised representative.

## **10.      FINANCIAL REGULATION E – EXTERNAL ARRANGEMENTS**

**10.1** The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of the area.

## **10.2      Partnerships**

**10.2.1** The Leader is responsible for approving delegations, including frameworks for partnerships, which the Council is involved in. The Cabinet is the focus for forming partnerships with other public, private, voluntary and community sector organisations to address local needs.

**10.2.2** The Leader can delegate functions, including those relating to partnerships, to officers. Those that exist are set out in the Scheme of Delegation, within Parts 6 and 8 of the Council's Constitution. Where functions are delegated, the Leader remains accountable for them to full Council.

**10.2.3** Representation of the Council on partnerships and external bodies will be decided in accordance with the Scheme of Delegation.

**10.2.4** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct, with regard to financial administration in partnerships, that apply throughout the Council. The Monitoring Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.

**10.2.5** The Chief Finance Officer (S151 Officer) must ensure that the accounting arrangements, to be adopted in relation to partnerships and joint ventures, are satisfactory.

**10.2.6** The Head of Paid Service, in consultation with the relevant Corporate Director/Chief Officer, must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

**10.2.7** Chief officers, and those other officers reporting directly to a chief officer, are responsible for ensuring that the Chief Finance Officer (S151 Officer) and Monitoring Officer are consulted on the progress of negotiations, and that the appropriate approvals are obtained before any negotiations are concluded, and decisions are made, in relation to work with external bodies.

### **10.3      External funding**

**10.3.1** Corporate Leadership Team approval must be sought for all external funding applications which are of a value of less than £20,000. If the external funding is of a value greater than £20,000, then CMT must approve the application, provided the following criteria apply:

- a) The application refers to an area which is within the current policy and budgetary framework;
- b) There are no ongoing financial implications arising out of the application;
- c) A suitable exit strategy is in place;
- d) There has been consultation with the relevant portfolio holder.

**10.3.2** The Cabinet is responsible for approving all applications if the above conditions are not met.

**10.3.3** The Chief Finance Officer (S151 Officer) has overall responsibility for external funding and is responsible for ensuring that all funding, notified by external bodies, is received and properly recorded in the Council's accounts.

**10.3.4** The relevant chief officer, and those other officers reporting directly to a chief officer, also have overall responsibility for ensuring that appropriate records and supporting documentation, in relation to any output measures, are kept to enable him/her to submit funding claim forms at the relevant times.

### **10.4      Work for third parties**

The Cabinet is responsible for approving the contractual arrangements for any work undertaken for third parties or external bodies, unless this is delegated to officers, in accordance with the Scheme of Delegation.

## **11.      FINANCIAL REGULATION F - THE VIREMENT POLICY**

### **11.1      Introduction**

**11.1.1** A virement is the switching of resources between approved estimates (budgets) or heads of expenditure. The scheme is intended to enable the Cabinet, chief officers and their staff, to manage budgets with a degree of flexibility within the overall policy framework determined by full Council, and therefore to optimise the use of resources.

**11.1.2** Where an approved budget is a lump sum budget or contingency, intended for allocation during the year, its allocation will not be treated as a virement provided that:-

- a) The amount is used in accordance with the purpose for which it has been established;
- b) That Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations, in excess of the financial limits, should be reported to Cabinet.

**11.1.3** In accordance with the scheme of delegation, which enables the Head of Paid Service to determine and amend staffing structures, movements between salary budgets will not be considered a virement, providing the total cost of staffing remains within the overall sum approved by full Council.

## **11.2 Virement authorisation limits**

**11.2.1** The Head of Paid Service can vire the payroll budget to various budget headings, to facilitate delivery of existing policies.

**11.2.2** Chief officers can (subject to the conditions below) vire funds, within a budget heading, up to a limit of £20,000.

**11.2.3** Chief Officers can (subject to the conditions below) vire funds across budget headings, for which they are responsible, for of up to £20,000.

**11.2.4** The Head of Paid Service, in consultation with the Corporate Leadership Team, can (subject to the conditions below) authorise any transfer between budget headings of up to £15,000.

**11.2.5** Cabinet approval should be sought for all virements which are in excess of £25,000.

**11.2.6** Full Council approval shall be sought for all virements which are outside the Budget and Policy Framework.

**11.2.7** All virements will be reported, retrospectively, to Cabinet, as part of the Council's budget monitoring procedures.

**11.2.8** For the purposes of this, a budget heading is a line in the estimates, or, as a minimum, at an equivalent level to the standard service subdivision, as defined by CIPFA in its Service Expenditure Analysis. For capital schemes, the budget headings are considered to be the scheme budgets.

## **11.3 Conditions applying to virement**

The following conditions apply to all virements:

- a) Virements will only be permitted where the expenditure is in accordance with the Budget and Policy framework agreed by full Council. Virements are not permitted to fund new initiatives or policies.
- b) There can be no virements between the General Fund and the Housing Revenue Account or from reserves, building maintenance budgets or central recharges.



- c) No virement, relating to a specific financial year, should be made after 31 March in that year.
- d) The limit, specified for the year, is cumulative for the financial year in which the virement takes place.
- e) Virements should be processed in the manner prescribed by the Chief Finance Officer (S151 Officer).
- f) A virement shall not be made if it causes a budget to overspend on its annual allocation.

## **12. FINANCIAL REGULATION G – PROTOCOL FOR THE MANAGEMENT AND USE OF RESERVES**

**12.1** For each reserve established, the purpose, usage and basis of transactions should be clearly identified. Usage of reserves is to be undertaken in accordance with the Budget and Policy Framework approved by full Council.

**12.2** When a reserve is to be established, the Chief Finance Officer (S151 Officer) must be satisfied:

- a) Of the reason for the reserve, and its purpose;
- b) That setting up the reserve complies with the latest version of the Code of Practice on Local Authority Accounting in the United Kingdom.

**12.3** Contributions, to and from reserves, shall be included in the Council's accounts, which are approved by the Audit and Governance Committee and the Chief Finance Officer (S151 Officer).

**12.4** Control of reserves shall involve:

- a) An annual review of the relevance and adequacy of reserves, as part of the annual budget report.
- b) Quarterly budget monitoring of the Council's overall revenue position to assess the potential extent of the use of general reserves in any year.
- c) Withdrawal from reserves can be approved by Cabinet, provided that Council has approved the adequacy of reserves based on the recommendation of the Chief Finance Officer (S151 Officer). This will be considered at its annual budget meeting. Any withdrawal from reserves will be subject to this overall minimum level not being breached.

## **PART 10.2 - CONTRACT STANDING ORDERS**

### **CONTRACT STANDING ORDERS**

#### **1. INTRODUCTION – PURPOSE OF THE CONTRACT STANDING ORDERS**

- 1.1** The purpose of the Contract Standing Orders is to provide a structure for the procurement decisions to be made to ensure that the Council:
- a) Furthers its corporate objectives;
  - b) Uses its resources efficiently;
  - c) Purchases quality works, supplies (goods) and services;
  - d) Safeguards its reputation from any implication of dishonesty or corruption;
  - e) Improves the economic, social and environmental well being of the district; and
  - f) Embeds the core values in all contracts.
- 1.2** Procurement by the Council, from planning to delivery, shall incorporate principles of sustainability, efficiency, whole life costings and cost savings.
- 1.3** The Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972.
- 1.4** These Contract Standing Orders shall apply equally to procurement by non-Council Officers (e.g. agents, consultants, partners and external bodies) and Council Officers when undertaking procurement on behalf of the Council.
- 1.5** The Contract Standing Orders do not provide guidelines on what is the best way to procure works, supplies (goods) and services. They set out minimum requirements to be followed and must be read in conjunction with the information and guidelines set out in the Council's Procurement Guide and the guidance documents available on the Intranet.

#### **2. GENERAL PRINCIPLES – APPLICATION AND COMPLIANCE WITH CONTRACT STANDING ORDERS**

- 2.1** The Contract Standing Orders apply to the procurement by or on behalf of the Council of works, supplies (goods) and services.
- 2.2** The Contract Standing Orders apply to all contracts regardless of value including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts that are listed in 2.3.
- 2.3** These Contract Standing Orders do not apply to:
- a) Employment contracts;
  - b) Contracts relating solely to the purchase or sale of interests in land;

- c) Contracts for the appointment and retention of legal counsel or expert witnesses in legal proceedings;
- d) Grant agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.

### **3. GENERAL PRINCIPLES APPLYING TO ALL CONTRACTS AND PURCHASE ORDERS**

- 3.1** There should be a detailed audit trail of all purchases.
- 3.2** The Responsible Officer (defined in 5.2 below) must consider the appropriate procurement process for each contract based on its value.
- 3.3** All contracts up to a value of £10,000 may be entered into utilising Purchase Order Terms and Conditions, unless the contract is sufficiently complex so as to require specific Terms and Conditions in its own right. Advice may be sought from Procurement and Legal Services, as appropriate.
- 3.4** All contracts of a value of £10,000 or more shall be made using either;
  - a) The Council's current Standard Terms and Conditions of Contract, as maintained by Procurement and Legal Services; or
  - b) Alternative Terms and Conditions specifically prepared by Legal Services (or their nominated representative) as a consequence of the type and/or circumstances of the procurement; or
  - c) A standard form of contract (e.g. JCT, NEC, etc) to include special conditions, as maintained by Procurement and Legal Services; or
  - d) The Terms and Conditions stipulated under any Procurement Scheme; or
  - e) The suppliers Terms and Conditions, where the requirement is as such that these are deemed appropriate.

Where deemed appropriate by the Responsible Officer, advice and agreement may be sought from Procurement and Legal Services prior to award.

- 3.5** As a minimum, all such contracts (excluding purchase orders approved by the relevant Chief Officer) shall include clauses which set out:
  - a) The works, supplies (goods), services, material, matters and/or things to be carried out or supplied;
  - b) The contract start date, end date and any capacity for extension;
  - c) The price to be paid, the estimated price or the basis on which the price is to be calculated, and payment terms;
  - d) Quality requirements and/or standards which must be met

- e) Requirements of the contractor to hold and maintain appropriate insurance throughout the contract, for which advice may be sought from the Insurance department;
- f) What the consequences of the contractor failing to comply with its contractual obligations (in whole or in part) are;
- g) Requirements on the contractor to comply with all relevant equalities and health and safety legislation, and safeguarding (child protection) legislation;
- h) That the Council shall be entitled to cancel the contract and recover losses in the event that the contractor does anything improper to influence the Council to give the contractor any contract or commits an offence under the Bribery Act 2010 or s117(2) Local Government Act 1972.

**3.6** Written contracts shall not include non-commercial terms unless these are necessary to achieve best value for the Council and necessary to enable or facilitate the Council's compliance with public sector equality duty or any duty imposed on it by the Equality Act 2010. In this context, "non commercial" means requirements unrelated to the actual performance of the contract.

**3.7** All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Procurement Guide.

**3.8** All contracts of a value of £10,000 or more must be subject to a written risk assessment, which should be kept on the contract file with the Responsible Officer.

#### **4. REGULATORY CONTEXT**

**4.1** All purchasing shall be conducted in accordance with regulatory provisions which are:

- a) All relevant statutory provisions;
- b) The Procurement Act 2023 (PA 2023) or other applicable legislation;
- c) The Council's Constitution including the Contract Standing Orders, the Council's Financial Procedure Rules and Scheme of Delegation;
- d) The Council's Procurement Guide and other policies and procedures of the Council as appropriate.

**4.2** In the event of conflict between the above, UK legislation will take precedence, followed by the Council's Constitution, the Council's Procurement Guide and guidelines, policies and procedures.

#### **5. RESPONSIBILITIES OF CHIEF OFFICERS AND RESPONSIBLE OFFICERS**

- 5.1** The term “Chief Officer” as used in these Contract Standing Orders means a Director, Assistant Director or Chief Service Officer, or Lead Specialist.
- 5.2** A Responsible Officer is an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies and/or services on behalf of the Council.
- 5.3** Each Chief Officer shall have overall responsibility for the procurement undertaken by their service area and shall;
- a) Be responsible for the procurement undertaken by their service area ;
  - b) Be accountable to Cabinet for the performance of their duties in relation to procurement;
  - c) Comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegation;
  - d) Immediately report any suspected or actual breach of these Contract Standing Orders to the S151 Officer and the Monitoring Officer.
- 5.4** A Responsible Officer's duties in respect of procurement are to ensure:
- a) Compliance with all regulatory provisions (4.1) and integrity of the tender process;
  - b) That the relevant Officers are reminded of the relevant regulatory provisions and the Council's requirements relating to declarations of interest affecting any procurement process in order for them to comply with these requirements;
  - c) That there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used;
  - d) The procurement process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings;
  - e) Compliance with the Council's decision making processes;
  - f) That all contracts of a value of £5,000 or more are included on the Council's Contract Register;
  - g) That proper records of all contract award procedures, waivers, exemptions and extensions are maintained, with separate files for each purchase of a value of £10,000 or more;
  - h) That value for money is achieved;
  - i) That adequate and appropriate security (such as a bond or parent company guarantee) is taken to protect the Council in the event of non-performance.
- 5.5** In considering how best to procure works, supplies (goods) and/or services, Chief Officers and/or Responsible Officers (as appropriate in the context), shall consult with Procurement to take into account wider contractual delivery

opportunities and procurement methods including the use of Procurement Schemes (as defined in CSO 17) and e-procurement/purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003 and the Localism Act 2011.

- 5.6** It is a disciplinary offence to fail to comply with these Contract Standing Orders and the Council's Procurement Guide. All employees have a duty to report any suspected or actual breaches of the Contract Standing Orders to the S151 Officer and the Monitoring Officer.
- 5.7** Any officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and/or services must refer to the Council's Whistleblowing Policy.

## **6. Scheme of Delegation**

- 6.1** Council procurement may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Chief Officers may only delegate to other officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the Chief Officer.
- 6.2** Each Chief Officer shall inform officers, where appropriate, of the extent of any delegated authority and applicable financial thresholds.

## **7. FINANCIAL THRESHOLDS AND PROCEDURES**

- 7.1** The table below sets out the general rules applying to the choice of procurement procedure for contracts at the stated threshold values.
- 7.2** There is a general presumption in favour of competition. Wherever possible contract opportunities should be advertised by way of a public notice via the Council's e-tendering portal.
- 7.3** The publication of a notice referred to at paragraph 7.2 and 7.3 may take the form of a notice or advertisement in an electronic or paper format, on an easily accessible website or other electronic media and/or in the press, trade journals or Find a Tender ("FTS") (as appropriate). The Responsible Officer may choose to place one or more public notices in different media.
- 7.4** In accordance with the Procurement Act 2023 and guidance issued by the Cabinet Office;
  - a) All contract opportunities with a value of £30,000 inclusive of VAT (£25,000 exclusive of VAT) and above must be published on 'Contracts Finder' where the Council has advertised such opportunity in the form of a notice or advertisement;

b) All contracts opportunities with a value above the relevant threshold of the Procurement Act 2023 must be published in the Find a Tender (FTS) e-notification service;

c) All contract opportunities for which a Contract Notice was sent to the Find a Tender (FTS) e-notification service for publication must also be published on 'Contracts Finder'.

**Table setting out financial thresholds and procedures:**

<b>Total value £ (exclusive of VAT)</b>	<b>Type of contract</b>	<b>Procedure to be used</b>
0 up to £10,000	Works, Supplies, Services and Concessions	At least one written quote in advance
£10,000 up to £100,000	Works, Supplies, Services and Concessions	At least three written quotes in advance or Open competitive process with tenders following advertisement by public notice using the Council's Invitation to Tender document.
£100,000 up to £173,100	Supplies and Services	Open competitive process with tenders following advertisement by public notice using the Council's Invitation to Tender document.
£173,100 plus NOTE: £552,950 threshold applies for some specific services listed within Schedule 1 of the Procurement Regulations 2024	Supplies and Services	Full competitive process following advertisement in the applicable FTS e-notification service for supplies and some services.  For social and some specific services, Light Touch contracts under the Procurement Act 2023 apply with reduced procedural requirements a presumption in favour of competition.

<p>£100,000 up to £4,327,500</p> <p>NOTE: £4,477,174 threshold applies for some specific services listed within Schedule 1 of the Procurement Regulations 2024</p>	<p>Works and Concessions</p>	<p>Open competitive process with tenders following advertisement by public notice using the Council's Invitation to Tender document.</p>
<p>£4,327,500 plus</p>	<p>Works and Concessions</p>	<p>Subject to PA 2023: Full competitive process following advertisement in the FTS e-notification service.</p>

Responsible Officers must always seek procurement advice when considering the procedure to be used in the application of the Procurement Act 2023 to their procurement and for the current threshold levels.

**7.5** Contracts are subject to the Procurement Act 2023 if they exceed the relevant threshold set out in [Schedule 1 of the Act](#).

**7.6** Care must be taken to ensure that the correct and most appropriate procedure is used for the type and value of any contract and assistance on the choice and use of procedure should be sought from Legal Services and Procurement.

## **8. FINANCIAL THRESHOLDS AND PROCESSES APPLYING TO APPROVAL AND EXECUTION OF CONTRACTS**

**8.1** For contracts over the relevant published threshold (as outlined in Schedule 1 of the Procurement Act 2023of), the choice of procurement procedure to be used and the decision to proceed to advertisement must be authorised in advance and in writing by the relevant Chief Officer.



- 8.2** When a decision is made to award a contract then the Responsible Officer must, in addition to complying with their general obligations under these Contract Standing Orders, must in particular ensure, that:
- a) The appropriate approvals, including budget approval, have been obtained to authorise that decision; and
  - b) where appropriate, a standstill period complying with Section 51 of the Procurement Act 2023 is incorporated into the final award process.
- 8.3** Any contracts valued at £100,000 or above shall be executed as a deed using the Council's seal (available in legal). Officers with appropriate delegated authority may sign all other contracts under hand.
- 8.4** Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved in advance by the Assistant Director - Governance and Law.

## **9. CALCULATING THE CONTRACT VALUE**

- 9.1** The starting point for calculating the contract value for the purposes of these Contract Standing Orders is that the contract value shall be the genuine pre-estimate of the value of the entire whole life of the contract excluding Value Added Tax. This includes all payments to be made, for the whole of the predicted contract and for the whole of the predicted contract period (including proposed extensions and options).
- 9.2** There shall be no artificial splitting of a contract to avoid the application of the provisions of the Procurement Act 2023 or these Contract Standing Orders.
- 9.3** The Responsible Officer should be particularly conscious that the Procurement Act 2023 may apply where repeat purchases and/or purchases of a similar type in a specified period are involved. Responsible Officers should seek guidance from Procurement regarding the application of the Procurement Act 2023 where they envisage this may occur.

## **10. PRINCIPLES UNDERLYING TENDERING PROCESSES AND TENDER EVALUATION**

- 10.1** All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure:
- a) Sufficient time is given to plan and run the process;
  - b) Equal opportunity and equal treatment;

- c) Openness and transparency;
- d) Probity (moral correctness);
- e) Outcomes that deliver sustainability, efficiency and cost savings (where appropriate).

## **11. SUBMISSION AND OPENING OF TENDERS**

- 11.1** An Invitation to Tender shall be issued by the Council for all contracts over £100,000, via the Councils e-tendering system, and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.
- 11.2** Any tenders received shall be kept secure electronically and unopened until the time and date specified for the opening.
- 11.3** No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless agreed by the Monitoring Officer in exceptional circumstances.
- 11.4** Tenders shall be opened, certified and recorded electronically by an Authorised Officer of the Council via the Councils e-tendering system.

## **12. EVALUATION OF QUOTES AND TENDERS**

- 12.1** All quotes and tenders shall be evaluated in accordance with the evaluation criteria notified in advance to those submitting quotes/tenders.
- 12.2** Tenders subject to Procurement Act 2023 shall be evaluated in accordance with the regulations.

## **13. WAIVERS**

- 13.1** Subject to 13.5, the requirement for the Council to conduct a competitive procurement process for contracts in excess of £10,000 may be waived in the following circumstances.
  - a) For contracts which are not subject to Procurement Act 2023, the work, supply or service or grant of service concession is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or
  - b) If the goods or materials to be purchased are available from only one manufacturer / supplier; or
  - c) Where the supply is for parts for existing machinery, or where the terms of supply of equipment require that maintenance be undertaken by a specified provider; or

- d) Where the work is of a specialist nature, the skill of the contractor is of primary importance, and the supply market has been tested and found to be limited; or
  - e) Where the supply is for maintenance to existing IT equipment or software, including enhancements to current software, which can only be performed by the licensed developer or owner of the system; or
  - g) At the discretion of the relevant Chief Officer who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing.
- 13.2** A Responsible Officer who seeks a waiver of Contract Standing Orders, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders is set out in the Council's Procurement Guide.
- 13.3** All waivers from these Contract Standing Orders must be:
- a) Fully documented;
  - b) Subject to a written report in an approved format to be submitted in advance to the relevant Chief Officer which shall include reasons for the waiver which demonstrate that the waiver is genuinely required;
  - c) Subject to approval in advance by the S151 Officer and the Monitoring Officer, or their nominated deputies, who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
- 13.4** All decisions on waivers must take into account:
- a) Probity (e.g. the decision should not be influenced by personal gain)
  - b) Best value/value for money principles
- 13.5** For contracts subject to the Procurement Act 2023, any waiver from the requirement for competition must meet the conditions set out in the regulations in addition to the general requirements above.

## **14. EXTENSIONS / VARIATIONS TO EXISTING CONTRACTS**

- 14.1** Where extensions / variations to existing contracts are made the extensions must be:
- a) Determined in accordance with any statutory restrictions and any specific contract terms;
  - b) In the case of an extension only for a specified period;

- c) Made in accordance with the principles set out in the Council's Procurement Guide;
- d) In a format approved by legal services.

**14.2** All extensions / variations, including the option to extend or vary an existing contract in accordance with the agreed terms, must be:

- a) Fully documented;
- b) Agreed by the relevant Chief Officer following the submission of a written report in an approved format which shall include the reasons for any extension and demonstrate that the need for the requested extension is both genuine and offers the Council continuing value for money;
- c) Authorised by the S151 Officer and the Monitoring Officer who shall record that they;
  - i) have considered the reasons for the extension;
  - ii) are satisfied the circumstances justify the extension and are either genuinely exceptional or in their opinion are in the Council's best interest.

**14.3** Any extension must take into account:

- a) Probity (e.g. the decision should not be influenced by personal gain)
- b) Best value/value for money principles.

**14.4** For contracts subject to the Procurement Act, any extension must meet the conditions set out in Section 74 in addition to the more general requirements set out above;

Or for contracts subject to Part 2 of the Public Contracts Regulations, any extension must meet the conditions set out in Regulation 72 in addition to the more general requirements set out above.

## **15. THE USE OF LETTERS OF INTENT**

**15.1** A letter of intent normally precedes the commencement of the contract. Letters of Intent shall only be permitted as follows:

- a) Where the Council's form of tender has not included a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship;
- b) Exceptionally where a contractor is required to provide services, supplies or works prior to written acceptance by the Council.

**15.2** In all cases the letter of intent must be in a format agreed by legal services and signed by the Monitoring Officer: who shall record that he has considered the reasons for requiring a Letter of Intent and that he is satisfied that the circumstances are genuinely exceptional.

## **16. ASSIGNMENT OF EXISTING CONTRACTS**

**16.1** Where a Responsible Officer is considering assigning an existing contract, the assignment must be decided in accordance with the relevant contract terms and made in line with the principles set out in the Council's Procurement Guide. An assignment of a contract is where the contract is moved to a replacement contractor, who takes over all the obligations of the original contractor under the contract.

**16.2** Any assignment must be;

- a) Fully documented and take into account probity and best value/value for money principles. In all cases the assignment must be in a format agreed by legal services;
- b) Agreed by the relevant Chief Officer following the submission of a written report in an approved format which shall include the reasons for any assignment and demonstrate that the proposed assignment is both genuine and offers the Council continuing value for money.
- c) Authorised by the S151 Officer and the Monitoring Officer who shall record that they:
  - i) have considered the reasons for assignment;
  - ii) are satisfied as to the financial standing and the technical competence of the proposed new contractor/assignee;
  - iii) are satisfied the circumstances justify the assignment and agree that the assignment is in their opinion, in the Council's best interests.

For contracts subject to Procurement Act 2023, any assignment must meet the conditions set out in the regulations in addition to the more general requirements set out above.

## **17. PROCUREMENT SCHEMES**

**17.1** A Responsible Officer may use Procurement Schemes authorised by Procurement subject to the following conditions and the Council's Procurement Guide.

**17.2** Responsible Officers must check in advance with Procurement, that;

- a) The Council is legally entitled to use the Procurement Scheme;
- b) The purchases to be made properly fall within the ambit of the Procurement Scheme;
- c) The establishment and operation of each Procurement Scheme is in compliance with the Procurement Act 2023 (or relevant legislation) and meets the Council's own requirements.

**17.3** A “Procurement Scheme” may include:

- a) Contractor prequalification lists/select lists;
- b) Framework arrangements;
- c) Procurement arrangements set up by central procurement bodies and commercial organisations;
- d) Consortium procurement;
- e) Collaborative working arrangements;
- f) Formal agency arrangements;
- g) E-procurement/procurement schemes and methods;
- h) Other similar arrangements, such as the Government eMarketplace.

**17.4** Where a Procurement Scheme is used then there shall be a whole or partial exemption from the obligations under these Contract Standing Orders in respect of the choice and conduct of procedures to the extent permitted and indicated in the Council’s Procurement Guide.

**17.5** Where the use of a Procurement Scheme would result in the direct award of a contract without further competition, the justifications for the use of the selected Procurement Scheme must be:

- a) Fully documented;
- b) Agreed by the relevant Chief Officer following the submission of a written report in an approved format which shall include the reasons for the selection of the Procurement Scheme and demonstrate that the proposed direct award is both genuine and offers the Council continuing value for money;
- c) Subject to approval in advance by the Procurement Manager or nominated deputy, who shall record that they have considered the reasons for the direct award and are satisfied that the circumstances justifying the direct award are genuine and / or in their opinion are in the Council's best interest.

**17.6** Any direct award via a Procurement Scheme must take into account:

- a) Probity (e.g. the decision should not be influenced by personal gain)
- b) Best value/value for money principles.

**18. REVIEW AND CHANGES TO THESE CONTRACT STANDING ORDERS**

**18.1** These Contract Standing Orders shall be reviewed and updated on a regular basis.

**18.2** The Monitoring Officer shall be entitled to make minor amendments to these Contract Standing Orders (to include, but not limited to, updating prevailing financial thresholds or other legislative change).

**18.3** Amended Contract Standing Orders shall be recommended by the Audit and Compliance Committee to Full Council.

## **PART 10.3 – PROCEDURES FOR AUDITING THE AUTHORITY**

### **1. INTERNAL AUDIT**

**1.1** Internal Audit is an independent appraisal function, established by the Council, for the review of the internal control system, as a service to the organisation. It objectively examines, evaluates and reports on the adequacy of internal control, as a contribution to the proper, economic, efficient and effective use of resources.

**1.2** In accordance with the Accounts and Audit Regulations 2011 (as amended), the Council shall:

- a) Make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has the responsibility for the administration of those affairs and
- b) Shall maintain an adequate and effective system of internal audit of their accounting records and control systems.

**1.3** Chief officers shall establish sound arrangements for the planning, appraisal, authorisation and control of the use of resources, and to ensure that they are working properly, as set out in the Council's approved Financial Procedure Rules. Maintaining adequate and effective controls, within the Council, is necessary:

- a) To carry out activities in an orderly, efficient and effective manner;
- b) To ensure that policies and directives are adhered to;
- c) To ensure compliance with statutory requirements;
- d) To safeguard assets to prevent fraud;
- e) To maintain complete and reliable records and information; and
- f) To prevent waste and promote good value for money.

**1.4** It is the responsibility of Internal Audit to:

- a) Advise chief officers on risk management and appropriate internal controls;

- b) Assist chief officers in the way that organisational objectives are achieved at operational levels;
- c) Assure chief officers on the reliability and integrity of systems, and that they are adequately and effectively controlled;
- d) Alert chief officers and Assistant Directors/Chief Service Officer to any system weaknesses or irregularities.

**1.5** Internal Audit shall appraise and review:

- a) The completeness, reliability and integrity of information, both financial and operational;
- b) The systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation, or externally;
- c) The means of safeguarding assets;
- d) The economy, efficiency and effectiveness with which resources are employed; and
- e) Whether operations are being carried out, as planned, and objectives and goals are being met.

**1.6** The Internal Audit Team, in consultation with the Council's Chief Finance Officer (S151 Officer), shall, each year, produce an audit plan setting out the areas that it intends to audit. This plan shall be approved by the Corporate Leadership Team.

**2. EXTERNAL AUDIT**

The relationship between internal and external audit needs to take into account their differing roles and responsibilities. The external auditor has a statutory responsibility to express an independent opinion on the financial statements and stewardship of the organisation. The Council's external auditor is Grant Thornton UK.