

## Article 15 – Review and Revision of the Constitution

### 15.01 **Duty to monitor and review the Constitution**

The Head of Paid Service and Monitoring Officer will jointly monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. They will undertake a formal review of the whole Constitution at least once every four years and present a report to the Council, (without prejudice to their right to report on any aspect of the Constitution requiring revision at any time).

### 15.02 **Changes to the Constitution**

#### (a) **Approval**

Changes to the Constitution will only be approved by the full Council after consideration of a proposal by the Cabinet.

## Article 16 – Suspension, Interpretation and Publication of the Constitution

### 16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles and Parts 3, 5 and 6 of this Constitution may not be suspended. The Rules of Procedure specified below (“the Rules”) may be suspended by the full Council to the extent permitted within the Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any Rules will not be moved unless at least two thirds of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:  
All the Procedure Rules set out in Part 4 of this Constitution may be suspended by the Council or (in relation to its own business) by the Cabinet or any Committee or Sub-Committee but only to the extent permitted by law and the extent and duration of any suspension must be proportionate to the result to be achieved.

### 16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### 16.03 Publication

- (a) The Head of Paid Service will give a printed copy of this Constitution to each Member of the Council upon delivery to him/her of that individual’s declaration of acceptance of office on the Member first being elected to the Council.
  - (b) The Head of Paid Service will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
  - (c) The Head of Paid Service will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.
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## Part 3

### Responsibility for Functions

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## **1. EXPLANATORY NOTE**

*[This note does not form part of the Constitution]*

1. *In Local Authorities operating executive arrangements, all functions are made the responsibility of either the full Council or the Executive (Cabinet) and different rules apply to both.*
2. *Functions which are the responsibility of the full Council are subject to the legal framework set out in the Local Government Act 1972 (under which the Council has operated since 1974). These may be delegated to a Committee (including an area Committee), a sub-committee, an officer or another Local Authority. They may not be delegated to a single member.*
3. *Functions which are the responsibility of the Cabinet (executive functions) are subject to a new legal framework set out in the Local Government Act 2000 and may be delegated to a Committee of the Cabinet, an Area Committee, an individual member of the Cabinet, an officer or another Local Authority.*
4. *The law provides a framework under which:*
  - (i) some functions must be the responsibility of the Executive (Cabinet);*
  - (ii) some functions must not be the responsibility of the Executive (Cabinet);*
  - (iii) some functions (called "local choice functions") may or may not be made the responsibility of the Executive (Cabinet), and is for the Council to allocate these functions. They are allocated as set out in Schedule 1.*
  - (iv) all remaining functions are vested in the Executive (Cabinet).*
5. *Functions which cannot be the responsibility of the Executive (Cabinet) include:*
  - (i) determining applications for licences, appeals, consents, permissions or regulations;*
  - (ii) direct regulation of persons or actions;*
  - (iii) enforcement action relating to the above;*
  - (iv) over 170 specific functions set out in the Local Authorities (Functions and Responsibilities Regulations) 2000 and Amendment Regulations.*

*These functions are delegated by the Council to the Committees and Sub-Committee as set out in Articles 8 and 9, and to the Appeals Panel.*

6. *Area Committees have both executive functions (delegated by the Cabinet) and non-executive functions (delegated by the Council). The Agendas for Area Committees distinguish between those items which relate to non-executive functions, (marked \*), and those items relating to executive functions.*

## **2. FUNCTIONS OF THE FULL COUNCIL**

- 2.1 The Council is responsible for determination of:
    - (i) the policy framework, as defined in Article 4.01(a)
    - (ii) the budget, as defined in Article 4.01(b);
    - (iii) the Constitution and related functions as set out in Article 4.02.
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### **3. FUNCTIONS OF COMMITTEES, SUB-COMMITTEES AND PANELS**

3.1 The following functions (non-executive functions) are delegated by the Council to the Committees, Sub-Committees or Panels set out below pursuant to S101 of the Local Government Act 1972 and all other enabling powers. Certain functions of the Overview and Scrutiny Committees and Standards Committee are conferred directly by legislation.

3.2 Any reference to any functions or any delegation of any functions includes all actions associated with that function and all related enforcement action.

#### **3.3 Audit Committee**

3.3.1 The Audit Committee will have the roles and functions set out in Article 8.11.

#### **3.4 Overview and Scrutiny Committees**

3.4.1 The Overview and Scrutiny Committees will have the role and functions set out in Articles 6.03 and 6.04.

#### **3.5 The Planning and Development Committee**

3.5.1 The Planning and Development Committee will have the roles and functions set out in Articles 8.02.

#### **3.6 The Licensing Committee**

3.6.1 The Licensing Committee will have the role and functions set out in Article 8.03(ii)

#### **3.7 The Standards Committee**

3.7.1 The Standards Committee will have the role and functions set out in Article 9.02.

#### **3.8 The Chief Officers' Appointments Committee**

3.8.1 The Chief Officers' Appointments Committee will have the role and functions set out in Article 8.09(ii).

#### **3.9 The Human Resources Committee**

3.9.1 The Human Resources Committee will have the role and functions set out in Article 8.08(ii).

#### **3.10 The Area Committees**

3.10.1 The Area Committees will have the non-executive role and functions set out in Article 10.03. (Area Committees also have an executive role and functions as set out in Article 10.02).

#### **3.11 The Appeals Panel**

3.11.1 The Appeals Panel will have the role and functions set out in Article 8.07(ii).

#### **3.12 The Independent Remuneration Panel**

3.12.1 The Independent Remuneration Panel will have the role and functions set out in Article 8.12(ii)

#### **3.13 The North Yorkshire Audit Partnership**

3.13.1 The North Yorkshire Audit Partnership will have the role and functions set out in Article 11.06.

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### 3.14 The Scheme of Delegation to Officers

3.14.1 The delegation of non-executive functions by the Council to officers is set out in the Scheme of Delegation to Officers in Schedule 3. Non-executive delegated functions are marked \* to distinguish them from executive delegated functions.

## 4. CABINET FUNCTIONS

4.1 All functions not referred to in paras 2 and 3 above are executive functions and are the responsibility of the Cabinet.

4.2 Without limiting the scope of para 4.1, the Cabinet, (directly, or by delegating its functions to a Committee or Sub-Committee of the Cabinet, a member of the Cabinet, an Area or Joint Committee or an officer) has the following functions and responsibilities.

### 4.3 Functions of the Cabinet

- (a) Proposing the budget to full Council (as defined in Article 4.01(b));
- (b) Proposing to full Council new policies (or amendments to existing policies) which fall within the policy framework as defined in Article 4.01(a);
- (c) Adopting on behalf of the Council any plans or strategies which do not form part of the policy framework;
- (d) Implementing and delivering the agreed budget and policy framework;
- (e) Responsibility for local choice functions to the extent indicated in Schedule 1;
- (f) Discharging the Council's responsibilities as an employer for health and safety;
- (g) **Approval of the early retirement of an individual where the financial consequences of that retirement:**
  - (i) exceed £140,000 and**
  - (ii) are within the budgetary framework**

4.4 The delegation of functions by the Cabinet to individual members of the Cabinet is set out in Schedule 2.

4.5 The delegation of functions by the Cabinet to officers is set out in Schedule 3. (The Scheme of Delegation to Officers also contains the delegation of non-executive functions marked\*)

4.6 The delegation of functions by the Cabinet to Area Committees and Joint Committees is set out in Article 10.02.

4.7 The delegation of functions by the Cabinet to the Grants and Relief Sub-Committee is set out in Article 7.07.

4.8 Any delegations of functions by the Cabinet to Joint Committees is set out in Article 11.06.

## 5. LOCAL CHOICE FUNCTIONS

5.1 The allocation of local choice functions by the Council is set out in Schedule 1.

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## Schedule 1:

### RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Decision-making Body	Delegation of Functions
1. Locally derived functions (i.e. from Local Acts)	The Cabinet	As set out in Schedules 2 & 3
2. Determination of appeals against any decision made by or on behalf of the Council	The Council/Appeals Panel	As set out in the terms of reference of the Appeals Panel.
3. The conducting of Best Value Reviews	The Overview and Scrutiny Committees	As set out in Article 6.04 (c)
4. Any functions relating to contaminated land.	The Cabinet	As set out in Schedules 2 & 3
5. Resolutions applying Schedule 2, Noise and Statutory Nuisance Act 1993 to the Borough	The Council or Cabinet *	
6. Statutory Nuisances (i) Service of abatement notices (ii) Inspection of Borough to detect statutory nuisances (iii) Investigation of complaints re statutory nuisances.	The Council or Cabinet *	As set out in Schedules 2 & 3
7. Requisitions for Information. (i) Under Town & Country Planning Legislation (ii) Under Local Government (Miscellaneous Provisions) Act 1976	The Cabinet **  The Cabinet **	As set out in Schedules 2 & 3
8. Agreements for the execution of highway works (under Agency powers).	The Cabinet	As set out in Schedules 2 & 3
9. Appointments to outside bodies.	The Council	
10. Any function relating to Harbours Administration and Management	The Cabinet	As set out in Schedules 2 & 3
11. Agreements with other Local Authorities for the placing of staff at the disposal of those other authorities.	The Cabinet  The Council	In respect of executive functions.  In all other cases

\* The decision making body will be the Cabinet unless the function or action involves

- (i) determining an application from a person for a licence, approval, consent, permission, or registration;
- (ii) direct regulation of a person (with substantial discretion as to the regulated action); or
- (iii) enforcement of any such license, approval, consent, permission, or direct regulation, in which event the decision making body will be the Council.

\*\* These functions are vested in the Cabinet to the extent that it is necessary to exercise them in respect of actions which are preliminary to the exercise of compulsory purchase orders. For all other purposes the function is vested in the Planning and Development Committee.

## Schedule 2:

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## INDIVIDUAL CABINET MEMBER DELEGATION SCHEME

- 1.1 The Cabinet delegates to Individual Cabinet Members the power to take the following actions or decisions within the functional areas set out in paragraph 1.4 as follows.
- (i) All operational matters within the Council's overall policy framework and budget, excluding actions or decisions delegated to Officers under the Scheme of Delegation to Officers;
  - (ii) Minor changes in policy or in the detail or pattern of the provision of services which do not affect the Council's overall policy framework or budget;
  - (iii) Changes to scales of fees and charges which do not affect the Council's overall policy framework or budget;
  - (iv) Approval of proposals for road traffic, parking and other orders for the purpose of public advertisements and/or consultations and/or submission for confirmation, and the confirmation of any such unopposed orders.
  - (v) Approval of the principle, content and design of capital or revenue schemes or procuring of goods and services with an estimated value between £50,000 and £140,000;
  - (vi) Responses to formal petitions, public consultations or other formal representations which do not involve a significant policy issue; and
  - (vii) All matters reserved for the decision of the Cabinet Member under The Articles or the Financial and Contract Procedure Rules
  - (viii) Approval of the early retirement of an individual where the financial consequences of that retirement:
    - (a) do not exceed £140,000 and
    - (b) are within the budgetary framework
 (this delegation is exercised by the Cabinet member with responsibility for Human Resources)
- 1.2 Individual Cabinet Members may consult with the Cabinet or other Cabinet Members or the Chairman of the relevant Committee or Sub-Committee on the exercise of any delegated powers or determine not to exercise a delegated power in any particular case.
- 1.3 Where an individual Cabinet member has a prejudicial interest (as defined in the Members' Code of Conduct) in relation to any decision, the Member will not take that decision but will ask the relevant officer to refer the matter to the Cabinet for determination.
- 1.4 The Cabinet delegates to the Leader the power to take any action or make any decision which would otherwise fall within the functions of Cabinet described under Article 16 where either Special Urgency under Part 2, rule 15, or Urgency under Part 3, rule 4 applies.
- 1.5 **Cabinet Members – Functional Areas**

<b>Cabinet Member</b>	<b>Functional Areas</b>
1. The Leader	Overall responsibility for <ul style="list-style-type: none"> <li>• Political leadership and management of the Council</li> <li>• Co-ordination and implementation of strategic policy</li> <li>• Community Leadership</li> <li>• Implementation of the power to promote the economic, social and environmental well being of the Borough</li> <li>• The Community Strategy</li> </ul>



<b>Cabinet Member</b>	<b>Functional Areas</b>
<p><b>2. Cabinet Member</b> (Finance, Legal and ICT)</p>	<ul style="list-style-type: none"> <li>• Corporate financial matters including management of the financial function but excluding financial services provided in support of a service falling within another functional area.</li> <li>• Corporate legal matters including management of the legal function but excluding legal services provided in support of a service falling within another functional area</li> <li>• Administration of benefits</li> <li>• Fraud prevention and control</li> <li>• Local taxation</li> <li>• Information Technology</li> <li>• Audit plans</li> <li>• Local land charges</li> <li>• Management of Central support services but excluding services provided in support of a service falling within another functional area.</li> <li>• Corporate Procurement Matters</li> <li>• Corporate Risk Management Matters</li> </ul>
<p><b>3. Cabinet Member</b> (Public Health, Housing, Land and Property)</p>	<ul style="list-style-type: none"> <li>• Housing research</li> <li>• Strategic housing enabling issues</li> <li>• Council housing management</li> <li>• Housing welfare and homelessness</li> <li>• Care services for the elderly and other vulnerable groups</li> <li>• Private sector housing enforcement</li> <li>• Housing related grants</li> <li>• Harassment, unlawful eviction and reinstatement of services</li> <li>• Home energy conservation and affordable warmth</li> <li>• Asset management, including property maintenance and management but excluding the use, maintenance and management of properties that support service delivery in another functional area.</li> <li>• Purchase, sale, lease or tenancy of all land and properties belonging to the Council</li> <li>• The granting of property concessions and licences</li> <li>• Management of the Council's administrative buildings</li> <li>• Allotments</li> <li>• Markets</li> <li>• Neglected and derelict sites and buildings</li> <li>• Environmental improvements</li> <li>• Countryside Services</li> <li>• Environmental and public health protection and control</li> <li>• Health and safety at work enforcement</li> <li>• Food safety and hygiene</li> <li>• Home safety and health education</li> <li>• Waste collection, management and recycling</li> <li>• Animal care and dog control</li> <li>• Cemeteries and crematorium administration and funeral arrangements for destitute persons</li> <li>• Public conveniences</li> <li>• Health liaison</li> <li>• Pest control</li> </ul>

<b>Cabinet Member</b>	<b>Functional Areas</b>
<b>4. Cabinet Member (Environment and Transport)</b>	<ul style="list-style-type: none"> <li>• Strategic planning and transportation</li> <li>• Coastal protection</li> <li>• The administration of Council car parks</li> <li>• Footpaths, bridleways and highways functions (under agency arrangements with North Yorkshire County Council) including traffic management and on-street parking facilities</li> <li>• Lighting schemes</li> <li>• Works and improvements to private roads owned by the council</li> <li>• Transport services, including bus shelters and taxi stands</li> </ul>
<b>5. Cabinet Member (Economic and Community Development)</b>	<ul style="list-style-type: none"> <li>• Development of local strategic partnerships, including the development of local regeneration strategies</li> <li>• All matters relating to economic development including infrastructure development and business support</li> <li>• Town centre management</li> <li>• Skills development</li> <li>• External funding and grants for small businesses</li> <li>•</li> </ul>
<b>6. Cabinet Member (Community Safety)</b>	<ul style="list-style-type: none"> <li>• Community Safety</li> </ul>
<b>7. Cabinet Member (Tourism, Leisure and Community Services)</b>	<ul style="list-style-type: none"> <li>• The development, operation, marketing and management of tourism and leisure facilities and services.</li> <li>• Conferences, exhibitions, entertainments and events</li> <li>• Museums and gallery, sports centres, swimming pools, bowls centre, bowling greens, sports areas and open spaces</li> <li>• Civic and other catering</li> <li>• Visitor information, amenities and attractions</li> <li>• Meteorological stations</li> <li>• Parks and Gardens</li> <li>• Local democracy issues (including Area Committees)</li> <li>• Community and recreation centres, playcentres, play areas, community sports and arts</li> <li>• Training services</li> <li>• Customer Care</li> </ul>
<b>8. Cabinet Member (Human Resources and Performance)</b>	<ul style="list-style-type: none"> <li>• Human Resources</li> <li>•</li> <li>• Performance Management</li> </ul>
<b>9. Cabinet Member (Harbours)</b>	<ul style="list-style-type: none"> <li>• Harbours</li> </ul>

In the case of support service functions, where a support service is providing support to a service in another functional area it shall be regarded as part of the other service for the purposes of the Cabinet Member Delegation Scheme set out above.

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## **Schedule 3:**

### **SCHEME OF DELEGATION TO OFFICERS**

*(Note \* denotes the exercise of non-executive functions)*

#### **1 OVERALL LIMITATIONS**

- 1.1 The following functions are delegated to Officers subject to the general restrictions limitations and exclusions set out in Sections 1 and 2 and any specific exclusions, set out in Sections 3-12.
- 1.2 All decisions or actions taken pursuant to this Scheme of Delegation (“the Scheme”) shall be recorded in a manner approved by the Head of Legal and Democratic Services.
- 1.3 The Scheme does not delegate to Officers:-
- (i) Any matter reserved to Council;
  - (ii) Any matter which, by law, may not be delegated to an Officer;
  - (iii) Any matter expressly withdrawn from delegation by the Council;
  - (iv) Any matter excluded by this Scheme of Delegation.
- 1.4 Any exercise of delegated powers shall be subject to, and in accordance with:-
- (i) Any statutory provisions;
  - (ii) The Constitution including the Financial and Contract Procedure Rules;
  - (iii) Any Policies, Protocols, Codes of Practice or guidelines adopted by the Council;
  - (iv) Any Codes of Conduct for Members or Employees adopted by the Council.
- 1.5 In exercising delegated powers, Officers shall ensure that any spending is within an approved capital or revenue budget.
- 1.6 In exercising delegated powers, Officers shall have regard to any formal reports or views of the Head of the Paid Service, Monitoring Officer or Section 151 Officer.
- 1.7 The decision of the Chief Executive will be final on any matter concerning the interpretation of the Scheme.

#### **2 GENERAL PROVISIONS**

- 2.1 This Scheme delegates to the Officers named (“the Officers”), powers and duties within broad functional descriptions and includes all powers and duties under all legislation present and future within those descriptions and all incidental powers and duties, including:
- (i) appointing and dismissing employees, other than the Chief Executive, Strategic Directors and Heads of Service
  - (ii) Authorising the signing and completion of any document including those which require the Common Seal of the Council to be affixed;
  - (iii) Taking any action, (including enforcement action), necessary to give effect to any decision of the Council or the Financial and Contract Procedure Rules;
  - (iv) Appointing persons to act as authorised officers and inspectors under any relevant legislation with power to institute proceedings and/or take other forms of action authorised by the legislation.
- 2.2 In civil litigation matters, Strategic Directors, Heads of Service and Business Unit Managers be authorised to sign Statements of Truth on behalf of the Council.
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- 2.3 Strategic Directors and Heads of Service be authorised to tender for and enter into contracts let by public bodies as defined within the Local Authorities (Goods and Services) Act 1970.
- 2.3 An Officer may consult with the Cabinet, or appropriate Cabinet Member or Chairman of a relevant Committee or Sub-Committee on the exercise of delegated powers, or determine not to exercise a delegated power in any particular case but to refer the matter to the Cabinet or appropriate Cabinet Member or Committee or Sub-Committee.
- 2.4 This scheme operates under Section 15 of the Local Government Act 2000, Section 101 of the Local Government Act 1972 and all other powers enabling the Council.
- 2.5 In this Scheme of Delegation:
- (i) 'Strategic Director' includes the Chief Executive, both Strategic Directors, Head of Legal and Democratic Services and any other Officer authorised in writing by them to carry out the relevant functions in the Strategic Director's name;
  - (ii) References to 'the Council' include the Cabinet, Cabinet Members, Committees, Sub-Committees or Officers, as appropriate;
  - (iii) Any Strategic Director to whom functions are delegated by the Council may authorise the exercise of the functions in the Strategic Director's name, or with the consent of a Head of Service within his Directorate, the exercise of functions in the name of a Head of Service, by any Officer within his or her Directorate;
  - (iv) Any authorisation under para 2.5(iii) shall be in writing and the Strategic Director shall provide a copy to the Chief Executive and the Head of Legal and Democratic Services
- 2.6 This Scheme excludes all actions or decisions which in the Director's view are:-
- (i) Contrary to existing policies, budgets, programmes, plans, strategies, codes of practice or protocols;
  - (ii) Significant changes in the pattern of the provision of any service;
  - (iii) Changes to scales of fees and charges approved by Members;
  - (iv) Discretionary statutory grants other than Housing related grants;
  - (v) Approval, monitoring or changes to revenue and capital estimates;
  - (vi) Approval of the principle, content and design of capital or revenue schemes or the procuring of or tendering to provide goods and services with an estimated value of £50,000 or more;
  - (vii) Formal responses on behalf of the Council to any Government or other consultation document on a significant policy issue;
  - (viii) Responses to formal petitions, public consultations or other formal representations;
  - (ix) Approval of any approved, restricted or other list of approved tenderers;
  - (x) All matters reserved for the decision of the Council, under the Constitution (including the Financial and Contract Procedure Rules).

### **3 GENERAL DELEGATIONS**

#### **All Strategic Directors are authorised:-**

##### **(A) In respect of financial matters:**

- (i) to incur expenditure.

##### **(B) In respect of contractual matters:**

- (i) To engage specialist or consultant services where necessary;
- (ii) To place orders for the supply of goods, services or materials or the execution of work.

##### **\* (C) In respect of personnel matters:**

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- (i) In respect of all employees other than Heads of Service, to take any action with respect to the recruitment, appointment, promotion, training, grading, discipline, determination of wages and salary scales, attendance at seminars, conferences and study courses, determination and application of conditions of service, and determination of the establishment of the Directorate which they manage, subject to the Strategic Director of Corporate Services being satisfied that adequate provision is made in the budget of the Directorate and to the Chief Executive through the Head of Human Resources raising no objection to proposals affecting the grading, determination of wages and salary scales, or the determination and application of conditions of service;
- (ii) The appointment of work experience students
- (iii) The appointment of **temporary staff**, provided that:
  - (a) the Head of Human Resources is consulted prior to any appointments,
  - (b) such appointments do not exceed a total duration of 26 weeks,
  - (c) such appointments are not extended under this delegation, and
  - (d) are at a salary that does not exceed the equivalent of Scale 3;
- (iv) The granting of ex gratia leave of absence of up to 6 days per year.

**(D) In respect of general matters:**

- (i) To apply for planning permission for development or for building regulation, or other approvals;
- (ii) To sign, serve, issue and receive Notices, other than legal notices expressly reserved by the Head of Legal and Democratic Services to him/herself;
- (iii) To make ex gratia payments up to £2,500;
- (iv) To provide services and execute works within their functional areas for others as permitted by law;
- (v) The negotiation of fees and charges outside approved scales for the occasional use of Council facilities and services

**4 THE CHIEF EXECUTIVE is authorised:**

**(A) In respect of Corporate Matters:**

- (i) to exercise the functions of the Head of Paid Service with overall corporate management and operational responsibility and with authority over all Officers, other than the Monitoring and Section 151 Officers acting as such;
  - (ii) to exercise the functions of Proper Officer of the Council under all legislation in relation to (i) executive or (ii) non-executive functions (\*), except where that legislation or this Scheme confers such functions on another named Officer;
  - (iii) to issue guidance to Members and Officers; (the Strategic Director of Corporate Services and Head of Legal and Democratic Services have a similar delegated power);
  - (v) in cases of emergency or where time is of the essence to exercise the functions of the Cabinet for civil aid and emergency planning;
  - (vi) in cases of emergency or where time is of the essence, to take decisions which would otherwise be taken by the Cabinet, Cabinet Member or Committee;
  - (vii) to provide Member services, including authorisation of attendance at meetings by Members as an approved duty and the payment of Members' allowances;
  - (viii) to sign on behalf of the Council any document necessary to give effect to any decision of the Council in relation to (i) executive or (ii) non-executive functions (\*); (the Head of Legal and Democratic Services, the Planning and Litigation Solicitor and the Property and Contracts Solicitor have a similar delegated power);
  - (ix) To act as the authorised representative of the Council in respect of its membership of any limited company to give effect to any decision of the Council in relation to executive functions (The Head of Legal and Democratic
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- Services, the Planning and Litigation Solicitor and the Property and Contracts Solicitor have a similar delegated power);
- (x) to manage telephones and customer care.

**(B) In respect of Corporate Personnel & Management matters:**

- (i) To have overall responsibility for matters relating to human resources
- (ii) To exercise the Corporate Management function in relation to the following:
  - (i) Best Value and Value for Money Studies
  - (ii) Performance Management
  - (iii) To manage the Council's Administrative Buildings;
- (iv) To exercise all the functions in relation to elections listed in Part D of Schedule 1 to the Functions Regulations (as defined in Article 8.02(ii)).
- \* (v) To manage the Council's public relations and internal communications

**5. THE STRATEGIC DIRECTOR OF CORPORATE SERVICES is authorised:**

- (i) As Section 151 Officer to provide guidance on financial propriety, probity, policy framework and budgeting issues. (The Head of Legal and Democratic Services, as Monitoring Officer, has a similar delegated power);

**6. THE HEAD OF REGENERATION is authorised**

**In respect of Regeneration matters:**

To exercise the following functions of the Council relating to regeneration including

- (i) Development of local strategic partnerships, including the development of local regeneration strategies;
- (ii) All matters relating to economic development including infrastructure development and business support;
- (iii) Town centre management;
- (iv) Skills development;
- (v) External funding and grants for small businesses;
- (vi) the Community Safety function;
- (vii) the Community Planning and Development function;
- (viii) Neighbourhood regeneration

**7. THE HEAD OF FINANCE SERVICES is authorised**

- (i) To be responsible for the day-to-day management of the Council's financial affairs.
- (ii) To exercise the functions of the Council relating to the management of the Council's financial affairs, including:
  - (a) Administration of Benefits;
  - (b) Fraud Prevention and Control;
  - (c) Local Taxation.
  - (d) Exchequer and control
- (iii) To exercise the functions of the Council relating to the management of the Council's ICT Services
- (iv) To exercise the functions of Deputy Section 151 Officer
- (v) To be responsible for electronic service delivery

The following matters are excluded from this delegation:

- (i) Any actions transactions or determinations not in compliance with financial Codes of Practice adopted by the Council.

**8. THE HEAD OF LEGAL AND DEMOCRATIC SERVICES is authorised:**

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- \* (i) As Monitoring Officer, to provide guidance on vires, maladministration, financial propriety, probity, policy framework and budget issues. (The Strategic Director of Corporate Services, as Section 151 Officer, has a similar delegated power) and in consultation with the Head of Paid Service to authorise payments or provision of benefits to persons affected by maladministration up to £10,000.
- (ii) To sign on behalf of the Council any document necessary to give effect to any decision of the Council in relation to (i) executive and (ii) non-executive (\*) functions. (The Chief Executive, the Planning and Litigation Solicitor and the Property and Contracts Solicitor have a similar delegated power);
- (iii) To act as the authorised representative of the Council in respect of its membership of any limited company to give effect to any decision of the Council in relation to executive functions (The Chief Executive, the Planning and Litigation Solicitor and the Property and Contracts Solicitor have a similar delegated power);
- (iv) Through the Chief Executive to act as proper officer for the purpose of recording and making executive decisions publicly available.
- (v) To institute, defend, withdraw, participate in or settle any claims or legal proceedings, civil or criminal;
- (vi) To authorise Officers of the Council to represent the Council before any Court, Tribunal or Inquiry;
- (vii) To co-ordinate the approach of the Council to procurement activity
- (viii) To identify:
  - (a) The Officers of the Council who may act as Authorising Officers under s30(1) of the Regulation of Investigatory Powers Act 2000, and
  - (b) an Officer of the Council who will act as the Council's single point of contact for the purpose of the Regulation of Investigatory Powers Act 2000;
- (ix) To instruct or brief Counsel;
- (x) To administer Local Land Charges.

The following matters are excluded from this delegation:

- (i) Claims or legal proceedings involving Members;
- (ii) Claims or legal proceedings which, in the Head of Legal and Democratic Services' view, are non-routine or have policy, high profile or significant financial implications.

**9. THE PRINCIPAL LAWYER (PROPERTY AND COMMERCIAL) AND THE PLANNING AND LITIGATION SOLICITOR are authorised :**

- (i) To exercise the functions of Deputy Monitoring Officer
- (ii) to sign on behalf of the Council any document necessary to give effect to any decision of the Council in relation to (i) executive or (ii) non-executive functions (\*); (the Head of Legal and Democratic Services and Chief Executive have a similar delegated power);
- (iii) To act as the authorised representative of the Council in respect of its membership of any limited company to give effect to any decision of the Council in relation to executive functions (The Chief Executive and the Head of Legal and Democratic Services have a similar delegated power);

**10. THE HEAD OF ENGINEERING AND HARBOUR SERVICES is authorised:**

**In respect of Environment and Transport matters:**

To exercise the following functions of the Council relating to Environment and Transport:-

- ;
  - (i) Flood and Coastal management;
  - (ii) The administration of Council car parks and on-street car parking.
  - (iii) The temporary regulation of traffic, including the making of temporary Orders and traffic management.
-

- (iv) Capital engineering and construction projects
- (v) Procurement of Construction related services, excluding building works relating to the Council's Property Portfolio.
- (vi) Structural Engineering
- (vii) Client project management in relation to engineering and construction
- (viii) CCTV
- (ix) Scarborough and Whitby Harbours and Filey Coble Landing
- (x) Footpaths, bridleways and highways functions (whether under agency arrangements with North Yorkshire County Council or otherwise) including traffic management and on-street parking facilities;
- (xi) Administration of the Council's Highways Agency functions;
- (xii) Development control relating to highways only.

**11. THE HEAD OF PLANNING SERVICES is authorised:**

**\*(A) In respect of Planning matters:**

To exercise the functions of the Council in relation to

- (i) the Council as Local Planning Authority
- (ii) forward planning
- (iii). Development control
- (iv) building standards consultancy
- (v) conservation and historic buildings
- (vi) regional renaissance
- (vii) local development framework
- (viii) regional planning
- (ix) Council's functions in relation to neglected and derelict sites and buildings.

**Exclusions:**

An application which falls into one or more of the following categories will be excluded from this delegation save where the Planning and Development Committee have lawfully delegated their functions to the Head of Planning Services.:-

- (i) An application which in the opinion of the Head of Planning Services' is contrary to policy.
  - (ii) Applications recommended for refusal, save that refusal of the following forms of application is delegated to the Head of Planning Services:
    - (a) applications for advertisements
    - (b) in relation to housing schemes that have been granted planning consent, applications to substitute a different form of house type to that proposed within the approved scheme
    - (c) applications for development within the curtilage of a dwelling house (including a dwelling house which is a listed building or which is located within a conservation area)
    - (c) applications for the conversion of existing dwelling houses into smaller units
    - (e) applications for conversion of a building that is not currently in residential use to residential use.
  - (iii) Applications to which a material planning objection has been received (which in the opinion of the Head of Planning Services has not been overcome by amendment or condition), save that the following forms of application are delegated to the Head of Planning Services in circumstances where a material objection has not been overcome:
    - (a) applications for advertisements
    - (b) in relation to housing schemes that have been granted planning consent, applications to substitute a different form of house type to that proposed within the approved scheme
-



- (c) applications for development within the curtilage of a dwelling house (including a dwelling house which is a listed building or which is located within a conservation area)
- (d) applications for the conversion of existing dwelling houses into smaller units
- (e) applications for conversion of a building that is not currently in residential use to residential use
- (iv) Applications submitted by, or on behalf of the Council, except for applications for development within the curtilage of a dwelling house.
- (v) Applications submitted by Members or Employees of the Council or their spouses.
- (vi) Applications in respect of which an appeal has been dismissed or enforcement action taken for the same development.
- (vii) The revocation or modification of planning permission without compensation by the Council.
- (viii) Applications for planning or related permissions which in the Head of Planning Services' view constitute [Major Development](#).
- (ix) Applications advertised as departures from the Development Plan or notified to the Secretary of State or accompanied by an Environmental Assessment.
- (x) The confirmation of opposed Tree Preservation Orders.
- (xi) Applications where it is proposed to enter into or modify or discharge a planning obligation or agreement except where the proposal is for less than five new build dwellings or for conversion of an existing building into fewer than ten flats.
- (xii) Any application to vary planning conditions previously imposed by Members, which in the Head of Planning Services' view, constitute a major or significant change.

(Note – This delegation comprises non-executive functions (\*) – see Article 8 and Part 3 of the Constitution)

**(B) In respect of Building Control matters**

To exercise the functions of the Council as Building Control Authority, including dealing with Building Regulations dangerous buildings, the numbering of houses and street naming.

The following matters are excluded from this delegation:-

- (i) Street naming where an objection has been received.
-

(C) **Major Development**

Under this paragraph of the Scheme of Delegation to Officers the Head of Planning Services is authorised to exercise the functions of the Council as Local Planning Authority, but certain matters, including the determination of applications for planning and related development which in the Head of Planning Services' view constitute Major Development, are excluded from the delegation. The following will, in the Head of Planning Services' view, constitute "major development":

**1.0 Residential Uses**

- (a) 5 or more new-build dwellings (this does not include conversion or change of use to an existing building);
- (b) a change of use from a non-residential to residential use or vice-versa involving more than 10 dwellings or flats of a different size;
- (c) an increase in the number of dwellings in a development already having detailed planning permission.

**2.0 Business Uses**

- (a) any new building development or extension under Class B1 to B8 (business or industrial uses) more than 3,000 sq. m ground floor floorspace;

**3.0 Agricultural Uses**

- (a) agricultural, horticultural, forestry or equestrian buildings or extensions greater than 3,000 sq. m (except "agricultural notifications");

**4.0 Office Retail and Recreation Uses**

- (a) offices, shops, leisure uses and other non-residential uses, buildings or extensions greater than 1000 sq. m. ground floor area;

**5.0 Rights of Way**

- (a) development involving the creation, stopping-up or diversion of such rights of way;

**6.0 Caravans**

- (a) five or more caravans or chalets;

**7.0 Masts**

- (a) free-standing chimneys, towers or masts higher than 15 metres;

**8.0 Historic Buildings**

The complete demolition of listed buildings and any building in a conservation area.

**9.0 Outline Applications and Departures**

Any outline application or application to be advertised as a departure from the Development Plan and applications subject to notification to the Secretary of State accompanied, or to be accompanied, by an Environmental Assessment under the 1999 Regulations, except for proposals for the approval of 5 dwellings or less which are in accordance with policy.

**10.0 Discretion**

Any application not referred to above which, in the Head of Planning Services' view, should be considered by the Committee.

**12. THE HEAD OF PROPERTY SERVICES is authorised:**

**In respect of Land and Property Management matters:**

To exercise the following functions relating to land and property:

- (i) Asset management, including property management and maintenance;
  - (ii) Purchase, sale, lease or tenancy of all non housing land and property belonging to the Council, (including relaxation and variation of covenants);
  - (iii) The granting of concessions and licences;
  - (iv) Allotments;
  - (v) Markets;
-

- (vi) Valuation and estates services
- (vii) architectural services
- (viii) building works
- (ix) property project development

**13. THE HEAD OF STREET SCENE SERVICES is authorised:**

**To exercise the functions of the Council in relation to:**

- (i) parks and countryside services
- (ii) the Licensing function of the Council relating to Highways.
- (iii) cleansing services including refuse collection and street cleansing and public conveniences
- (iv) To exercise functions of the Council in relation to maintenance of highways.
- (v) Lighting schemes;
- (vi) Public works and improvements to private roads owned by the Council;
- (vii) Transport services, including bus shelters and taxi stands;
- (viii) Public conveniences.

The following matters are excluded from this delegation:

- (i) Amenities on highways.

**14. THE HEAD OF ENVIRONMENTAL HEALTH SERVICES is authorised:**

**(A) In respect of Environmental Health matters:**

- 1 To exercise the following functions of the Council relating to Environmental Health:
  - (i) Environmental and Public Health protection enforcement and control;
  - (ii) Health and Safety at Work enforcement;
  - (iii) Food safety and hygiene;
  - (iv) Home safety and health education;
  - (v) Waste collection, management and recycling;
  - (vi) Animal care and dog control;
  - (vii) Cemeteries and crematorium administration and funeral arrangements for destitute persons;
  - (viii) Health liaison;
  - (ix) Pest Control.
  - (x) Council's functions in relation to neglected and derelict sites and buildings
- 2 To discharge the statutory functions conferred on the Council in relation to the removal to suitable premises of persons in need of care and attention.
- 3 To administer the Council's Environment and Sustainability Development Strategy.

**\* (B) In respect of the Licensing Act 2003**

To exercise all the licensing functions of the Council established under the Licensing Act 2003 excluding the following:-

- (i) determination of application for premises licence where representations have been made (section 18(3))
  - (ii) determination of application for provisional statement where representations have been made (section 31(3))
-

- (iii) determination of application for variation of premises licence where representations have been made (section 35(3))
- (iv) determination of application to vary designated premises supervisor following police objection (section 39(3))
- (v) determination of application for transfer of premises licence following police objection (section 44(5))
- (vi) consideration of police objection made to interim authority notice (section 48(3))
- (vii) determination of application for club premises certificate where representations have been made (section 72(3))
- (viii) determination of application to vary club premises certificate where representations have been made (section 85(3))
- (ix) decision to give counter notice following police objection to temporary event notice (section 105(2))
- (x) determination of application for grant of personal licence following police objection (section 120(7))
- (xi) determination of application for renewal of personal licence following police objection (section 121(6))
- (xii) revocation of licence where convictions come to light after grant (section 124(4))
- (xiii) determination of application for review of premises licence in a case where relevant representations have been made (section 52)
- (xiv) determination of application for review of club premises certificate in a case where relevant representations have been made (section 88), and
- (xv) review following closure order in a case where relevant representations have been made. (section 167).

\* **(C) In respect of the Gambling Act 2004**

To exercise all the licensing functions of the Council established under the Gambling Act 2003 excluding the following:-

- (i) determination of application for premises licence where representations have been received and all representations have not been withdrawn
- (ii) determination of application for variation of premises licence where representations have been received and all representations have not been withdrawn
- (iii) determination of application for transfer of premises licence following the receipt of representations from the Gambling Commission
- (iv) the review of a Premises Licence
- (v) determination of application for a Provisional Statement where representations have been received and all representations have not been withdrawn
- (vi) determination of application for Club Gaming or Club Machine Permits where objections have been received and all objections have not been withdrawn

\* **(D) In respect of all other Licensing matters:**

To exercise all other licensing and statutory registration functions of the Council, other than amenities on highways

The following matters are excluded from this delegation:-

- (i) Any application involving matters of principle or policy
  - (ii) Sex establishments
  - (iii) Multiple Point Street Collections
  - (iv) Appeals.
-

**(E) In respect of Housing matters:**

- 1 To exercise the following functions of the Council in relation to strategic housing:
  - (i) Housing research;
  - (ii) Housing welfare and homelessness;
  - (iii) Private sector housing enforcement;
  - (iii) Housing related grants;
  - (iv) Harassment, unlawful eviction and reinstatement of services;
  - (v) Home energy conservation and affordable warmth;
  - (vi) Performance monitoring and liaison with Registered Social Landlords.
- 2 To deal with itinerants living in caravans and temporary structures or occupying public or private land, including temporary provision of sites or taking enforcement action.

**15. ADDITIONAL DELEGATIONS IN RESPECT OF PUBLIC HEALTH MATTERS**

All Consultants in Communicable Disease Control for the time being employed by the North Yorkshire Health Authority (including any person appointed to act in the capacity of a Consultant in Public Health Medicine for the Health Authority) be authorised to act for the Council;

- (i) to discharge the functions previously conferred by statute on the Medical Officer of Health in relation to the removal to suitable premises of persons in need of care and attention, including the making of applications to Court in cases of urgency.
- (ii) in all aspects of communicable disease control.

**16. THE HEAD OF TOURISM AND LEISURE SERVICES is authorised:**

**In respect of Tourism and Leisure:**

To exercise the following functions of the Council relating to Tourism and Leisure:

- (i) The development, operation, marketing and management of tourism and leisure facilities and services, including;
- (ii) Conferences, exhibitions, entertainments and events;
- (iii) Museums and gallery, play and community centres, sports centres, swimming pools, bowls centre, bowling greens, sports areas, open spaces; and playgrounds;
- (iv) Civic and other catering;
- (v) Amenities and attractions;
- (vi) Meteorological Stations;
- (vii) The acquisition of objects and specimens for the Museums and Gallery collections;
- (viii) Concessionary use of tourism and leisure facilities;
- (ix) Administration of the Quality Assurance Scheme for tourism accommodation.

The following matters are excluded from this delegation:

- (i) the operation of Tourist Information Centres

**17. THE HEAD OF MARKETING AND COMMUNICATIONS is authorised:**

**(A) In respect of marketing:**

To exercise the following functions of the Council relating to:

- (i) the promotion of the Borough
  - (ii) corporate marketing
-

- (iii) the operation of Tourist Information Centres
- (iv) to manage Communications including public relations
- (v) destination marketing
- (vi) customer services, including development and operation.
- (vii) internal communications

**18. THE HEAD OF HUMAN RESOURCES is authorised:**

(A) To exercise the following functions in respect of human resources issues

- (i) the promotion and monitoring of industrial/employee relations
- (ii) the provision of learning and development for all employees
- (iii) organisational development
- (iv) pay and reward

(B) To exercise the Corporate Personnel function in relation to the following:

- (i) Recruitment retention and Conditions of Service
- (ii) Dismissal, Retirement and Disciplinary Procedures
- (iii) Equal Opportunities  
(but excluding appeals from staff on any of these matters)
- (iv) Ex gratia leave of absence exceeding 6 days  
To co-ordinate and oversee the Council's responsibilities, as employer, for Health and Safety and welfare matters
- (v) Training and staff development generally

**19. THE HEAD OF POLICY AND PERFORMANCE is authorised:**

To exercise the functions of the Council relating to:

- (i) Corporate performance management and
- (ii) policy development.

**20. THE FOLLOWING OFFICERS are authorised in the absence of the relevant Strategic Director or Head of Service to exercise all the functions delegated to the relevant strategic Director or Head of Service in this Constitution (including those which arise as a consequence of any appointment as Proper Officer)**

<b>Strategic Director/Head of Service</b>	<b>Deputy/Deputies</b>
Chief Executive	Strategic Director of Corporate Services and Strategic Director of Operations
Strategic Director of Corporate Services	Head of Financial Services
Strategic Director of Operations	Head of Environmental Health Services
Head of Legal and Democratic Services	Principal Lawyer (Property and Commercial)
Head of Financial Services	Chief Accountant
Head of Property Services	Estates Manager
Head of Marketing and Communications	Head of Tourism and Leisure Services
Head of Human Resources	Principal Human Resources Officer (Employee Relations) and Principal Human Resources Officer (Employee Performance)
Head of Environmental Health Services	Principal Environmental Health Officers
Head of Regeneration	Economic Development Officer
Head of Tourism and Leisure Services	Head of Marketing and Communication Services
Head of Planning Services	Principal Planning Officer

Head of Engineering and Harbours	Traffic and Transportation Manager and Principal Programme and Procurement Officer
Head of Street Scene	Senior Engineer – Highways, Lighting and Minor Works
Head of Policy and Performance	Corporate Performance Management and Member Services Officer

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## Schedule 4:

### PROPER OFFICER APPOINTMENTS

#### Proper Officer Appointments

The following Officers are appointed to perform the functions of Proper Officer in relation to the matters set out below:

#### 1. National Assistance Act 1948

Section	Duties	Proper Officer
47	To initiate action for removal of persons in need of care and attention	All consultants and acting consultants in public health medicine engaged by the Council.

#### 2. Local Government Act 1972

Section	Duties	Proper Officer
13	To act with Chairman of Parish Council as Parish Trustee	Chief Executive
83	To receive and witness declarations of acceptance of office by members etc.	Chief Executive
84	To receive written notice of resignation of members etc.	Chief Executive
88	To convene a Council meeting for election of Mayor following casual vacancy	Chief Executive
89	To receive written notice of casual vacancies	Chief Executive
100B	To exclude from items from reports for inspection by the public	Head of Legal and Democratic Services
100B	To supply copies of documents to the press	Head of Legal and Democratic Services
100C	To make written summary in connection with unpublished minutes	Head of Legal and Democratic Services
100D	To compile list of background papers for any report open to inspection	Head of Legal and Democratic Services
100D	Definition of background papers – opinion of proper officer	Head of Legal and Democratic Services
100F	To determine whether a document does not require to be open to inspection	Head of Legal and Democratic Services
115	To receive money due from officers employed by the Council	Strategic Director of Corporate Services
137A	To receive statements in connection with the provision of financial assistance	Strategic Director of Corporate Services
146	To make a statutory declaration in connection with transfer of securities	Strategic Director of Corporate Services
191	To receive applications concerning surveying under Section 1 of Ordnance Survey Act 1941	Strategic Director of Operations
204	To receive Notices of applications for Justices Licence	Chief Executive
210	To act in relation to charities	Chief Executive
225	To receive and deal with deposited documents	Chief Executive
229	To certify photographic copies of documents (for legal proceedings)	Head of Legal and Democratic Services



<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
234	To sign any notice, order or other documents on behalf of the Council	The Officers authorised by the Constitution.
236	To send copies of Byelaws to other Councils	Head of Legal and Democratic Services
238	To certify printed copy of Byelaws	Head of Legal and Democratic Services
248	To keep the roll of freemen	Chief Executive
Schedule 12 Part I Para 4	To sign the summons to members to attend a Council meeting	Chief Executive
Schedule 12 Part I Para 4	To receive notice of desire for summons to attend meetings to be sent to address other than residence	Chief Executive
Schedule 14 Part II Para 25	To certify resolutions of the Council	Chief Executive

### 3. Local Government Act 1974

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
30	To give public notice of outcome of local commissioner's investigation.	Head of Legal and Democratic Services

### 4. Highways Act 1980

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
205(5)	To certify a copy of a resolution approving specifications, estimates and apportionment (re. private street works)	Strategic Director of Corporate Services
210(2)	To certify a document giving details of amendment of any estimate and consequential amendment of any apportionment (re. private street works)	Strategic Director of Corporate Services

### 5. Representation of the People Act 1983

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
8	To be Registration Officer for the Scarborough Borough Council Area	Chief Executive
35	To be the Returning Officer for election of Borough and Parish Councillors	Chief Executive

### 6. Buildings Act 1984

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
78	To carry out emergency measures in respect of dangerous buildings	Strategic Director of Operations

### 7. Rates Act 1984

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
7	To produce certificates of compliance	Strategic Director of Corporate Services

### 8. Local Government Finance Act 1988

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<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
114	To inform external auditor of date, time, place of meeting held under Section 115	Strategic Director of Corporate Services

#### **9. Local Government and Housing Act 1989**

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
15	To receive notification from Members of the formation of, and changes to, political groups	Chief Executive

#### **10. Local Government Act 2000**

<b>Section</b>	<b>Duties</b>	<b>Proper Officer</b>
66	Members' Code of Conduct Issues	Monitoring Officer
81	Disclosure and registration of Members' interests	Monitoring Officer

Unless otherwise specified

- (i) The Chief Executive, Strategic Directors and Head of Legal and Democratic Services shall be appointed and designated Proper Officer for the purpose of any statutory provisions allocating duties or responsibilities to Proper Officers which relate to functions for which they are responsible under the Constitution.
  - (ii) In the absence of a Proper Officer his/her powers shall be exercised by the Deputy or one of the Deputies (as relevant) nominated in Paragraph 20 of the Scheme of Delegation to Officers set out in this Constitution or such officer as the Proper Officer in writing shall appoint.
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## Part 4

### Rules of Procedure

#### **Contents**

1. Council Procedure Rules
  2. Access to Information Procedure Rules
  3. Budget and Policy Framework Procedure Rules
  4. Additional Cabinet Procedure Rules
  5. Additional Area Committee Procedure Rules
  6. Additional Overview and Scrutiny Committee Procedure Rules
  7. Financial and Contract Procedure Rules
  8. Officer Employment Procedure Rules
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# 1. Council Procedure Rules

## Contents

### Rule

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  2. Ordinary Meetings
  3. Extraordinary Meetings
  4. Appointment of Substitute Members of Committees and Sub-Committees
  5. Time and place of Meetings
  6. Notice of and summons to Meetings
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-

## 1. ANNUAL MEETING OF THE COUNCIL

### 1.1 Timing and business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.

The Annual Meeting will:

- (i) elect a person to preside if the Mayor or Deputy Mayor is not present;
- (ii) elect the new Mayor of the Council;
- (iii) elect the new Deputy Mayor of the Council;
- (iv) receive any announcements from the Mayor and/or Head of the Paid Service;
- (v) elect the Leader;
- (vi) agree the number of Members to be appointed to the Cabinet and appoint those Members;
- (vii) appoint Overview and Scrutiny Committees, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;
- (viii) approve a programme of ordinary meetings of the Council for the year; and
- (ix) consider any other business set out in the notice convening the meeting.

### 1.2 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats and substitutes;
- (iv) receive nominations of Councillors to serve on each Committee and outside body; and
- (v) appoint to those Committees and outside bodies.

## 2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any announcements from the Mayor or the Chief Executive;
- (iv) deal with any business from the last Council meeting;
- (v) answer questions (if any) from Members;
- (vi) receive statements from the Leader and Cabinet Members and answer questions (if any) on any of those statements;
- (vii) receive the minutes of Cabinet and Committees and pass resolutions in respect of any approval items ("A items").
- (viii) consider any other business specified in the summons to the meeting including any reports of the Overview and Scrutiny Committees.

## 3. EXTRAORDINARY MEETINGS

### 3.1 Calling Extraordinary Meetings.

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

- (i) the Council by resolution;
- (ii) the Mayor
- (iii) the Monitoring Officer; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 Business**

- (i) the business to be conducted at an Extraordinary Meeting of the Council shall be limited to the item or items in respect of which the meeting has been called.

## **4. SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

4.1 Where a member is unable to attend a meeting of a Committee or sub-Committee the Group Leader for the political group to which the member belongs may identify a substitute member from within that political group to attend in their place subject to the limitations that:

- (i) No member of the Cabinet may act as a substitute for a member of an Overview and Scrutiny Committee
- (ii) No member of Council may act as a substitute for the Planning and Development Committee, the Licensing Committee or the Standards Committee unless they have attended training to enable them to carry out that role.

### **4.2 Powers and duties**

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

### **4.3 Substitution**

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are substituting;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) if the Group Leader has notified the Chief Executive of the intended substitution before the start of the day of the meeting.

## **5. TIME AND PLACE OF MEETINGS**

Unless otherwise specified the time and place of meetings will be determined by the Council and notified in the summons.

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

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

## **7. CHAIRMAN OF MEETING**

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

## 8. QUORUM

(a) The quorum of a meeting of the Council will be 15 Members. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

(b) The quorum for other meetings is as follows:

Cabinet and any Committee or Sub-Committee except where a different quorum is expressly specified as in the cases set out below	At least one quarter of the membership but in no case less than 3 Members
Cabinet (Grants and Relief) Sub-Committee	A minimum of 2 Cabinet Members
Planning and Development Committee	At least one quarter of the membership but in no case less than 5 Members
Licensing Committee	At least one quarter of the membership but in no case less than 3 Members
Standards Committee	3 Members including at least one independent Member and at least one Parish Council Member when considering matters in relation to Parish Councils.
Overview and Scrutiny Committees	At least one quarter of the membership but in no case less than 3 Members
Audit Committee	At least one quarter of the membership but in no case less than 3 Members
Appointments Committee	5 Members including the four Group Leaders and the Chair of Human Resources Committee
Area Committees	At least one quarter of the membership

## 9. **STATEMENTS BY THE LEADER AND OTHER CABINET MEMBERS**

The Leader and other Cabinet Members may each make a Statement to the Council on matters relevant to their individual portfolios. Statements shall be limited to 5 minutes except in the case of the Leader who is permitted to speak for up to 10 minutes.

## 10. **QUESTIONS BY MEMBERS AT ORDINARY MEETINGS OF THE COUNCIL**

### 10.1 **On statements of the Leader and Cabinet Members or concerning Minutes**

A Member of the Council may ask the Leader or a Cabinet Member or a Committee Chairman, without notice, questions relating to their Statements to Council (in the case of the Leader or Cabinet Members only), or in relation to any Minutes being received or under consideration by the Council.

### 10.2 **Questions on notice at full Council**

Subject to Rule 10.3, a Member of the Council present at the meeting may, through the Chief Executive, ask:

- the Mayor, a Member of the Cabinet or, the Chairman of any Committee or Sub-Committee

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

### 10.3 **Notice of questions**

Members may only ask a question under Rule 10.2 if either:

- (a) they have given at least 2 clear days notice in writing of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Mayor, and notice of the question in writing is given to the Chief Executive by 10.00 am on the day of the meeting.

### 10.4 **Response**

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- (d) every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer or may nominate another member to answer; such other member may also decline to answer.

### 10.5 **Supplementary question**

A Member asking a question under Rule 10.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## 11. **MOTIONS**

### 11.1 **Motions on notice**

- (a) Except for motions which can be moved without notice under Rule 11.2, every notice of motion shall be in writing, signed by the Member or Members of the Council giving
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the notice and by the seconder, and delivered at least seven clear days before the next meeting of the Council at the office of the Chief Executive by whom it shall be dated, numbered in the order in which it is received and entered in a book which shall be open to the inspection of every member of the Council;

- (b) Every motion shall be in respect of issues affecting the budget and/or policy framework of the Council;
- (c) Motions for which notice has been given will be listed on the summons in the order in which notice was received, unless the member giving notice states, in writing, that he/she proposes to move it at a later meeting or withdraw it;
- (d) If a motion set out in the summons is not moved either by the member who gave notice or by some other member on his/her behalf, it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice;
- (e) Upon being formally moved and seconded, every motion shall be referred without discussion to the Cabinet for consideration and report back unless, following a proposal put by the mover, and duly seconded, the Council formally agrees to deal with the motion at the meeting at which it is brought forward;
- (f) When the report of the Cabinet is submitted to the Council, the mover of the motion shall retain the right to reply at the close of the debate.

## 11.2 Motions without Notice

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint the Cabinet, a Committee, or Members thereof arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

## 12. RULES OF DEBATE

### 12.1 No speeches until motion seconded

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

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## 12.2 **Right to require motion in writing**

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

## 12.3 **Secunder's speech**

When seconding motions or amendments, Members may reserve their speeches until later in the debate.

## 12.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Mayor.

## 12.5 **When a member may speak again**

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

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

## 12.6 **Amendments to motions**

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

## 12.7 **Alteration of motion**

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

## 12.8 **Withdrawal of motion**

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

#### 12.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion also has the right of reply at the close of the debate on the amendment, but may not otherwise speak on the amendment.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 12.10 **Motions which may be moved during debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

#### 12.11 **Closure motions**

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

#### 12.12 **Point of order**

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

#### 12.13. **Personal explanation**

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

## 13. **VOTING**

### 13.1 **Majority**

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

### 13.2 **Chairman's casting vote**

If there are equal numbers 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.

### 13.3 **Show of hands/Electronic Voting**

Unless a recorded vote is demanded under Rule 13.4, the Mayor will take the vote by show of hands or by electronic means where this is available, or if there is no dissent, by the affirmation of the meeting.

### 13.4 **Recorded vote**

If 8 Members present at the meeting demand it by rising in support, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

### 13.5 **Right to require individual vote to be recorded**

Where any Members request it immediately after the vote is taken, their votes will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### 13.6 **Voting on appointments**

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

## 14. **MINUTES**

### 14.1 **Signing the minutes**

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

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## 14.2 **No requirement to sign minutes of previous meeting at extraordinary meeting**

Where the next meeting of the Council is an extraordinary meeting, the next ordinary meeting will be treated as a suitable meeting for signing minutes.

## 15. **PUBLIC QUESTION TIME**

### 15.01 **General**

Members of the public may ask questions at any Meetings of the Cabinet or a Committee or Sub-Committee.

### 15.02 **Order of questions**

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

### 15.03 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive (at the Town Hall, St Nicholas Street, Scarborough, YO11 2HG or ce@scarborough.gov.uk) at least 2 clear working days before the day of the meeting (if it relates to an item on the agenda for the meeting), or at least 3 clear days before the day of the meeting (in any other case). Each question must give the name and address of the questioner.

### 15.04 **Scope of questions**

A question will be rejected if it:-

- is, in substance, a statement and not a question;
- is not about a matter for which the Council has a responsibility or which does not affect the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting in the past six months; or
- requires the disclosure of confidential or exempt information;
- relates to a matter in respect of which the Council is exercising a quasi judicial role or where there is a statutory or local procedure for public consultation or appeal including planning applications, traffic regulation orders, public rights of way applications and licensing applications..

### 15.05 **Asking the question at the meeting**

Any question is limited to a maximum of 2 minutes speaking time. If questioners who have submitted written questions are unable to be present the question will not be dealt with.

### 15.06 **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. A supplementary question may be rejected on any of the grounds in Rule 15.04 above.

### 15.07 **Written answers**

Public question time will be limited to a maximum of 15 minutes. Any question which cannot be dealt with during public question time, either because of lack of time or because of the

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non-attendance of the Member to whom it was to be put, will be dealt with by a written answer within 7 days of the meeting.

**15.08 Reference of question to the Cabinet or a Committee**

No discussion will take place on any question, but any Member may move that a matter raised by a question be referred to a future meeting of the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

**16. SELECTION OF CABINET, COMMITTEES AND SUB-COMMITTEES**

16.01 Prior to the Annual Meeting, the Cabinet shall consider and submit recommendations to the Council on the appointment of Councillors to the Cabinet, the various Committees and Sub-Committees, the Substitute Members for each Committee and Sub-Committee and Chairmen and Vice Chairmen of the various Committees and Sub-Committees.

**17. SPECIAL MEETINGS OF THE CABINET, COMMITTEES AND SUB-COMMITTEES**

17.01 The Chief Executive may call a special meeting of the Cabinet, a Committee or Sub-Committee at any time.

The Chief Executive will also call a special meeting on the requisition of either the Leader, or Chairman of a Committee or Sub-Committee or of a quarter of the whole number of the Cabinet, Committee or Sub-Committee, delivered in writing to the Chief Executive. The notice of the special meeting shall set out the business to be considered and no business other than that set out in the notice shall be considered at that meeting.

**18. RECORD OF ATTENDANCE**

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

**19. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

**20. MEMBERS' CONDUCT**

**20.1 Standing to speak**

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

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## 20.2 **Mayor standing**

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

## 20.3 **Member not be heard further**

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

## 20.4 **Member to leave the meeting**

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

## 20.5 **General disturbance**

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

## 21. **DISTURBANCE BY PUBLIC**

### 21.1 **Removal of member of the public**

If a Member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

### 21.2 **Clearance of part of meeting room**

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

## 22. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### 22.1 **Suspension**

All of these Council Rules of Procedure except Rules 13.5 and 14.2 may be suspended if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

### 22.2 **Amendment**

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

## 23. **APPLICATION TO CABINET, COMMITTEES AND SUB-COMMITTEES**

These Council Procedure Rules shall, except as otherwise indicated, apply to all Council meetings, and shall, in so far as applicable and with the necessary modifications, apply to Cabinet, Committee and Sub-Committee meetings, but excluding Rules 1-3, 4.1, 4.2, 10, 15, 17, 18 and 20.1 (in so far as the latter relates to Members standing to speak).

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24. **CLEAR DAYS**

Clear days do not include the day of the meeting, a Saturday, Sunday or any day on which the Town Hall is closed for business by reason of a public or other holiday.



## **2. Access to Information Procedure Rules**

### **Contents**

#### **Rule**

1. Scope
  2. Additional Rights to Information
  3. Rights to Attend Meetings
  4. Notices of Meetings
  5. Access to Agenda and Reports before the Meetings
  6. Supply of Copies
  7. Access to Minutes etc. after the Meeting
  8. Background Papers
  9. Summary of Public's Rights
  10. Exclusion of Access by the Public to Meetings
  11. Exclusion of Access by the Public to Reports
  12. Procedure before taking Key Decisions
  13. The Forward Plan
  14. General Exception
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  16. Report to Council
  17. Record of Decisions
  18. Overview and Scrutiny Committee Access to Documents
  19. Additional Rights of Access to Documents for Members
  20. Rights of Members not serving on a body to attend and speak.
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1. **SCOPE**

- 1.01 Except as otherwise provided these Rules apply to all meetings of the Council, the Cabinet, Committees, and Sub-Committees.

2. **ADDITIONAL RIGHTS TO INFORMATION**

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

3. **RIGHTS TO ATTEND MEETINGS**

- 3.01 Members of the public may attend all meetings other than Individual Cabinet Member meetings subject only to the exceptions in these Rules.

4. **NOTICES OF MEETING**

- 4.01 The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, St Nicholas Street, Scarborough.

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

- 5.01 The Council will make copies of the agenda and reports open to the public available for inspection at the Town Hall at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to Councillors.

6. **SUPPLY OF COPIES**

- 6.01 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items on the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item

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

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

- 7.01 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.
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## 8. **BACKGROUND PAPERS**

### 8.01 **List of background papers**

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which:

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

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

### 8.02 **Public Inspection of background papers**

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

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

- 9.01 A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the Town Hall, St Nicholas Street, Scarborough.

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

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

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

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

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

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

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

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions. 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 the Act.

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### 10.03 Meaning of Confidential information

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

### 10.04 Meaning of exempt information

In relation to any meeting of the Council excluding a meeting of the Standards Committee or a sub-committee of the Standards Committee, Exempt Information means information (subject to any specified condition) which falls within categories 1-7 which follow.

In relation to a meeting of the Standards Committee or a sub-committee of the Standards Committee, Exempt Information includes information which falls within categories 1 – 10 below:

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	
2. Information which is likely to reveal the identity of any individual.	
3. Information relating to the financial and business affairs of any particular person (including the authority holding that information).	
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority and employees of , or office holders, under, the authority.	Information is not exempt information by virtue of this paragraph if it is required to be registered under: (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
<b>In relation to the Standards Committee the following additional rules apply:</b>	
8. Information which is subject to any obligation of confidentiality	
9. Information which relates in any way to matters concerning national security.	
10. The deliberations of the Standards Committee or a sub-committee of a Standards Committee in reaching any	

Category	Condition
finding on a matter referred to it for hearing.	

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph 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.

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

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

## 12. PROCEDURE BEFORE TAKING KEY DECISIONS

12.01 Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least five clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Sub-Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## 13. THE FORWARD PLAN

### 13.01 Period of Forward Plan

Forward Plans will be prepared to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### 13.02 Contents of Forward Plan

The Forward Plan will contain matters which are likely to be the subject of a key decision in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
  - (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
  - (c) the date on which, or the period within which, the decision will be taken;
  - (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - (e) the means by which any such consultation is proposed to be undertaken;
  - (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - (g) a list of documents submitted to the decision taker for consideration in relation to the matter.
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The Forward Plan must be published at least 14 days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extract from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

#### **14. GENERAL EXCEPTION**

14.01 If a matter which is likely to be a key decision has not been included in the Forward Plan, then Subject to Rule 15 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Chief Executive has informed the Chairman of the relevant Overview and Scrutiny Committee, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

#### **15. SPECIAL URGENCY**

15.01 An urgent decision is a decision for which any delay in implementation would seriously prejudice the interests of the Council or the public. If by virtue of the date by which an urgent decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the deputy Mayor will suffice. The call-in procedure set out in Part 6, para 10 shall not apply where the decision being taken is urgent.

#### **16. REPORT TO COUNCIL**

16.01 **When an Overview and Scrutiny Committee can require a report**

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If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the relevant Overview and Scrutiny Committee Chairman, or the Mayor or Deputy Mayor under Rule 15;

The Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by (the Chairman or any 5 Members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

## **16.02 The Cabinet's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to the Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

## **16.03 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **17 RECORD OF DECISIONS**

- 17.01 After any meeting to which these rules apply, whether held in public or private, the Chief Executive or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **18. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **18.1 Rights to copies**

Subject to Rule 18.2 below, an Overview and Scrutiny Committee will be entitled to copies of any documents which is in the possession or control of the Cabinet or its Sub-Committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Cabinet or its Sub-Committees; or
- (b) any decision taken by an individual member of the Cabinet.

### **18.2 Limit on Rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
  - (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise.
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## 19 **ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS**

### 19.1 **General provisions**

A Member may inspect any report or document that contains exempt information that is presented to Cabinet.

if that information unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise.

## 20. **RIGHTS OF MEMBERS NOT SERVING ON A BODY TO ATTEND AND SPEAK.**

- (a) Members have the right to attend any meeting of the Cabinet
- (b) Members have the right to attend and with the Chairman's consent to speak at any such meeting, on any matter on the agenda of that meeting, subject to having no prejudicial interest in the matter.

## 21. **DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

### 21.01 **Provision of copies of reports to individual cabinet members in relation to a proposed decision**

An officer of the Council seeking a decision by an Individual Cabinet Member will forward a report to the Chief Executive who will provide a copy to the relevant Individual Cabinet Member and make it publicly available at the same time.

### 21.02 **Reports intended to be taken into account**

Where an individual member of the cabinet receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

### 21.03 **Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet he/she will prepare, or instruct the Chief Executive to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected and conflicts of interest declared. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply as far as relevant to the making of decisions by individual members of the cabinet.

21.04 Decisions by individual members of the Cabinet will be reported to the meeting of Cabinet which follows the decision coming into effect.

21.05 This Rule 21 does not require the disclosure of exempt or confidential information.

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### **3. Budget and Policy Framework Procedure Rules**

#### **Contents**

##### **Rule**

1. The Framework for Executive Decisions
  2. Process for Developing the Framework
  3. Decisions Outside the Budget or Policy Framework
  4. Urgent Decisions Outside the Budget or Policy Framework
  5. Virement
  6. In-Year Changes to Policy Framework
  7. Call-in of Decisions Outside the Budget or Policy Framework
-

## 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

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

## 2. PROCESS FOR DEVELOPING THE FRAMEWORK

- 2.01 The process by which the budget and policy framework shall be developed is:

- (a) The Cabinet will publicise in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of the Overview and Scrutiny Committees will also be notified.
- (b) At the end of the consultation period, the Cabinet will then draw up proposals having regard to the responses to the consultations. If a relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from an Overview and Scrutiny Committee into account in drawing up its proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has drawn up its recommendations, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's recommendations, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place. Recommendations may not be referred back to the Cabinet more than once.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) An in-principle decision will automatically become effective 5 working days from the date of the Council's decision, unless the Leader informs the Chief Executive in writing within 4 days that he/she objects to the decision becoming effective and provides reasons why.
- (g) If the Leader objects in accordance with paragraph (f) the Chief Executive will refer the matter to the next meeting of the Council or if the matter requires earlier determination call an extraordinary meeting of the Council. The Council may
  - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.and its decision shall have immediate effect.

## 3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 3.01 (a) Subject to the provisions of Rules 4 and 5 the Cabinet, Sub-Committees of the Cabinet, individual Cabinet Members and any Officers, Area Committees or Joint Arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework.  
Any decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, may only be taken by the Council.
-

- (b) All decision making bodies shall consider whether any decision they wish to take is within the Budget and Policy Framework and if in doubt, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provision in Rule 4 (urgent decisions outside the budget and policy framework) shall apply.

#### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 4.01 (a) The Cabinet, a Sub-Committee of the Cabinet, individual Cabinet Members or Officers, Area Committees or Joint Arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. An urgent decision is a decision for which any delay in implementation would seriously prejudice the interests of the Council or the public. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the chair of the relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the relevant Overview and Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the relevant Overview and Scrutiny Committee the consent of the Mayor, and in the absence of both, the Deputy Mayor will be sufficient.
- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (c) The call-in procedure set out in Part 6, para 10 shall not apply where the decision being taken is urgent.

#### **5. VIREMENT**

- 5.01 The Rules relating to virements are set out in the Financial and Contract Procedure Rules in Part 4 of this Constitution.

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

- 6.01 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Sub-Committee of the Cabinet, individual Cabinet Members or Officers, Area Committees or Joint Arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:
  - (a) which the Chief Executive (or in his absence the Strategic Director of Corporate Services) determines are necessary to deal with an unforeseen emergency;
  - (b) which the Chief Executive in consultation with the Monitoring Officer, determines are urgently necessary to ensure compliance with the law, ministerial direction or government guidance;

and any such change shall be reported to the next meeting of the Council, which may decide to adopt the change as a permanent change to the policy framework.

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## 7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 7.01 (a) Where an Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, ("a departure"), then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer who shall prepare a report.
- (b) The Monitoring Officer's report and/or Chief Finance 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 report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if they conclude that the decision was not a departure.
- (c) 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 Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council.

In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 15 days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

- (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Council's Financial and Contract Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.
-

## **4. Additional Cabinet Procedure Rules**

### **1. HOW DOES THE CABINET OPERATE?**

#### **1.1 Who may make executive decisions?**

The arrangements for the discharge of executive functions will be as set out in Articles 6, 7 and Part III of this Constitution and will provide for executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Sub-Committee of the Cabinet;
- (iii) an Individual Cabinet Member;
- (iv) an Officer;
- (v) an Area Committee;
- (vi) Joint Arrangements; or
- (vii) another Local Authority.

#### **1.2 Sub-delegation of executive functions**

- (a) the Cabinet may further delegate to a Sub-Committee of the Cabinet, to an individual Cabinet member, to an Officer, to an Area Committee, through Joint Arrangements or to the executive of another Local Authority;
- (b) a Sub-Committee of the Cabinet may further delegate to an individual Cabinet Member, to an Officer, or to an Area Committee;
- (c) an individual Cabinet Member may further delegate to an Officer ;
- (d) where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated;
- (e) any delegation should be recorded in writing and a copy provided to the Chief Executive and Head of Legal and Democratic Services

#### **1.3 Conflicts of Interest**

- (a) Where the Leader or any individual Cabinet Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If at least half of the Members of the Cabinet have a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a Sub-Committee of the Cabinet, an individual Cabinet Member or an Officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.4 Cabinet Meetings – when and where?**

The Cabinet will meet every four weeks, (except during the August recess period), at times to be agreed by the Leader. Meetings will be held at the Town Hall or another location agreed by the Leader.

#### **1.5 Quorum**

The quorum for a meeting of the Cabinet shall be as set out in Paragraph 8 of the Council Procedure Rules in this Part 4 of the Constitution.

#### **1.6 How are decisions to be taken by the Cabinet?**

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Executive decisions to be taken by the Cabinet or a Sub-Committee of the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

## **2. HOW ARE CABINET MEETINGS CONDUCTED?**

### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, a person appointed to do so by those present shall preside.

### **2.2 What business?**

At each meeting of the Cabinet the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) public question time;
- (iii) the Forward Plan;
- (iv) the Minutes of, and issues arising from Area Committees;
- (v) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Additional Overview and Scrutiny Committee Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (vi) consideration of reports from Overview and Scrutiny Committees;
- (vii) matters included in the agenda under Rule 2.4 below; and

### **2.3 Consultation**

All reports to the Cabinet on proposals relating to the budget and policy framework must contain details of any consultations with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.4 Who can put items on the Cabinet agenda?**

- (i) The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Sub-Committee of the Cabinet or any Member or Officer in respect of that matter.
  - (ii) Any Member of the Cabinet may require the Chief Executive to place an item on the agenda of the next available meeting of the Cabinet for consideration.
  - (iii) The Chief Executive will place an item on the agenda where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.
  - (iv) Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next practicable meeting of the Cabinet. The Councillor who asked for the item to be considered will be invited to attend the meeting.
  - (v) The Chief Executive (as Head of Paid Service) and/or the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.
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## **5. Additional Area Committee Procedure Rules**

### **1. Committee Meetings – When and Where**

1.01 Area Committees will meet 4 times each year in accordance with a programme of meetings approved by Council at its Annual Meeting and at such venues as the Chairman shall determine. Additional meetings may be called in accordance with the Council Procedure Rules.

#### **1.02 Public or Private Meetings of the Cabinet**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 of the Council Procedure Rules (Disturbance by the Public).

#### **1.03 Quorum**

The quorum for a meeting of an Area Committee will be at least one quarter of the membership (but in no case less than three Members).

#### **1.04 How are decisions to be taken**

##### **(a) Voting on Executive Matters**

In deciding an executive matter pursuant to Article 10.02 the Chairman shall determine whether the consensus of the meeting will be established by a show of hands of all those present at the meeting, following which the matter will be decided by simple majority of the Members voting by show of hands.

##### **(b) Voting on Consultative Matters**

When acting in a consultative or advisory capacity pursuant to Article 10.03 the consensus of the meeting will be established by show of hands of all those Members and public present at the meeting.

(c) The Agenda for Area Committees will distinguish between those items which relate to non-executive functions (marked \*) and those items relating to executive functions.

#### **1.05 Public Question Time**

All members of the public resident in the area covered by an Area Committee and all public, private and the voluntary organisations operating within the area may ask questions at any meeting of an Area Committee.

Rule 15 of the Council Procedure Rules will apply to such questions.

#### **1.06 Inclusion of Items on Agendas**

1. All members of the public resident in the area covered by an Area Committee and all public, private and voluntary organisations operating within the area shall be entitled to request the inclusion of an item relevant to the area to be included on the agenda for the next available meeting of the Committee.

Any request must be in writing delivered to the Chief Executive at least 21 days before the date of the meeting. Each notice must give the name and address of the person making the request, and, if the request is made on behalf of an organisation, the name and address of the organisation.

The Chairman shall determine the content of an agenda and also whether a requested item will be included on the agenda.

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2. A request will be rejected by the Chairman in any event if it:

- Is not about a matter for which the Council has a responsibility or which does not relate to the area;
  - Is defamatory, frivolous, vexatious or offensive;
  - Requires the disclosure of confidential or exempt information;
  - Relates to a matter in respect of which the Council is exercising a quasi-judicial role or where there is a statutory or local procedure for public consultation or appeal, including planning applications, traffic regulation orders, public rights of way applications and licensing applications
  - Is, in substance, the repeat of a question asked in the previous six months.
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## **6. Additional Overview and Scrutiny Committee Procedure Rules**

### **Contents**

#### **Rule**

1. Meetings
  2. Who may sit on Overview and Scrutiny Committee?
  3. Quorum
  4. Work Programme
  5. Agenda Items
  6. Reports from Overview and Scrutiny Committees
  7. Rights of Overview and Scrutiny Committee Members to Documents
  8. Members and Officers Giving Account
  9. Attendance by Others
  10. Call-in – Executive Decisions
-

## **1. MEETINGS**

Overview and Scrutiny Committees shall meet at least four times each year at the Town Hall or such other location agreed by the Chairman. Additional meetings may be called from time to time by the Chairman, the Chief Executive, the Monitoring Officer or by any three Members of the Committee.

## **2. WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

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 which he/she has been directly involved. Should a member be present at a meeting of an overview and scrutiny committee which is considering a decision made or action taken by another committee or sub-committee of which he/she is also a member, that member must regard him/herself as having a prejudicial interest in the matter, must disclose that interest, and (subject to any dispensation granted by the Secretary of State) must withdraw from the meeting. The Chief Executive shall record any such disclosure in a book to be kept for the purpose.

## **3. QUORUM**

The quorum shall be three Members.

## **4. WORK PROGRAMME**

Each Overview and Scrutiny Committee will be responsible for setting its own work programme having regard to its terms of reference as set out in Article 6.01. Any dispute or other issue concerning the work programme of any Overview and Scrutiny Committee will be determined by the Chairmen and Vice Chairmen of all the Overview and Scrutiny Committees acting jointly at meetings to be arranged each quarter.

## **5. AGENDA ITEMS**

- (i) Subject to (ii) the Agenda for each meeting will be determined by the Chairman.
- (ii) Any Member of an Overview and Scrutiny Committee (or any other Member of the Council who is not a member of the relevant Overview and Scrutiny Committee with the consent of the Chairman or in his/her absence the Vice Chairman) shall be entitled to give notice to the Chief Executive that he/she (they) wish an item relevant to the functions of that Overview and Scrutiny Committee to be placed on that Committee's agenda. On receipt of such a request the Chief Executive will include an item on the next available agenda.

## **6. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES**

All reports from Overview and Scrutiny Committees shall be included on the agenda of the next available meeting of the Council, Cabinet or Sub-Committee as appropriate.

## **7. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional rights to documents, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

## **8. MEMBERS AND OFFICERS GIVING ACCOUNT**

An Overview and Scrutiny Committee may require any member of the Cabinet, the Head of Paid Service, any Chief Officer or Head of Service to attend before it to explain in relation to matters within its remit:

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- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance.

It is the duty of those members or officers to attend if so required and to answer any question, (other than questions which they would be entitled to refuse to answer in a Court of Law), unless there are exceptional circumstances which make it impossible or impracticable for the Member or Officer to attend.

## **9. ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee, or its Chairman, may invite people other than members and Officers referred to above including residents, stakeholders and members and officers in other parts of the public sector, to address it, discuss issues of local concern and/or answer questions.

## **10. CALL-IN – EXECUTIVE DECISIONS**

*(Note: Powers of call-in only apply to the exercise of executive functions. A non-executive decision cannot be the subject of a call-in).*

- (i) All executive decisions (whether of the Cabinet, a Sub-Committee of the Cabinet, an Individual Cabinet Member, Area Committee or Joint Committee) shall be published, by the Chief Executive whenever practicable, within two working days of the decision being made and copies will be sent to all Members of the Overview and Scrutiny Committees.
  - (ii) Notice of an executive decision made by Cabinet 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 clear working days after the publication of the decision, unless any five Members of Overview and Scrutiny Committees, complete a “Call-in Requisition Form”, requiring that the decision be called in for scrutiny by the relevant Overview and Scrutiny Committee.
  - (iii) Notice of an executive decision made by an Individual Cabinet Member 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 three clear working days after the publication of the decision, unless any five Members of Council, complete a “Call-in Requisition Form”, requiring that the decision be called in for scrutiny by the relevant Overview and Scrutiny Committee.
  - (iv) In addition to being signed by five Members of Overview and Scrutiny Committees, the Call-in Requisition Form shall be countersigned by the Chairman, or in his absence, the Vice Chairman of the relevant Overview and Scrutiny Committee to indicate that he/she has been consulted on the subject matter of the call-in.
  - (v) Any decision called in in accordance with these Rules shall be referred to the next meeting of the relevant Overview and Scrutiny Committee for consideration. Any decision requiring urgent implementation shall be identified as such by the Chief Executive or in his/her absence the Strategic Director of Corporate Services, or other officer nominated by either of them and notified in writing to the Chairman of the relevant Overview and Scrutiny Committee, (or in his/her absence the Vice Chairman), who may determine that the decision shall be called in for urgent scrutiny. In the event that the decision is not called in for urgent scrutiny it may be implemented after two clear working days from the date of the notification.
  - (vi) In the event that the Chairman (or Vice Chairman in his absence) of a relevant Overview and Scrutiny Committee calls in a decision for urgent scrutiny, a meeting of the relevant Overview and Scrutiny Committee shall be called to take place as soon as possible and in any event within five clear working days of the date of the decision to call in.
  - (vii) When considering a decision called in under the above Procedure Rules, an Overview and Scrutiny Committee may:
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- (a) recommend that a decision made but not implemented be reconsidered by the decision maker setting out in writing the reasons for its recommendations; or
    - (b) refer the decision to the Full Council (but only where it considers that the decision is contrary to the policy framework or budget) for the Council to determine whether or not the decision should be reconsidered by the decision maker.
  
  - (viii) In the event of an Overview and Scrutiny Committee referring an Executive Decision to the Council, the Council may:
    - (a) determine that the decision was contrary to the policy framework or budget and therefore a matter for the Council itself to determine, or
    - (b) determine that the decision was not contrary to the policy framework or budget and therefore a matter for the decision maker to determine. In this case the Council may either request the decision maker to reconsider the decision or determine to take no action.
  
  - (ix) A decision may only be called in once under these Call-in Procedure Rules.
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## **7. Financial & Contract Procedure Rules**

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## PART I

### Financial Regulations

#### INTRODUCTION

- 1.1 These Financial Regulations, together with the related Financial Procedures, set out the key controls and responsibilities with regard to the financial management of the Council. They are key in supporting the S151 Officer in the discharge of their statutory responsibilities, and in setting out to Members and Officers of the Council their relevant responsibilities. They also set out key controls in respect of decision making.
- 1.2 Scarborough Borough Council's Strategic Director of Corporate Services has been appointed the Council's Section 151 (S151) Officer pursuant to the Local Government Act 1972.
- 1.3 The S151 Officer undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, the S151 Officer will also safeguard, so far as possible, Members and Officers, whilst acting in their official capacities, from financial difficulties.
- 1.4 A summary list of the statutory responsibilities appear in Article 12.04 to the Council's Constitution. In general terms the S151 Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on the support and co-operation of Members and Officers in:
  - a) complying with the Council's financial regulations and procedures
  - b) making lawful payments
  - c) not taking action that would result in unlawful payments or unlawful action
- 1.5 The S151 Officer has the right to attend any meeting of the Council, and has the right to be heard and report to the meeting. The S151 Officer is available for all Members and Officers to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.
- 1.6 Inevitably the Financial Regulations and Financial Procedures are lengthy documents. It is therefore recognised that they need to be supported by an ongoing training programme and a summary guide.

## 2 Status of Financial Regulations

- 2.1 Financial Regulations provide the framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf. The regulations support the discharge of the Chief Financial Officer (S151) statutory responsibilities. As such the S151 officer decision is final in any matter regarding the interpretation and application of these Financial Regulations.
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- 2.2** The Regulations identify the financial responsibilities of the Full Council, Cabinet and Overview and Scrutiny Members, the Head of Paid Service [Chief Executive], the Monitoring Officer [Head of Legal and Democratic Services], the S151 Officer [Strategic Director of Corporate Services] and other Chief Officers (Strategic Directors and Heads of Service). Chief Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers references to the Chief Officer in the Regulations should be read as referring to them. In many cases the S151 Officer responsibility referred to in these regulations is delegated to other officers (e.g. Head of Financial Services, Chief Accountant), however the overriding statutory responsibility cannot be delegated.
- 2.3** All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 2.4** The S151 Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Full Council for approval. The S151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Regulations to the Chief Executive and/or to the Cabinet Members.
- 2.5** **The Authority's detailed financial procedures, setting out how the Regulations will be implemented, are contained in the appendices to the Financial Regulations.**
- 2.6** Chief Officers are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Authority's Financial Regulations and other internal regulatory documents and that they comply with them. They must ensure that all relevant staff attend the training sessions provided in relation to financial regulations. They must also ensure that an adequate number of copies are available for reference within their service areas.
- 2.7** The S151 Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Members, Officers and others acting on behalf of the Authority are required to follow. This will include an ongoing training programme in relation to these Financial Regulations/Procedures.
- 2.8** These Financial Regulations have been drawn up to ensure that the Council meets the requirements of the Law and also Good Practice Guidelines with regard to its contractual arrangements. Financial Regulations must be complied with by the Council's Members and Officers at all times unless specific approval for the departure has been obtained from the S151 Officer in advance.
- 2.9** Any doubts as to the interpretation of the Financial Regulations should be referred to your line manager in the first instance and then if necessary to the S151 Officer or the Audit Manager.
- 2.10** Failure to comply with these Financial Regulations may leave the Council, or individual Officers or Members, open to risk of legal challenge.
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**2.11** Breaches of Financial Regulations and/or of Financial Procedures will be regarded as a disciplinary matter. An Officer or Member, who becomes aware of, or believes that there is a compliance failure, should report the fact to the Chief Executive, the S151 Officer, or the Audit Manager who will investigate.

**2.12** Where a breach of Financial Regulations is considered to have taken place, the following actions will result:-

- The S151 Officer, or his nominee, will inform the Manager and relevant Head of Service that a breach has taken place.
- Where the breach **is not** considered serious by the S151 Officer, the Manager and relevant Head of Service will be given guidance by the S151 officer in terms of how to ensure further incidents do not occur.
- Where the breach **is** considered serious, by the S151 Officer, the following will occur:
  - The breach will be reported to the Chief Executive and the Head of Human Resources, who in consultation with the S151 Officer, will consider appropriate action. The Officer may be called to attend a meeting to discuss the incident. If in the view of the Chief Executive the breach is still considered to be of a serious nature, disciplinary procedures would follow.
  - The Leader of the Council and the Monitoring Officer will be informed of the issue and asked for any views they may have.

**2.13** These Financial Regulations cover:-

- A Financial Management
  - B Financial Planning (Budgetary Framework)
  - C Risk Management and Control of Resources
  - D Systems and Procedures
  - E External Arrangements
-

## **FINANCIAL REGULATION A: FINANCIAL MANAGEMENT**

### **INTRODUCTION**

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

### **THE FULL COUNCIL**

- A.2** The Full Council is responsible for adopting the Authority's constitution and Members' code of conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in its constitution. The Full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3** The Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated and taken by the Cabinet and its Committees. These delegations and details of who has responsibility for which decisions are set out in the constitution.

### **THE CABINET**

- A.4** The Cabinet is responsible for proposing the policy framework and budget to the Full Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
- A.5** Cabinet decisions can be delegated to a Committee of the Cabinet, an individual Cabinet Member, an Officer or a Joint Committee.
- A.6** The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant Officers before taking a decision within his or her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### **COMMITTEES OF THE CABINET**

#### **Overview and Scrutiny Committees**

- A.7** The Overview and Scrutiny Committees are responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. The Overview and Scrutiny Committees are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Authority.
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## Standards Committee and “Audit” Committee

**A.8** The Standards Committee is established by the Full Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members’ code of conduct and for monitoring the operation of the code. The Finance, Legal and ICT Overview and Scrutiny Committee (FLICT) is designated as performing the role of the “Audit Committee”, responsible for the Internal Audit function. It has right of access to all the information it considers necessary and can consult directly with Internal and External Auditors. The Committee is responsible for reviewing the External Auditor’s reports and the annual audit letter.

## Other Regulatory Committees

**A.9** Planning, conservation and licensing are not Cabinet functions but are exercised through the Planning, Regulatory and Licensing Committees under powers delegated by the Full Council. The Planning, Regulatory and Licensing Committees report to the Full Council.

## THE STATUTORY OFFICERS

### **Head of Paid Service [Chief Executive]**

**A.10** The Head of Paid Service is responsible for the corporate and overall strategic management of the Authority. He or she must report to and provide information for the Cabinet, the Full Council, the Overview and Scrutiny Committees and other Committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Full Council’s decisions (see below). The Head of Paid Service or the Head of Legal and Democratic Services is also responsible for signing contracts on behalf of the Authority.

### **The S151 Officer (Strategic Director of Corporate Services)**

**A.11** The S151 Officer has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

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

**A.12** The S151 Officer is responsible for:

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

**A.13** Section 114 of the Local Government Finance Act 1988 requires the S151 Officer to report to the Full Council, Cabinet and External Auditor if the Authority or one of its Officers:

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

Section 114 of the 1988 Act also requires:

- the S151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally (the Head of Financial Services is nominated to perform this duty)
- the authority to provide the S151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

**A.14** The S151 Officer, together with the Monitoring Officer, is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Decisions that may be 'contrary to the budget framework' include:

- causing the total expenditure financed from general reserves or general borrowing to increase above the Council approved budgetary limit (this refers to a specific/planned action, as opposed to an in year budgetary issue)
- making a commitment that results in expenditure in future years without adequate budgetary provision
- initiating a new policy without making a proper assessment of the financial/legal issues.

### **Monitoring Officer [Head of Legal and Democratic Services]**

**A.15** The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Full Council and the Standards Committee, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

**A.16** The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by Officers who have delegated Cabinet responsibility.

**A.17** The Monitoring Officer is responsible for advising all Councillors and Officers about who has authority to take a particular decision.

**A.18** The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

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**A.19** The Monitoring Officer is responsible for maintaining an up-to-date constitution.

## CHIEF OFFICERS

**A.20** Chief Officers (Chief Executive, Strategic Directors and Heads of Service) are responsible for ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the S151 Officer. All reports that contain significant financial implications should be joint with the S151 Officer.

**A.21** It is the responsibility of Chief Officers to consult with the S151 Officer and seek approval on any matter liable to affect the Authority's finances materially, **before** any commitments are incurred.

## OTHER FINANCIAL ACCOUNTABILITIES

### Virement

**A.22** The Full Council is responsible for agreeing the framework for virement of expenditure between budget headings.

**A.23** Chief Officers are responsible for agreeing in-year virements within delegated limits, in consultation with the S151 Officer. They must obtain the approval of the S151 Officer for all virements. They must comply with the relevant financial procedures, as set out in Financial Procedures: Financial Management.

### Treatment of Year-End Balances

**A.24** The Full Council is responsible for agreeing procedures for carrying forward underspendings on budget headings as set out within financial procedures.

### Accounting Policies

**A.25** The S151 Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### Accounting Records and Returns

**A.26** The S151 Officer is responsible for determining the accounting procedures and records for the Authority.

### The Annual Statement of Accounts

**A.27** The 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: A Statement of Recommended Practice* (CIPFA/LASAAC).

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## **FINANCIAL REGULATION B: FINANCIAL PLANNING (BUDGETARY FRAMEWORK)**

### INTRODUCTION

- B.1** The Full Council is responsible for agreeing the Authority's budgetary and policy framework, which will be proposed by the Cabinet.

### POLICY FRAMEWORK

- B.2** The budgetary and policy framework comprises the following statutory plans and strategies:

- Corporate Plan
- Financial Strategy (revenue and capital budgets)
- Best Value Performance Plan
- Treasury Management Policy Statement
- Community Strategy
- Crime and Disorder Reduction Strategy
- plans and strategies which together comprise the Development Plan
- Food Enforcement Service Plan
- Llocal Agenda 21 Strategy

- B.3** The Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the Full Council by the S151 Officer/Monitoring Officer.

- B.4** The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council. Any variation to the original financial limits (e.g. Budget Requirement, Capital spending financed from borrowing) set by the Council as part of the budget setting process requires the further approval of the Council. New schemes that can be accommodated from within the overall limits (e.g. 100% grant funded) only require approval of Cabinet.

#### Preparation of the Corporate Plan

- B.5** The Head of Paid Service is responsible for proposing the Corporate Plan to the Cabinet for consideration before its submission to the Full Council for approval.

#### Preparation of the Best Value Performance Plan

- B.6** The Head of Paid Service is responsible for proposing the Best Value Performance Plan (BVPP) to the Cabinet for consideration before its submission to the Full Council for approval.
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## BUDGETARY FRAMEWORK

### Budget Format

- B.7** The general format of the budget will be approved by the Full Council and proposed by the Cabinet on the advice of the S151 Officer. The draft budget should include allocations to different services and projects, proposed taxation levels and contingency funds.

### Budget Preparation

- B.8** The S151 Officer is responsible for ensuring that the revenue and capital budgets are prepared on an annual basis and a Medium Term Financial Strategy is submitted alongside this (together with a report on the Prudential Indicators for the Authority) for consideration by the Cabinet, before submission to the Full Council. The Full Council may amend the budget or ask the Cabinet to reconsider it before approving it.
- B.9** The S151 Officer is able to request for the inclusion within revenue and capital budgets an appropriate contingency sum, so as to meet the legislative requirements in relation to setting a robust budget. All capital schemes should allow for an element of contingency based upon an assessment of the “risk” of the scheme.
- B.10** It is the responsibility of Chief Officers to contribute to the preparation of budget estimates, in line with guidance issued by the S151 Officer and/or by Cabinet. Chief Officers are required to sign off their individual budgets as representing a reasonable estimate of planned expenditure/income prior to approval by the Council.

### Budget Monitoring and Control

- B.11** The S151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position at least three times during the year, and at the end of the financial year.
- B.12** It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the S151 Officer. They should report to the appropriate Cabinet Member on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and ensure the S151 Officer is made aware at an early stage of any potential financial problems.

### Resource Allocation

- B.13** The S151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council’s policy framework.

### Robustness of the Budget

- B.14** The S151 Officer is required (under statute) to report to Council on the robustness of the revenue budget estimates.

### Guidelines

- B.15** Guidelines on budget preparation are issued to Chief Officers by the S151 Officer. The guidelines will take account of:
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- legal requirements
- medium-term planning prospects
- the Corporate Plan/Best Value Performance Plan
- available resources
- spending pressures

## MAINTENANCE OF RESERVES

**B.16** It is the responsibility of the S151 Officer to advise the Cabinet and/or the Full Council on prudent levels of reserves for the Authority. The S151 Officer shall report to Cabinet on at least an annual basis, and where appropriate make recommendations for Cabinet/Council in terms of changes to the overall level/allocation of reserves. Any such report should be in line with statutory responsibilities to ensure adequate reserves, and to set a prudent budget.

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## **FINANCIAL REGULATION C:**

### **RISK MANAGEMENT AND CONTROL OF RESOURCES**

#### **INTRODUCTION**

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

#### **RISK MANAGEMENT**

- C.2** The Cabinet is responsible for approving the Authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
- C.3** The S151 Officer is responsible for preparing the Authority's risk management policy statement, for promoting it throughout the Authority and for advising the Cabinet on proper insurance cover where appropriate.

#### **INTERNAL CONTROL**

- C.4** Internal control refers to the systems of control devised by Management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- C.5** The S151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.6** It is the responsibility of 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.

#### **AUDIT REQUIREMENTS**

- C.7** The Accounts and Audit Regulations 2003 issued by the Secretary of State for the Environment require every Local Authority to maintain an adequate and effective system of internal audit of its accounting records and its system of internal control in accordance with proper internal audit practices. Internal Audit have the right of access to all the Authority's records and assets in carrying out their duties.
- C.8** The Audit Commission is responsible for appointing External Auditors to each Local Authority. The basic duties of the External Auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.
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- C.9** The Authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise, the Inland Revenue, the Benefit Fraud Inspectorate and the Best Value Inspectorate, who have statutory rights of access.

## PREVENTING FRAUD AND CORRUPTION

- C.10** The S151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

## ASSETS

- C.11** Chief Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## TREASURY MANAGEMENT

- C.12** This Authority adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 4 of that Code.

- C.13** The Council will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies and objectives of its treasury management activities
- 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.

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council.

Such amendments will not result in the Council materially deviating from the Code's key recommendations.

- C. 14** The Full Council, and the Cabinet, will receive reports on 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.

- C. 15** This Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Strategic Director of Corporate Services (S151 Officer), who will act in accordance with the Council's policy statement and TMPs and, CIPFA's Standard of Professional Practice on Treasury Management.
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**C.16** All money in the hands of the Authority is controlled by the S151 Officer. The S151 Officer has delegated responsibility for the development, implementation and monitoring the Treasury Management Practice Schedules in line with the CIPFA Code of Practice, except with regard to the list of Approved Investments which require approval of Full Council.

## STAFFING

**C.17** The Full Council is responsible for determining how officer support for Cabinet and Non-Cabinet roles within the Authority will be organised, having regard to the recommendations made by the Cabinet.

**C.18** The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

**C.19** Chief Officers are responsible for controlling total staff numbers by:

- working with the S151 officer in assessing the budget necessary in any given year to cover the approved staffing levels
  - working with the Head of Human Resources on any proposed amendments to the staffing levels, ensuring that the financial implications of such changes are fully assessed, including any implications for the Pension Fund.
  - the proper use of appointment procedures.
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## **FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

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

### **GENERAL**

- D.2** The S151 Officer is responsible for the operation of the Authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved by the S151 Officer. However, Chief Officers are responsible for the proper operation of financial processes in their own service areas.
- D.3** Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed with the S151 Officer.
- D.4** Chief Officers should ensure that their staff receive relevant financial training that has been approved by the S151 Officer.
- D.5** Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Chief Officers must ensure that staff are aware of their responsibilities under freedom of information legislation and the Human Rights Act.

### **INCOME AND EXPENDITURE**

- D.6** It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Cabinet or Non-Cabinet Committees, in respect of payments, income collection and placing orders, together with the limits of their authority.

### **PAYMENTS TO EMPLOYEES AND MEMBERS**

- D.7** The Head of Financial Services is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

### **TAXATION**

- D.8** The S151 Officer is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.
- D.9** The S151 Officer is responsible for maintaining the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

### **TRADING ACCOUNTS/BUSINESS UNITS**

- D.10** It is the responsibility of the S151 Officer to advise on the establishment and operation of trading accounts and business units.
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## LAND AND PROPERTY TRANSACTIONS

- D.11** Land and property transactions should be conducted in accordance with the prescribed financial procedures, and the advice of the Head of Property and Head of Legal and Democratic Services should be sought at all times.
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## **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

### **INTRODUCTION**

- E.1** The Local Authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **PARTNERSHIPS**

- E.2** The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The Cabinet can delegate functions – including those relating to partnerships – to Officers. These are set out in the scheme of delegation that forms part of the Authority's Constitution. Where functions are delegated, the Cabinet remains accountable for them to the Full Council.
- E.4** The Head of Paid Service or his designated Officer represents the Authority on partnership and external bodies, in accordance with the scheme of delegation.
- E.5** The Monitoring Officer and S151 Officer are responsible for promoting and maintaining the same high standards of conduct with regard to financial/legal administration in partnerships that apply throughout the Authority.
- E.6** The S151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. The S151 Officer and the Monitoring Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies, ensuring that the risks have been fully appraised before agreements are entered into with them.
- E.7** Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. Chief Officer should also ensure that issues of risk, insurance, contracts, and financial matters are considered at an early stage, and where necessary discuss these issues with the S151 Officer/Monitoring Officer.

### **EXTERNAL FUNDING**

- E.8** The S151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

### **WORK FOR THIRD PARTIES**

- E.9** The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

### **GRANTS TO OUTSIDE ORGANISATIONS**

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E.10 The Cabinet is responsible for approving grants above £10,000. Grants below £10,000 require the relevant Portfolio Holder, Head of Service and S151 approval (except for grants approved by Area Committees).

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## Part II

### Financial Procedure Rules

#### 1 Financial Management

##### **FINANCIAL MANAGEMENT STANDARDS**

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

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

##### **Key controls**

- 1.02 The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the Authority
  - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and Full Council.

##### **Responsibilities of the S151 Officer**

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

##### **Responsibilities of Chief Officers (Chief Executive, Strategic Directors and Heads of Service)**

- 1.08 To promote the financial management standards set by the S151 Officer in their Services and to monitor adherence to the standards and practices, liaising as necessary with the S151 Officer.
- 1.09 To promote sound financial practices in relation to the standards, performance and development of staff in their service area.
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## MANAGING EXPENDITURE

### Scheme of Virement and Control over Budgetary Limits

#### Why is this important?

1.10 The scheme of virement 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 the Full Council, and therefore to optimise the use of resources.

#### Key controls

1.11 Key controls for the scheme of virement are:

- (a) it is administered by the S151 Officer within guidelines set by the Full Council within these financial procedures.
- (b) the overall Revenue and Capital budget is agreed by the Cabinet and approved by the Full Council. Chief Officers and Budget Managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line within the subjective description of each objective head of the approved estimates report;
- (c) virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets;
- (d) virement can only be applied to direct expenditure and income; thus, virement can **not** be applied to the classifications of *Support Services*, *Capital Charges*, and *Indirect Income* [i.e. *Recharges*] but **only** to the following classifications of expenditure and income:
  - Employees
  - Premises related
  - Transport
  - Supplies and Services
  - Third party payments
  - Direct income
  - Note - the scheme of virement also applies to earmarked Reserves

#### Responsibilities of the S151 Officer

1.12 To prepare jointly with the Chief Officer a report to the Cabinet where virements which constitute a **key decision** or a **change in policy** are proposed. To manage the overall scheme of virement, ensuring the Council's overall interests are protected. To provide to the Finance, Legal and ICT Cabinet Member a regular report detailing virements approved for the year in question, and to consult with the Cabinet member on any virements above £50,000 prior to their approval.

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## **Responsibilities of Chief Officers**

- 1.13 To manage within the overall budgetary limits, and exercise virement according to the following detailed arrangements:-
- 1.14 A Chief Officer may exercise virement on budgets (capital and revenue) under his or her control which do not constitute a **key decision** or a **change in policy**, subject to approval of the S151 Officer, under arrangements agreed by the Full Council and subject to the conditions set out below. A “virement form” must be completed, and a record of all approved virements will be maintained by the Head of Financial Services.
- 1.15 Virements which do constitute a key decision or a change in policy (to be determined by the S151 Officer/Monitoring Officer) require the approval of the Cabinet, following a joint report by the S151 Officer and the Chief Officer, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year.
- 1.16 The prior approval of the all relevant Chief Officers is required for **any** virement, of whatever amount, where it is proposed to vire between budgets of different Chief Officers.
- 1.17 The Overall Council budgetary position will prevail in the decision to grant virement. In particular, if there are identified budgetary issues within the Council that may potentially lead to an overall overspend for the Council, virement approval may be limited in order to utilise underspending in certain service areas to cover overspending in other service areas. The S151 Officer is responsible for this decision.
- 1.18 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 purposes for which it has been established; and
  - (b) the 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 must be reported to the Cabinet.

## **Treatment of Revenue Budget Carry Forward Balances, and Capital Programme Amendments**

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

- 1.19 The rules below cover arrangements for the transfer of resources between accounting years, ie a carry-forward of revenue underspend, or a change in the profile of the capital programme. It is important that resources are managed effectively between financial years to ensure resources are most effectively deployed, within a framework that does not result in any loss of financial control.
-

## **Key controls**

- 1.20 Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct. Any carry forward of underspent resources is made in the interests of the Council as a whole, and is made based upon known/projected future resourcing issues. In general carry forward of underspending will only be allowed where a clear case can be demonstrated as to the need for the resource to be provided. All Reserves will be subject to an annual review to determine that the rationale for their existence.

## **Responsibilities of the S151 Officer**

- 1.21 To approve the carry forward of Revenue resources from one financial year to another, ensuring sound financial procedures are in place, and that any carried forward resources are identified as specific reserves. To approve the re-profiling of Capital budgets.
- 1.22 To report to Cabinet on the overall budgetary position at the end of the year, including making recommendations as to the treatment of any overall corporate underspending (after taking account of transfers to specific reserves). This would include identifying the impact on general and earmarked reserves, ensuring reserves are at a prudent level.

## **Responsibilities of Chief Officers**

- 1.23 To identify to the S151 requests for the carry forward of underspendings on service revenue estimates, identifying the need for the carry forward.
- 1.24 To identify any Capital budgets that require re-profiling across a number of financial years. Chief Officers are required to identify the reasons for and potential implications of such re-profiling.

## **ACCOUNTING POLICIES**

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

- 1.25 The S151 Officer is responsible for the preparation of the Authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

## **Key controls**

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

## **Responsibilities of the S151 Officer**

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

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

## **Responsibilities of Chief Officers**

1.28 To adhere to the accounting policies and guidelines approved by the S151 Officer.

## **ACCOUNTING RECORDS AND RETURNS**

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

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

### **Key controls**

1.30 The key controls for accounting records and returns are:

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

### **Responsibilities of the S151 Officer**

- 1.31 To determine the accounting procedures and records for the Authority. Where these are maintained outside the Financial Services, the S151 Officer should consult the Chief Officer concerned.
- 1.32 To arrange for the compilation of all accounts and accounting records under his or her direction.
- 1.33 To comply with the following principles when allocating accounting duties:
  - (a) separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them;
  - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 1.34 To make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit Regulations 2003.
- 1.35 To ensure that all claims for funds including grants are made by the due date.
- 1.36 To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetables.
- 1.37 To administer the Authority's arrangements for underspendings to be carried forward to the following financial year.
- 1.38 To ensure the proper retention of financial documents in accordance with the requirements set out in the Authority's document retention schedule (see Appendix F).

### **Responsibilities of Chief Officers**

- 1.39 To consult and obtain the approval of the S151 Officer before making any changes to accounting records and procedures.
  - 1.40 To comply with the principles outlined in paragraph 1.35 when allocating accounting duties.
  - 1.41 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
  - 1.42 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the S151 Officer.
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## THE ANNUAL STATEMENT OF ACCOUNTS

### Why is this important?

1.43 The Authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Cabinet is responsible for approving the statutory annual statement of accounts.

### Key controls

1.44 The key controls for the annual statement of accounts are:

- the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its Officers has the responsibility for the administration of these affairs. In this Authority, that officer is the S151 Officer.
- the Authority's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (the SORP) (CIPFA/LASAAC).

### Responsibilities of the S151 Officer

1.45 To select suitable accounting policies and to apply them consistently.

1.46 To make judgements and estimates that are reasonable and prudent.

1.47 To comply with the SORP.

1.48 To sign and date the statement of accounts, stating that it presents fairly the financial position of the Authority at the accounting date and its income and expenditure for each year ended 31 March.

1.49 To draw up the timetable for final accounts preparation and to advise staff and External Auditors accordingly.

### Responsibilities of Chief Officers

1.50 To comply with accounting guidance provided by the S151 Officer and to supply the S151 Officer with information when required.

## STATEMENT OF INTERNAL CONTROL

### Why is this important?

1.51 The Statement of Internal Control (SIC) is a requirement of the Accounts and Audit Regulations 2003. It requires Authorities to conduct a review at least once a year of the effectiveness of its systems of internal control and publish a statement on internal control (SIC) each year with the authority's financial statements.

### Key controls

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- 1.52 The SIC requires evidence to be provided in terms of the internal control framework, and the identification of areas for improvement. The SIC should be reviewed throughout the year. However, the SIC should emerge from routine governance and managerial processes (which necessarily operate continuously), example being: performance management, risk management, business planning, financial planning.

### **Responsibilities of the Leader of the Council and the Chief Executive**

- 1.53 The Leader of the Council and the Chief Executive must sign the SIC. They need to be satisfied that the document is supported by reliable evidence.

### **Responsibilities of the S151 Officer**

- 1.54 The S151 Officer is responsible for the accounting control systems and records and the preparation of accounts.

### **Responsibilities of Chief Officers**

- 1.55 The SIC is a corporate document and should be owned by all senior officers and Members of the Authority. Chief Officers should inform the S151 Officer and/or Head of Legal and Democratic Services if they are aware of any material risk/internal control issues within their service.
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## 2. Financial Planning

### **PERFORMANCE PLANS**

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

2.01 Each Local Authority has a statutory responsibility to publish various performance plans, including best value performance plans, crime reduction strategies, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The Authority is required to publish annually the best value performance plan (BVPP), which summarises its performance and position in relation to best value. The BVPP is a key element in the Authority's programme of engaging with the public. External Audit is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and publication of the BVPP.

#### **Key controls**

2.02 The key controls for performance plans are:

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

#### **Responsibilities of the S151 Officer**

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

#### **Responsibilities of the Appropriate Chief Officer**

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

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

2.06 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

#### **Responsibilities of Chief Officers**

2.07 To contribute to the development of performance plans in line with statutory requirements.

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

## **BUDGETING**

### **Format of the Budget**

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

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

#### **Key controls**

2.10 The key controls for the budget format are:

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

#### **Responsibilities of the S151 Officer**

2.11 To advise the Cabinet on the format of the budget that is approved by the Full Council.

#### **Responsibilities of Chief Officers**

2.12 To comply with accounting guidance provided by the S151 Officer.

### **Revenue Budget Preparation, Monitoring and Control**

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

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

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

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2.15 For the purposes of budgetary control by Managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Chief Officer's scheme of delegation.

### **Key controls**

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

- (a) Budget Managers should be responsible only for income and expenditure that they can influence
- (b) there is a nominated Budget Manager for each cost centre heading
- (c) Budget Managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) Budget Managers follow an approved certification process for all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget; with Members of the Cabinet exercising an active role of responsibility for budgets and budgetary control.

### **Responsibilities of the S151 Officer**

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

- (a) budget management is exercised within annual cash limits set by the Full Council. Any variation to these limits (both for revenue and capital budgets) requires approval of full Council
- (b) each Chief Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable Managers to fulfil their budgetary responsibilities
- (c) expenditure is committed only against an approved budget head
- (d) all Officers responsible for committing expenditure comply with relevant guidance, and the financial regulations
- (e) each cost centre has a single named Manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- (f) significant variances from approved budgets are investigated and reported by Budget Managers regularly.

2.18 To administer the Authority's scheme of virement.

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- 2.19 To submit reports to the Cabinet in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control (see 2.26)
- 2.20 To prepare and submit reports on the Authority's projected income and expenditure compared with the budget at least three times during the financial year, for both revenue and capital to the Cabinet.

### **Responsibilities of Chief Officers**

- 2.21 To maintain budgetary control within their service areas, in adherence to the principles in 2.17, and to ensure that all income and expenditure is properly recorded and accounted for.
- 2.22 To ensure that an accountable Budget Manager is identified for each item of income and expenditure under the control of the Chief Officer (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 2.23 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.24 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 2.25 Where required to prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the S151 Officer.
- 2.26 To ensure prior approval by the Full Council or Cabinet (as appropriate) for new proposals,<sup>1</sup> that:
- (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies or cease existing policies
  - (c) materially extend or reduce the Authority's services.
- 2.27 To ensure compliance with the scheme of virement.
- 2.28 To agree with the relevant Chief Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service activity.

*Note 1 A report on new proposals should explain the full financial implications, for both the current and future years, following consultation with the S151 Officer. Unless the Full Council or Cabinet has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within their budget. Generally new proposals should be part of the financial strategy process to enable corporate consideration and prioritisation, and should be linked to the corporate planning process (e.g. service/corporate plan).*

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## **Budgets and Medium-Term Planning**

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

- 2.29 The Authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with priorities. The budget is the financial expression of the Authority's plans and policies.
- 2.30 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an Authority to budget for a deficit.
- 2.31 Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which Managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Authority is always preparing for events in advance.

### **Key controls**

- 2.32 The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
  - (b) Budget Managers and/or Chief Officers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered and that such accountability is clearly demonstrated by the signing of the revenue estimate sheets and capital strategy sheets
  - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of the S151 Officer**

- 2.33 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 2.34 To determine the detailed form of revenue/capital estimates and the methods for their preparation, consistent with the budget approved by the Full Council, and after consultation with the Cabinet and Chief Officers. This includes ensuring proper provision is made for contingency items.
- 2.35 To prepare and submit reports to the Cabinet on the aggregate spending plans of service areas and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 2.36 To advise on the medium-term implications of spending decisions.
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- 2.37 To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.38 To advise the Full Council on Cabinet proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

### **Responsibilities of Chief Officers**

- 2.39 To prepare estimates of income and expenditure, in consultation with the S151 Officer, to be submitted to the Cabinet.
- 2.40 To prepare budgets that are consistent with any relevant cash limits, with the Authority's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the S151 Officer in accordance with the Full Council's general directions.
- 2.41 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42 In consultation with the S151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets.
- 2.43 When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements
  - (c) policy requirements as defined by the Full Council in the approved policy framework
  - (d) initiatives already under way
  - (e) risk assessment – to make proper provision for contingency items, in discussion with the S151 Officer.

### **Resource Allocation**

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

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

#### **Key controls**

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

### **Responsibilities of the S151 Officer**

- 2.46 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- 2.47 To assist in the allocation of resources to Budget Managers.

### **Responsibilities of Chief Officers**

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

### **Capital Programmes**

#### **Why are these important?**

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

#### **Key controls**

- 2.52 The key controls for capital programmes are:
    - (a) specific approval by the Full Council for the programme of capital expenditure
    - (b) All capital schemes to have gone through an option appraisal, and prioritisation process, unless the nature of the proposal is in the view of the S151 Officer considered “urgent” and normal procedures can not be applied
    - (c) a scheme and estimate, including contingency sum, summary project plan, risk assessment, progress targets and associated revenue expenditure is prepared for each capital project, and where appropriate is submitted for approval by the Cabinet, prior to project commencement
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- (d) all capital budgets are cash limited, and potential variations from the approved budget must be identified/reported as part of budget monitoring procedures, and where considered appropriate by the S151 be subject to a report to Cabinet
- (e) proposals for improvements and alterations to buildings must be approved by the appropriate Chief Officer responsible for operation of that building
- (f) Variations to the overall capital programme (e.g. new schemes, amendments to existing schemes) require approval by Council, except for:-
  - a. Virements in accordance with overall virement policy
  - b. Allocations from an overall "contingency" budget within the capital programme, or from lump sum amounts, which can be approved by Cabinet as long as the overall contingency budget approved by Council is not exhausted
  - c. New schemes which can be accommodated from the approved overall capital programme – e.g. a scheme fully supported by grant funding
  - d. Decisions made under "urgency" powers.
- (g) the development and implementation of asset management plans by the Head of Property Services
- (h) accountability for each proposal is accepted by a named manager
- (i) monitoring of progress in conjunction with expenditure and comparison with approved budget
- (j) for capital schemes with a value of **above £250,000**, progress reporting on a regular basis (at least one at each of following stages:- prior to commencement of scheme, during the scheme, and at end of scheme) to either the relevant Overview and Scrutiny Committee or to Cabinet to include potential future commitments on the scheme
- (k) Risk Assessment done prior to the project commencing.

### **Responsibilities of the S151 Officer**

- 2.53 To prepare capital estimates jointly with Chief Officers and to report them to the Cabinet. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Full Council.
  - 2.54 To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates. This includes keeping a record of all major capital schemes (above £250,000) and ensure that progress reporting as detailed in these regulations is undertaken.
  - 2.55 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the S151 Officer, having regard to government regulations and accounting requirements.
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- 2.56 To ensure that individual schemes properly reflect realistic contingency sums within the overall estimate, and include proper provision for fees and project management costs. The S151 Officer can inform Cabinet and Council of any proposed scheme which in the opinion of the S151 officer does not provide for sufficient contingency funding, or inadequate project management costs.

### **Responsibilities of Chief Officers**

- 2.57 To comply with guidance concerning capital schemes and controls issued by the S151 Officer.
- 2.58 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the S151 Officer.
- 2.59 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the S151 Officer.
- 2.60 To ensure that adequate records are maintained for all capital contracts.
- 2.61 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the S151 Officer, where required.
- 2.62 To ensure that estimates for projects include realistic contingency sums (recognising capital budgets are cash limited), and also include provision for associated project management costs.
- 2.63 To ensure compliance with any separate guidance issued in relation to Project Management (e.g. Business Appraisal, Project Initiation Documents, Project Monitoring, Project Review).
- 2.64 To ensure that the Head of Legal and Democratic Services has been involved in the contractual/other legal issues relating to the project.
- 2.65 To prepare and submit progress reports on a regular basis (at least one at each of following stages:- prior to commencement of scheme, during the scheme, and at end of scheme) to the relevant Overview and Scrutiny Committee and/or Cabinet for capital projects with a value of above £250,000. Such reports should be approved by the S151 Officer and be in the name of the relevant Project Lead Officer. The reporting arrangements for each individual major project would be agreed with the S151 Officer and recorded on a Major Schemes Capital Monitoring Reporting Form.
- 2.66 To prepare and submit reports on major capital schemes (£250,000) once completed, including a general review of the scheme, lessons learnt etc.
- 2.67 To ensure that credit arrangements, such as leasing agreements, are **not** entered into without the **prior approval** of the the S151 Officer and, if applicable, approval of the scheme through the capital programme.
- 2.68 To consult with the S151 Officer and to seek Cabinet and Full Council approval where the Chief Officer proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.
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## **MAINTENANCE OF RESERVES**

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

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

### **Key controls**

2.70 Reserves are maintained in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.

2.71 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

2.72 Authorisation and expenditure from reserves is approved by the appropriate Chief Officer in consultation with the S151 Officer.

### **Responsibilities of the S151 Officer**

2.73 To advise the Cabinet and/or the Full Council on prudent levels of reserves for the Authority, and to take account of the advice of the External Auditor in this matter. To review on a regular basis the level of overall reserves, including the amounts held for specific purposes.

2.74 To approve the allocation of any underspending on the revenue budget to specific earmarked reserves.

2.75 To approve any change of use of specific reserves, in line with the Virement procedures contained within these Financial Procedures (1.11)

### **Responsibilities of Chief Officers**

2.76 To ensure that resources are used for the purposes for which they were intended, and where a change in use of a reserve is proposed to obtain approval of the S151 officer, in line with the Virement procedures included within these Financial Procedures.

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## 3. Risk Management and Control of Resources

### **RISK MANAGEMENT**

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

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

#### **Key controls**

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

#### **Responsibilities of the S151 Officer**

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

### **Responsibilities of Chief Officers**

- 3.08 To notify the S151 Officer immediately of any loss, liability or damage that may lead to a claim against the Authority, together with any information or explanation required by the S151 Officer or the Authority's insurers.
- 3.09 To take responsibility for risk management, having regard to advice from the S151 Officer and other specialist Officers (e.g. health and safety).
- 3.10 To ensure that there are regular reviews of risk within their service areas.
- 3.11 To notify the S151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 3.12 To consult the S151 Officer and the Head of Legal and Democratic Services on the terms of any indemnity that the Authority is requested to give.
- 3.13 To ensure that employees, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **INTERNAL CONTROLS**

#### **Why are these important?**

- 3.14 The Authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 3.15 The Authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 3.16 The Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 3.17 The system of internal controls is established in order to provide measurable achievement of:
  - (a) efficient and effective operations
  - (b) reliable financial information and reporting
  - (c) compliance with laws and regulations
  - (d) risk management.

#### **Key controls**

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

### **Responsibilities of the S151 Officer**

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

### **Responsibilities of Chief Officers**

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

3.21 To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the S151 Officer. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

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

## **AUDIT REQUIREMENTS**

### **Internal Audit**

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

3.23 The requirement for an Internal Audit function for Local Authorities is implied by Section 151 of the Local Government Act 1972, which requires that Authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2003, more specifically require "every Local Authority to maintain an adequate and effective system of internal audit of its accounting records and its system of internal control in accordance with proper internal audit practices".

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

### **Key controls**

3.25 The key controls for Internal Audit are:

- (a) that it is independent in its planning and operation
- (b) the Internal Audit Manager has direct access to the Head of Paid Service, all levels of Management and directly to Elected Members
- (c) the Internal Auditors comply with the Auditing Practices Board's guideline *Guidance for Internal Auditors*, as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom*.

### **Responsibilities of the appropriate Chief Officer**

3.26 To ensure that Internal Auditors have the Authority to:

- (a) access Authority premises at reasonable times
- (b) access all assets, records, documents, correspondence and control systems
- (c) receive any information and explanation considered necessary concerning any matter under consideration
- (d) require any employee of the Authority to account for cash, stores or any other Authority asset under his or her control
- (e) access records belonging to third parties, such as contractors, when required
- (f) directly access the Head of Paid Service, the Monitoring Officer, the Cabinet, the Standards Committee and its Chairman.

3.27 To approve the strategic and annual audit plans prepared by the Internal Audit Manager, which take account of the characteristics and relative risks of the activities involved.

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

### **Responsibilities of all Chief Officers**

3.29 To ensure that Internal Auditors are given access at all reasonable times to premises, personnel, documents and assets that the Auditors consider necessary for the purposes of their work.

3.30 To ensure that Auditors are provided with any information and explanations that they seek in the course of their work.

3.31 To consider and respond promptly to recommendations in audit reports.

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- 3.32 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 3.33 To notify the S151 Officer and the Internal Audit Manager immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.34 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Internal Audit Manager prior to implementation.

## **External Audit**

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

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

### **Key controls**

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

### **Responsibilities of the S151 Officer**

- 3.39 To ensure that External Auditors are given access at all reasonable times to premises, personnel, documents and assets that the External Auditors consider necessary for the purposes of their work. This includes the power to instruct any Chief Officer to provide appropriate information to the External Auditor.
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- 3.40 To ensure there is effective liaison between External and Internal Audit.
- 3.41 To work with the External Auditor and advise the Full Council, Cabinet and Chief Officers on their responsibilities in relation to External Audit.

### **Responsibilities of Chief Officers**

- 3.42 To ensure that External Auditors are given access at all reasonable times to premises, personnel, documents and assets which the External Auditors consider necessary for the purposes of their work. Chief Officers are required to ensure that they (and their staff) provide all necessary information, in an open and honest manner, to External Auditors.
- 3.43 To ensure that all records and systems are up to date and available for inspection.

### **PREVENTING FRAUD AND CORRUPTION**

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

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

#### **Key controls**

- 3.47 The key controls regarding the prevention of financial irregularities are that:
- (a) the Authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
  - (b) all Members and staff act with integrity and lead by example
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt
  - (d) high standards of conduct are promoted amongst Members by the Standards Committee
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
  - (f) whistle blowing procedures are in place and operate effectively
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to
  - (h) legislation regarding Money Laundering is complied with.
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## **Responsibilities of the S151 Officer**

- 3.48 To develop and maintain an anti-fraud and anti-corruption policy.
- 3.49 To maintain adequate and effective internal control arrangements.
- 3.50 To ensure that all suspected irregularities are reported to the Internal Audit Manager, the Head of Paid Service, the Cabinet and the Standards Committee.

## **Responsibilities of Chief Officers**

- 3.51 To ensure that all suspected irregularities are reported to the Internal Audit Manager. To instigate, in conjunction with the Head of Paid Service, the Authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 3.52 To ensure that relevant staff are aware of issues in relation to Money Laundering.
- 3.53 To ensure that where financial impropriety is discovered, the S151 Officer and the Internal Audit Manager are informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, a joint decision is made to call in the police to determine with the Crown Prosecution Service whether any prosecution will take place.
- 3.54 To maintain up to-date entries on the register of interests and to inform the Monitoring Officer of any changes; the Monitoring Officer is responsible for maintaining the register of interests.

## **ASSETS**

### **Security**

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

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

### **Key controls**

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

### **Responsibilities of the S151 Officer**

- 3.57 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. The function of the asset register is to provide the Authority with information about fixed assets so that they are:
- safeguarded
  - used efficiently and effectively
  - adequately maintained.
- 3.58 To receive the information required for accounting, costing and financial records from each Chief Officer.
- 3.59 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

### **Responsibilities of Head of Property Services**

- 3.60 The Head of Property Services shall maintain a property database in a form approved by the S151 Officer for all properties currently owned or used by the Authority. (**The Head of Street Scene** shall maintain a similar database for plant and machinery). Any use of property by a service area or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use. The Head of Property Services shall submit at least every two years a report to the Cabinet regarding the property owned by the Authority, the corporate objectives being achieved and the rate of return achieved.
- 3.61 To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Head of Property Services, in consultation with the S151 Officer, has been established as appropriate.
- 3.62 To ensure the proper security of all buildings and other assets under their control.
- 3.63 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the Head of Legal and Democratic Services.
- 3.64 To pass title deeds to the Head of Legal and Democratic Services who is responsible for custody of all title deeds.
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- 3.65 To ensure that no Authority asset is subject to personal use by an employee without proper Authority.
- 3.66 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Authority.
- 3.67 To ensure that the service area maintains a register of moveable assets in accordance with arrangements defined by the S151 Officer, including the requirements for maintaining inventories [paragraph 3.75].
- 3.68 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured, including coordination of inventory records kept by Heads of Service.
- 3.69 To consult the S151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

### **Responsibilities of Chief Officers**

- 3.70 To ensure cash holdings on premises are kept to a minimum.
- 3.71 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the S151 Officer as soon as possible.
- 3.72 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, if not required by any other service units, unless, following consultation with the S151 Officer, the Cabinet agrees otherwise.
- 3.73 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the S151 Officer.
- 3.74 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

### **Inventories**

- 3.75 To maintain an inventory (including an adequate description of furniture, fittings, equipment, plant and machinery) for items above an estimated £10,000 in value.
  - 3.76 To carry out a sample check of items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.
  - 3.77 To make sure that property is only used in the course of the Authority's business. In exceptional circumstances, a Chief Officer may give written permission to one-off requests to an Officer for property to be used for personal use, so long as such use is reasonable. Any incidental costs including consumables and additional insurance must be met by the Officer concerned.
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- 3.78 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the S151 Officer, the Cabinet decides otherwise in a particular case.
- 3.79 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of a cumulative value of £50,000 in each service head.

## **Intellectual Property**

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

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

### **Key controls**

- 3.82 In the event that the Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Authority's approved intellectual property procedures.

### **Responsibilities of the Monitoring Officer**

- 3.83 To develop and disseminate good practice through the Authority's intellectual property procedures.

### **Responsibilities of Chief Officers**

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

## **ASSET DISPOSAL**

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

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

### **Key controls**

- 3.86 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- 3.87 Procedures protect staff involved in the disposal from accusations of personal gain.
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## **Responsibilities of the S151 Officer**

- 3.88 To issue guidelines representing best practice for disposal of assets.
- 3.89 To ensure appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

## **Responsibilities of Chief Officers**

- 3.90 To seek advice from appropriate advisors on the disposal of surplus or obsolete materials, stores or equipment and to seek appropriate technical advice on the secure disposal of potentially sensitive items such as IT equipment. All IT equipment should be disposed of in consultation with the IT Services Manager and in accordance with approved Council Standards. The permanent removal of data should comply with the requirements of the Data Protection Act.
- 3.91 To ensure that income received for the disposal of an asset is properly banked and coded.

## **TREASURY MANAGEMENT**

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

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

### **Key controls**

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

## **Responsibilities of the S151 Officer – treasury management and banking**

- 3.94 To arrange the borrowing and investments of the Authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the Authority's treasury management policy statement and strategy.
- 3.95 To prepare reports to the full Council and the Cabinet in respect of (1) an annual strategy and plan in advance of the year, and (2) an annual report after its close, in the form prescribed in its TMPs.
- 3.96 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the S151 Officer.

## **Responsibilities of Chief Officers – treasury management and banking**

- 3.97 To follow the instructions on banking issued by the S151 Officer.
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### **Responsibilities of the S151 Officer – investments and borrowing**

- 3.98 To ensure that all investments of money are made in the name of the Authority or in the name of nominees approved by the Full Council.
- 3.99 To ensure that all securities that are the property of the Authority or its nominees and the title deeds of all property in the Authority's ownership are held in the custody of the appropriate Chief Officer.
- 3.100 To effect all borrowings in the name of the Authority, having first obtained approval from Full Council, as this would result in the Authority losing its debt free status.
- 3.101 To act as the Authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Authority.

### **Responsibilities of Chief Officers – investments and borrowing**

- 3.102 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Full Council, following consultation with the S151 Officer.

### **Responsibilities of Chief Officers – trust funds and funds held for third parties**

- 3.103 To arrange for all trust funds to be held, wherever possible, in the name of the Authority. All Officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the S151 Officer, unless the deed otherwise provides.
- 3.104 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the S151 Officer, and to maintain written records of all transactions.
- 3.105 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

### **Responsibilities of the S151 Officer – imprest accounts**

- 3.106 To provide employees of the Authority with cash or bank imprest accounts to meet minor expenditure on behalf of the Authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount, currently £50. In exceptional cases the limit can be increased by the Head of Financial Services, upto a value of £500.
- 3.107 To determine, and communicate, the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.108 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

### **Responsibilities of Chief Officers – imprest accounts**

- 3.109 To ensure that employees operating an imprest account:
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- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
- (b) make adequate arrangements for the safe custody of the account
- (c) produce upon demand by the S151 Officer, or Internal Audit, cash and all vouchers to the total value of the imprest amount
- (d) record transactions promptly
- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (f) provide the S151 Officer with a certificate of the value of the account held at 31 March each year
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the Authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the S151 Officer for the amount advanced to him or her.

## **STAFFING**

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

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

### **Key controls**

3.111 The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the Authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.
- (e) procedures are in place which prevent Officers being involved in the appointment process of relatives or in the authorisation of any expenses relating to the relative.

### **Responsibilities of the S151 Officer**

3.112 To ensure that budget provision exists for all existing and new employees.

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3.113 To act as an advisor to Chief Officers on areas such as National Insurance and pension contributions, as appropriate.

### **Responsibilities of Chief Officers**

3.114 To produce, in consultation with the S151 Officer, an annual staffing budget.

3.115 To ensure, in consultation with the S151 Officer, that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

3.116 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

3.117 To ensure that the staffing budget is not exceeded without due Authority and that it is managed to enable the agreed level of service to be provided.

3.118 To ensure that the Head of Human Resources and the S151 Officer are immediately informed if the staffing budget is likely to be materially overspent.

3.119 To ensure that a separation of duties exist in the appointment process which prevents the officer approving the appointment of a new employee to be a relation of the new employee. In addition, there should also be a separation of duties in relation to the authorisation of expenses (overtime, car allowance etc)

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## 4. Financial Systems and Procedures

### GENERAL

#### Why is this important?

- 4.01 Service areas have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing and management systems. Service areas are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered and recorded. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 4.02 The S151 Officer has a professional responsibility to ensure that the Authority's financial systems are sound and should therefore be notified of any new developments or changes.

#### Key controls

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

#### Responsibilities of the S151 Officer

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

- 4.05 To ensure that accounting records are properly maintained and held securely.
  - 4.06 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the S151 Officer.
  - 4.07 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
  - 4.08 To incorporate appropriate controls to ensure that, where relevant:
    - (a) all input is genuine, complete, accurate, timely and not previously processed, for example all mileage, expense and overtime claims should be submitted ideally by the 4th of the following month, and in any event not more than one month after the month of the claim
    - (b) all processing is carried out in an accurate, complete and timely manner
    - (c) output from the system is complete, accurate and timely.
  - 4.09 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
  - 4.10 To ensure there is a fully documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
  - 4.11 To ensure that all systems are fully documented and staff effectively trained in operations.
  - 4.12 To consult with the S151 Officer before changing any existing financial system or introducing new systems.
  - 4.13 To establish a scheme of delegation identifying Officers authorised to act upon the Chief Officer's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their Authority. Such a scheme should be fully documented, including its rationale.
  - 4.14 To supply lists of Authorised Officers, with specimen signatures and delegated limits, to the S151 Officer and to Internal Audit, together with any subsequent variations.
  - 4.15 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or, if this cannot be achieved, at an alternative location within the building.
  - 4.16 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
  - 4.17 To ensure that relevant standards and guidelines for computer systems issued by the Chief Officer are observed.
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- 4.18 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.19 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only properly authorised software legally acquired and installed by the Authority is used on its computers; all software should be installed by IT Services unless specifically authorised by the IT Manager
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME AND EXPENDITURE**

### **Income**

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

- 4.20 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Authority's cashflow and also avoids the time and cost of administering debts.

#### **Key controls**

- 4.21 The key controls for income are:

- (a) all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
  - (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
  - (c) all money received by an employee on behalf of the Authority is paid without delay to the S151 Officer or, as he or she directs, to the Authority's Bank or National Giro account, and properly recorded. The responsibility for cash collection should be separated from that:
    - for identifying the amount due
    - for reconciling the amount due to the amount received
  - (d) effective action is taken to pursue non-payment within defined timescales
  - (e) formal approval for debt write-off is obtained
  - (f) appropriate write-off action is taken within defined timescales
  - (g) appropriate accounting adjustments are made following write-off action
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- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process
- (j) All cheques and other payable orders should be made payable to Scarborough Borough Council.

### **Responsibilities of the S151 Officer**

- 4.22 To agree arrangements for the collection of all income due to the Authority and to approve the procedures, systems and documentation for its collection.
- 4.23 To order and supply to service areas all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 4.24 To agree the write-off of bad debts up to an approved limit, (£50,000), and to refer larger sums to the Cabinet.
- 4.25 To approve all debts to be written off in consultation with the relevant Chief Officer, to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2003.
- 4.26 To obtain the approval of the Cabinet in consultation with the relevant Chief Officer for writing off debts in excess of the approved limit.
- 4.27 To ensure that appropriate accounting adjustments are made following write-off action.

### **Responsibilities of Chief Officers**

- 4.28 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies and changing VAT requirements.
  - 4.29 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable, and to consult the Head of Financial Services where changes in service area systems would affect the collection of income.
  - 4.30 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly. This includes the requirement to monitor all sundry debtor invoices relating to their service area using both the IT system and information provided by Financial Services and, on request, informing Financial Services of action to be taken to recover debts. The procedures need to include the maintenance of all necessary records to pursue the debt, assign it to a debt recovery agency or for court action, to ensure such procedures satisfy the guidelines identified in the Woolf report for court processes.
  - 4.31 To issue official receipts or to maintain other documentation for income collection. However, a Sundry Debtor invoice should not be raised as a means of recording income already received.
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- 4.32 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded. There should be a centralised post opening function.
- 4.33 To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.34 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 4.35 To ensure that income is paid fully and promptly into the Authority's bank account in the form in which it is received. This should usually be via the Authority's cashiers or cash collection contractors. Appropriate details should be recorded onto paying-in slips/remittance lists to provide a full management trail. Money collected and deposited must be reconciled to the bank account and prime income records on a regular basis.
- 4.36 To ensure income is not used to cash personal cheques or other payments.
- 4.37 To supply the Head of Financial Services with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Head of Financial Services to record correctly the sums due to the Authority and to ensure accounts are sent out promptly. To do this, Chief Officers should use established performance management systems to monitor recovery of income and flag up areas of concern to the Head of Financial Services. Chief Officers have a responsibility to assist the Head of Financial Services in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Authority's behalf. Only up to approved levels of cash can be held on the premises.
- 4.38 To keep a record of every transfer of money between employees of the Authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 4.39 To recommend to the S151 Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt. Full documentation of the reasons for the raising of a credit note should be maintained.
- 4.40 To obtain the approval of the Head of Financial Services when writing off debts in excess of the approved limit, and the approval of the Cabinet where required.
- 4.41 To notify the Head of Financial Services of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Financial Services and not later than 30 April.
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## **Ordering and Paying for Work, Goods and Services**

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

4.42 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's Contract Procedure Rules.

### **General**

4.43 Every Officer and Member of the Authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with appropriate codes of conduct.

4.44 Official orders for purchases with a value less than £50,000, must be in a form approved by the S151 Officer and Head of Legal and Democratic Services. Official orders must be issued for all work, goods or services to be supplied to the Authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the S151 Officer. Contracts with a total cumulative value of more than £50,000 must be in a form agreed by the Head of Legal and Democratic Services, in accordance with Contract Procedure Rules.

4.45 Each order must conform to the guidelines approved by the Full Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Head of Legal and Democratic Services.

4.46 Apart from petty cash and other payments from advance accounts, the normal method of payment from the Authority shall be by cheque or other instrument or approved method, drawn on the Authority's bank account by the S151 Officer. The use of direct debit shall require the prior agreement of the S151 Officer.

4.47 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Authority contracts.

### **Key controls**

4.48 The key controls for ordering and paying for work, goods and services are:

- (a) all goods and services are ordered only by appropriate persons and are correctly recorded
  - (b) all goods and services shall be ordered in accordance with the Authority's Contract Procedure Rules unless they are purchased from sources within the Authority
  - (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
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- (d) payments are not made unless goods have been received by the Authority to the correct price, quantity and quality standards
- (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (h) in addition, the effect of e-business/e-commerce and electronic purchasing will require that processes are to be in place to maintain the security and integrity of data for transacting business electronically.

### **Responsibilities of the S151 Officer**

- 4.49 To ensure that all the Authority's financial systems and procedures are sound and properly administered.
- 4.50 To approve any changes to existing financial systems and to approve any new systems before they are introduced. To notify the appropriate authorities, such as HM Customs and Excise and the External Auditors, of any such changes.
- 4.51 To approve the form of official orders and associated terms and conditions.
- 4.52 To make payments from the Authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with Financial Regulations and Procedures and, if applicable, with Contract Procedure Rules.
- 4.53 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 4.54 To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 4.55 To provide advice and encouragement on making payments by the most economical means.

### **Responsibilities of Chief Officers**

- 4.56 To ensure that unique pre-numbered official orders are used for all goods and services, other than the exceptions specified in 4.43.
  - 4.57 To ensure that orders are only used for goods and services provided to the service area. Individuals must not use official orders to obtain goods or services for their private use.
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- 4.58 To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision. Best value principles should underpin the Authority's approach to procurement. Value for money should always be achieved.
- 4.59 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 4.60 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that discounts have been taken where available
  - (h) that appropriate entries will be made in accounting records.
- 4.61 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 4.62 To ensure that the service area maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the S151 Officer and Internal Audit.
- 4.63 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice, unless formally approved by the S151 Officer and the Audit Manager. Any instances of these being rendered without such approval shall be reported to the Audit Manager.
- 4.64 To encourage suppliers of goods and services to receive payment by the most economical means for the Authority. It is essential, however, that payments made by direct debit have the prior approval of the S151 Officer.
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4.65 To ensure that the service area obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the S151 Officer, which are in line with best value principles and contained in the Authority's Contracts Procedures, and summarised below. (Note these are only an extract from the CPR's and officers should ensure they are aware of the full extent of CPR's and consult where appropriate with the Head of Legal and Democratic Services).

- For work, supplies or services where the maximum value is estimated to be **£100**, no formal written or verbal competitive quotations are required. However, Officers should be encouraged to obtain value for money
- For work, supplies or services where the value is estimated to be between **£100-£5,000**, no formal written competitive quotations are necessary, but due regard shall be had to the desirability of securing competition by verbal enquiry and written confirmation, where appropriate
- For work, supplies or services already approved by the Council where the value is estimated to be between **£5,000-£50,000**, the appropriate Head of Service or their designated Officer may place a written order after obtaining at least three competitive written quotations. A verbal order may be placed in cases of urgency but must promptly be confirmed in writing
- For contracts whose estimated value is expected to be greater than £50,000 for work, supplies or services already approved by the Council, tender procedures shall be adopted. It should be noted that the **£50,000** de minimus limit is to be applied to the whole contract, i.e. this is NOT the annual limit but the limit for the estimated value over the whole life of the contract. Competitive written tenders must be requested from at least four persons in business in the subject matter of the contract.

(It should be noted that best practice would require the Head of Service to ensure that any contractor undertaking work for the Council, irrespective of its value, should supply the Council with a copy of their Health and Safety Policy document and relevant insurance documentation before any order is placed.)

**The circumstances that may justify an exemption from Contract Procedure Rules are contained within CPR 20. However, in addition to this arrangement there may be circumstances where albeit a compliant procurement exercise has been undertaken, it has not resulted in the requisite number/type of quotations to comply with Contract Procedure Rules.**

**In summary the following procedures should be followed for an exemption from CPR's:**

- for work, supplies or services where the value is estimated to be between **£5,000-£50,000**, complete an 'application for approval of exception from financial regulations & contract standing order requirements' form (**see Appendix F**) and obtain approval from the relevant Head of Service, the S151 Officer, and the Head of Legal and Democratic Services in advance of placing the order
  - for work, supplies or services already approved by the Council where the value is estimated to be greater than **£50,000**, complete an 'application for approval of exception from financial regulations & contract standing order requirements' form
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(see **Appendix F**) and obtain approval from the relevant Head of Service, S151 Officer, the Head of Legal and Democratic Services and the either the relevant Cabinet Member, or the Finance, Legal and ICT Portfolio Holder, in advance of placing the order/letting the contract.

- 4.66 The Head of Legal and Democratic Services shall present a report to the “Audit Committee” summarising all exemptions (if any) granted during the previous twelve month period.
- 4.68 To utilise the central purchasing procedures established by the Head of Legal and Democratic Services in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Authority’s Contract Procedure Rules and will cover:
- (a) authorised officers and the extent of their authority
  - (b) advertisement for tenders
  - (c) procedure for creating, maintaining and revising a standard list of contractors
  - (d) selection of tenderers
  - (e) compliance with UK and EU legislation and regulations
  - (f) procedures for the submission, receipt, opening and recording of tenders
  - (g) the circumstances where financial or technical evaluation is necessary
  - (h) procedures for negotiation
  - (i) acceptance of tenders
  - (j) the form of contract documentation
  - (k) cancellation clauses in the event of corruption or bribery
  - (l) contract records
  - (m) all IT equipment should be in line with approved Council IT Standards and acquired in consultation with the IT Manager.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

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

- 4.79 Staff costs are the largest item of expenditure for most Authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals’ conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members’ Allowances are authorised in accordance with the scheme adopted by the Full Council.

### **Key controls**

- 4.80 The key controls for payments to Employees and Members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
    - starters
    - leavers
    - variations
    - enhancements

and that payments are made on the basis of timesheets or claims

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- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
- (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (d) that Inland Revenue regulations are complied with.

### **Responsibilities of the Head of Financial Services**

- 4.81 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 4.82 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.83 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.84 To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.85 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 4.86 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

### **Responsibilities of Chief Officers**

- 4.87 To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
  - 4.88 To notify the Head of Financial Services of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Head of Financial Services.
  - 4.89 To ensure that adequate and effective systems and procedures are operated, so that:
    - payments are only authorised to bona fide employees
    - payments are only made where there is a valid entitlement
    - conditions and contracts of employment are correctly applied
    - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
  - 4.90 To send an up-to-date list of the names of Officers authorised to sign records to the Head of Financial Services, and Internal Audit, together with specimen signatures. The payroll provider should have signatures of Personnel Officers and Officers authorised to sign timesheets and claims.
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- 4.91 To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Head of Financial Services.
- 4.92 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances were properly payable by the Authority, ensuring that cost-effective use of travel arrangements was achieved. Due consideration should be given to tax implications and that the Head of Financial Services is informed where appropriate.
- 4.93 To ensure that the Head of Financial Services is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 4.94 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Officers**

- 4.95 To submit claims for travel, subsistence and other allowances on a monthly basis and, in any event, within one month of the previous month end. To include and maintain in their policy of motor insurance a clause indemnifying the Authority against all third party claims (including those concerning passengers) arising out of the use of their vehicle on official business. This means that you must ensure that your motor insurance policy covers you when you are using your car on official business – your policy should include cover for ‘business use’.

### **Responsibilities of Members**

- 4.96 To submit claims for Members’ travel and subsistence allowances on a monthly basis and, in any event, within one month of the previous month end.

## **TAXATION**

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

- 4.97 Like all organisations, the Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all Officers to be aware of their role.

### **Key controls**

- 4.98 The key controls for taxation are:
- (a) Budget Managers are provided with relevant information and kept up to date on tax issues
  - (b) Budget Managers are instructed on required record keeping
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- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the Head of Financial Services**

- 4.99 To ensure the completion of all Inland Revenue returns regarding PAYE.
- 4.100 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 4.101 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme and the entertainers' tax scheme.
- 4.102 To maintain up-to-date guidance for Authority employees on taxation issues.

### **Responsibilities of Chief Officers**

- 4.103 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations; to consult with the S151 Officer on the VAT implications of capital schemes and new or changed initiatives and services.
- 4.104 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 4.105 To ensure that all persons employed by the Authority are added to the Authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency. To follow the guidance on taxation issued by the S151 Officer.
- 4.106 Where foreign travel is required by Officers for the purposes of their official duties, this shall only occur following approval by the Chief Executive (or in his absence the Strategic Director of Corporate Services).

## **SIGNIFICANT TRADING ACCOUNTS AND BUSINESS UNITS**

### **Why are these important?**

- 4.107 Trading accounts and business units have become more important as Local Authorities have developed a more commercial culture. Under best value, Authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

### **Responsibilities of the S151 Officer**

- 4.108 To advise on the establishment and operation of trading accounts and business units.
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## **Responsibilities of Chief Officers**

- 4.109 To consult with the S151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
  - 4.110 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
  - 4.111 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
  - 4.112 To ensure that each business unit prepares an annual business plan.
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## LAND AND PROPERTY

# Sale of Land and Property

4.112 All disposals of land and property (including the lease of land and property at a premium) shall be subject to two approvals

<u>Type of Approval</u>	<u>Anticipated Proceeds</u>	<u>Body which gives approval</u>
In Principle	£50,000 or more	Cabinet
In Principle	between £25,000 - £49,999	Relevant Cabinet Member
In Principle	below £25,000	Head of Property Services
Final	£100,000 or more	Cabinet
Final	between £50,000 - £99,999	Relevant Cabinet Member
Final	below £50,000	Head of Property Services

4.113 All disposals of land and property shall be made in accordance with the following policy guidelines:-

- (a) as a general rule all land and property disposals shall be submitted to competitive tender;
- (b) it is accepted, however, subject to the prior approval of the Cabinet Member, that an alternative disposal method might be preferable;
- (c) in the event of a disposal other than by competitive tender at a price of that specified in Item 15 of Part 1 of the Schedule [£100,000] or above, an independent formal written valuation shall first be obtained;
- (d) in the event of a disposal other than by competitive tender at a price less than that specified in Item 16 of Part 1 of the Schedule [£100,000], an independent valuation shall be obtained only if the Head of Property Services considers this to be appropriate and also in all cases where the disposal is to a Member or Officer (or direct relative of either); and
- (e) in determining whether or not an independent valuation should be obtained the Head of Property Services shall take into account any special circumstances relating to the transaction. Independent valuations will be required in cases of unusual or complicated sales and normally in any instance where there is either a significant lapse of time between the tender being sought and detailed negotiations with a purchaser being concluded or when a change occurs in the nature of the property being sold.

4.114 Where the marketing of land and property is to be by way of formal competitive tender, tenders shall be invited in accordance with the Contract Procedure Rules.

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## **Leases of Land and Property**

4.115 Approval to the main terms for the grant or renewal of a lease (but excluding leasehold disposals at a premium) shall be as follows:-

- (a) where the annual rental is at/above £20,000 by the Cabinet;
  - (b) where the annual rental is less than £20,000 by the Head of Property Services.
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## 5. External Arrangements

### **PARTNERSHIPS**

#### **Why are these important?**

- 5.01 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local Authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local Authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 5.02 Local Authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local Authorities will be measured by what they achieve in partnership with others.

#### **General**

- 5.03 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk
  - (b) the ability to access new resources
  - (c) to provide new and better ways of delivering services
  - (d) to forge new relationships.
- 5.04 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
  - (b) a body whose nature or status give it a right or obligation to support the project.
- 5.05 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others
  - (b) acting as a project funder or part funder
  - (c) being the beneficiary group of the activity undertaken in a project.
- 5.06 Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
  - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
  - (c) be open about any conflict of interests that might arise
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- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project.

### **Key controls**

5.07 The key controls for Authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the Authority's Financial Regulations and the Contract Procedure Rules
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibilities of the S151 Officer**

5.08 To advise on effective controls that will ensure that resources are not wasted.

5.09 To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements.

5.10 To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of Chief Officers**

5.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the S151 Officer.

5.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the S151 Officer.

5.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Authority.

5.14 To ensure that all agreements and arrangements are properly documented.

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5.15 To provide appropriate information to the S151 Officer to enable a note to be entered into the Authority's statement of accounts concerning material items, and any material relationships with partners.

## **EXTERNAL FUNDING**

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

5.16 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Authority. Local Authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan. It is important that a corporate perspective is taken in relation to external funding, and that funding bids are not made in isolation. It is also important that any Council matched contribution is properly identified within the Council's overall budget.

### **Key controls**

5.17 The key controls for external funding are:

- to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council
- to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the S151 Officer**

5.18 To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

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- 5.19 To ensure that the match-funding requirements are considered **prior** to entering into the agreements and that future revenue budgets reflect these requirements. These considerations, and any other relevant matters, including exit strategies, are to be included in a report to the Cabinet prepared by the relevant Chief Officer in consultation with the S151 Officer, upon **notification** of any grant award. This report must clearly state any resource requirements from the Authority and whether these are additional requirements or already included within the budget. No grant awards can be accepted without prior approval by Cabinet, except for where an acceptance is required urgently. In the case of an “urgent” decision, providing the acceptance has no additional financial implications, and is not considered to be a change to the overall policy/budgetary framework, the acceptance of grant can be approved by the S151 Officer, with any amendments to capital/revenue budgets being reported at a later stage.
- 5.20 To ensure that audit requirements of any grant funding are met.

### **Responsibilities of Chief Officers**

- 5.21 To ensure that all claims for funds are made by the due date.
- 5.22 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.
- 5.23 To ensure any applications for funding are identified to the Head of Financial Services, and that any awards of funding are also identified to the Head of Financial Services to ensure compliance with these regulations in relation to reporting to Cabinet (see 5.19).

**In cases where the award of grant results in financial implications that cannot be met from existing budgetary provision, approval is required from both the Cabinet and Council prior to the funding being taken up.**

## **SECTION 106 AGREEMENTS**

### **Why is this Important ?**

- 5.24 The Council receives resources from Section 106 agreements. The agreements giving rise to these resources and their use thereafter must be considered in a consistent manner, in line with Council priorities. A detailed set of procedures regarding the S106 process has been produced.

### **Key Controls**

- 5.25 Funding is accounted for within the overall Revenue and Capital budgets (where appropriate), in line with approved processes for approving/amending Capital/Revenue budgets.
- 5.26 Resources are used in a manner consistent with the S106 agreement.

### **Responsibilities of the S151 Officer**

- 5.27 To ensure where applicable that funds arising from S106 agreements are incorporated within the Council’s approved Capital Strategy.
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## **Responsibilities of Chief Officers**

- 5.28 To provide relevant information in relation to S106 agreements to the Planning Committee/Cabinet (where relevant), including identifying available options.
- 5.29 Where a capital project is submitted as part of the consideration of potential new capital projects, which is dependant upon S106 funding, the relevant S106 agreement must previously have been identified to the Cabinet, and received approval for the allocation of resources. Where this is not the case, the scheme would not be considered, until such a time as the relevant S106 has been separately considered/ approved.
- 5.30 To regularly review all S106 agreements, in particular any sums that remain unallocated should be reviewed regularly.

## **WORK FOR THIRD PARTIES**

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

- 5.31 Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.

### **Key controls**

- 5.32 The key controls for working with third parties are:
- (a) to ensure that proposals are costed properly in accordance with guidance provided by the S151 Officer
  - (b) to ensure that contracts are drawn up using guidance provided by the S151 Officer and that the formal approvals process is adhered to

## **Responsibilities of the S151 Officer**

- 5.33 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

## **Responsibilities of Chief Officers**

- 5.34 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- 5.35 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the S151 Officer.
- 5.36 To ensure that appropriate insurance arrangements are made.
- 5.37 To ensure that the Authority is not put at risk from any bad debts.
- 5.38 To ensure that no contract is subsidised by the Authority.
-

- 5.39 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 5.40 To ensure that the service area/unit has the appropriate expertise to undertake the contract.
- 5.41 To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- 5.42 To ensure that all contracts are properly documented.
- 5.43 To provide appropriate information to the S151 Officer to enable a note to be entered into the statement of accounts.

## PAYMENT OF GRANTS AND CONTRIBUTIONS TO OTHER BODIES

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

- 5.44 Grants to outside organisations should be in line with Council priorities, and should be within budgetary limits. Any contributions should also not expose the Council to potential further additional costs, or other associated risks.

### **Key Controls**

- 5.45 All grants/contributions (financial or “in kind”) of a value greater than £10,000 should have prior approval of the Cabinet. Amounts below this should have approval of the Head of Service, S151 Officer, and the Cabinet Member, (except for grants approved by Area Committees). Any approvals should be able to be met from within budgetary limits.
- 5.46 The granting to an outside body of non-financial benefit (e.g. use of land/buildings, concessions) is subject to the same approval process as a financial grant.
- 5.47 Grants should be subject to terms and conditions approved by the Head of Legal and Democratic Services. In particular the Council’s contribution should be limited, and should not in any way be an open-ended contribution.
- 5.48 Advice upon all proposed grant payments/grants “in kind” should be sought from Financial and Legal Services well in advance of the payment being made.
- 5.49 Consideration should be given to ensuring that the Council’s contribution is recognised in some manner.

### **Responsibilities of the S151 Officer**

- 5.50 To provide advice to Chief Officer in relation to payments to outside bodies.

### **Responsibilities of Chief Officers**

- 5.51 To ensure that the relevant approvals are obtained before any grants are made to outside bodies.
-

- 5.52 To maintain a register of all grants offered to outside bodies in accordance with procedures specified by the S151 Officer.
  - 5.53 To ensure that appropriate insurance arrangements are made where applicable.
  - 5.54 To ensure that the Authority is not put at risk from any grant.
-

**APPLICATION FOR APPROVAL OF EXEMPTION FROM  
FINANCIAL AND CONTRACT REGULATION REQUIREMENTS**

*CONTRACT:*

*ISSUE NUMBER:*

**SERVICE RESPONSIBLE:**

Reasons requiring exemption from Financial Regulations:

<b>Annual Budget/Actual Expenditure</b>	

APPLICATION/APPROVAL BY HEAD OF SERVICE:

DATE OF APPLICATION/APPROVAL:

APPROVED BY S151 OFFICER:

DATE OF APPROVAL:

APPROVED BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

DATE OF APPROVAL:

APPROVED BY CABINET MEMBER (ITEMS ABOVE £50,000 ONLY)

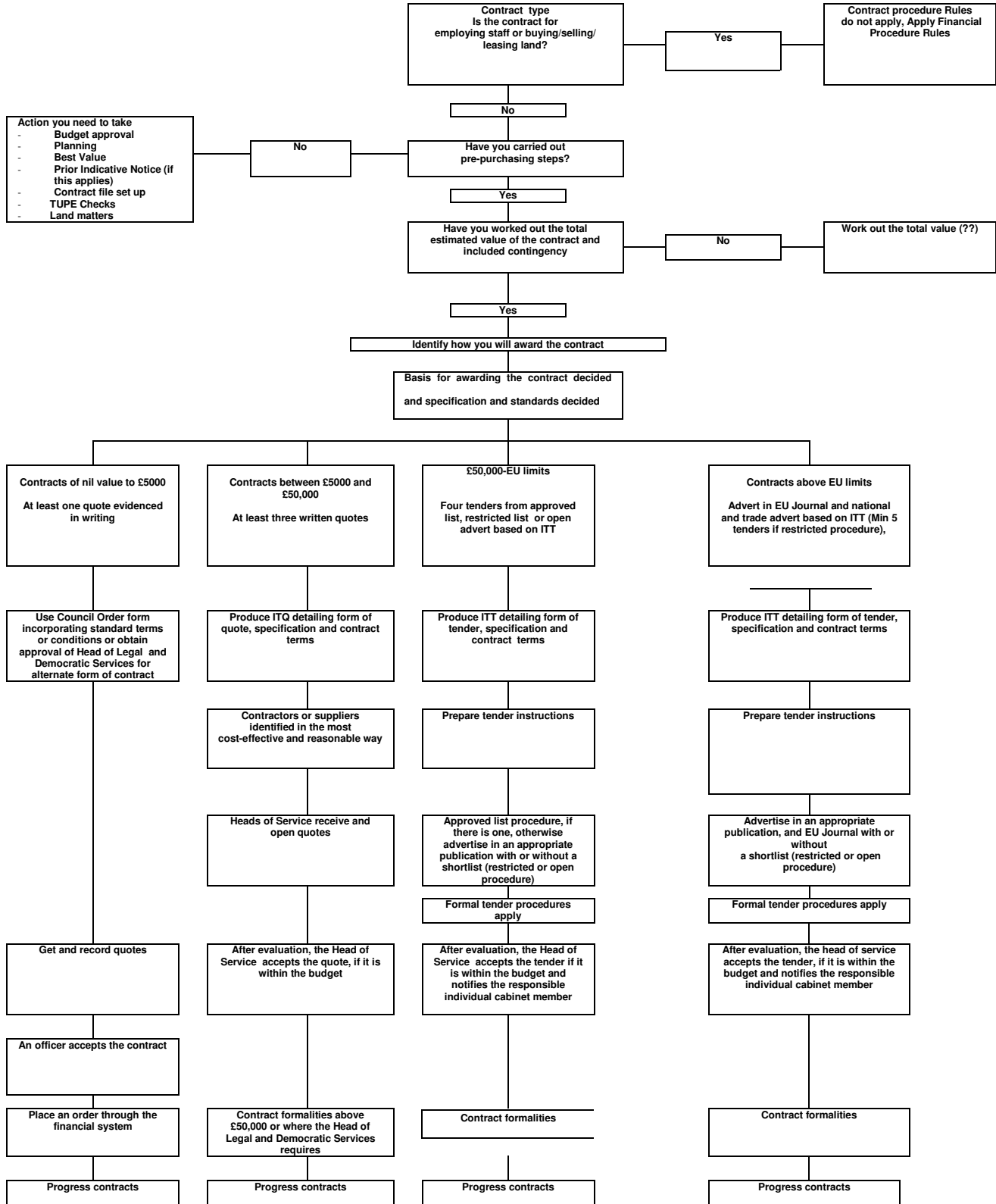
DATE OF APPROVAL:

*ONCE THE ABOVE APPROVALS HAVE BEEN OBTAINED, THE EXCEPTION MAY PROCEED.*

COMPLETED FORMS TO BE RETURNED TO LEGAL SERVICES

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## PART III - CONTRACT PROCEDURE RULES



This table only briefly explains Contract Procedure Rules. You should still read all these Contract Procedure Rules fully.



## 1. INTRODUCTION

- 1.1 The definitions used in these Contract Procedure Rules (CPRs) are set out in Part IV.
- 1.2 Every Contract made by the Council shall be conducted in accordance with these CPRs except:-
  - (a) where an exemption is made by the Cabinet or a Committee satisfied that special circumstances justify an exemption;
  - (b) in cases where the Council is acting on behalf of, or under arrangements with another body and it is a requirement that the rules of that body apply.
- 1.3 Any exemption made in accordance with paragraph 1.2(a) above shall be recorded in the minutes.
- 1.4 The financial limits and thresholds specified in the Schedule shall be reviewed every two years by the Cabinet.
- 1.5 Any Contract with a value exceeding £50,000 entered into on behalf of the Council must be signed by any two of the authorised Officers referred to in Paragraph 14.06 of Article 14 or made under the Common Seal of the Council and attested in accordance with paragraph 14.05 of Article 14.
- 1.6 Subject to Contract Procedure Rule 14.1 any contract with a value of £50,000 or less shall be signed by any one of the authorised Officers in Paragraph 14.06 of Article.14.
- 1.7 Heads of Service shall provide the Head of Legal and Democratic Services with any necessary information and access to all documents and records under their control as may be required to fulfil all the obligations and requirements of these CPRs.
- 1.8 The decision of the Chief Executive will be final in any matter concerning the interpretation of these CPRs.

## 2. GENERAL RESPONSIBILITIES OF HEADS OF SERVICE

- 2.1 In procuring works, goods and/or services Heads of Service shall always:-
    - (a) achieve Best Value for public money spent;
    - (b) show no undue favour to any Contractor, nor discriminate against Contractors from other EU states;
    - (c) conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);
    - (d) do nothing that contravenes EU or domestic law;
    - (e) ensure that adequate Contract Files are kept for all Contracts upon which they are engaged;
    - (f) ensure that before entering into any Contract:-
      - (i) there is adequate approved budgetary provision;
      - (ii) in relation to capital schemes, the necessary Capital Start Authority has been obtained;
      - (iii) there is the appropriate authority.
    - (g) ensure that their staff comply strictly with Contract Procedure Rule 3
    - (h) keep a register of all contracts where the contract value is below £50,000
    - (i) Ensure that all Contracts where the contract value exceeds £50,000 are passed to the Head of Legal and Democratic Services for sealing and safekeeping.
    - (j) keep a record of all exemptions recorded under Contract Procedure Rule 39
  - 2.2 For the purposes of these CPRs, the estimated value of a contract shall be the estimated total value net of VAT.
-

- 2.3 Contracts must not be artificially divided to keep them below any threshold which may apply.
- 2.4 Where a Contract spans more than one accounting period then for the purposes of these CPRs the aggregate value of the Contract shall be taken to be the Contract value.

### **3 OFFICER RESPONSIBILITIES**

- 3.1 The Officer responsible for a purchase, disposal or submission of a tender must comply with these standing orders, Financial Regulations, Code of Conduct and with all UK and European Community binding legal requirements.
- 3.2 The Officer is responsible for ensuring that:
- i) the requisite authority under the Constitution is obtained to enter into a contract
  - ii) A specification that will form the basis of the contract is prepared
  - iii) An estimate of the whole life cost of a proposed contract, including maintenance and on-going costs is prepared
  - iv) That a risk register is prepared in respect of contracts with an estimated value greater than £50,000
  - v) That any proposed contractor has the technical capability to deliver the project
  - vi) Any proposed contractor has the financial and resource capacity (taking into account contract value and risk) to perform the contract
  - vii) These rules, the Financial Procedure Rules and any Codes of Practice are complied with
  - viii) Any agents, consultants, and contractual partners acting on the Council's behalf follow a process which provides for equivalent competition to these rules.
  - ix) That he takes all necessary legal, financial and professional advice

(c) The Officer shall maintain a contract file in respect of each procurement exercise for a contract with a value exceeding £5,000 which will include:

- a. The name of officers undertaking the procurement process
- b. The rationale for the procurement route taken
- c. A copy of the specification
- d. In relation to contracts with a value exceeding £50,000, the risk register
- e. a written record of any exemption from standing orders and the reason for it.
- f. Copies of all tenders or quotations
- g. A copy of the evaluation process and reasons for the decisions as to acceptance or rejection of every tender or quotation
- h. A copy of any debrief request and the response thereto
- i. The award letter
- j. The order form or copy of the final contract
- k. Copies of the contract review and management process including the details of the officer responsible for on-going contract management
- l. A copy of any extension to the contract in accordance with CPR

(d) The Officer shall offer a debrief to all tenderers whether successful or not, to assist them in preparing future bids.

### **4 STEPS PRIOR TO PROCUREMENT**

- 4.1 Prior to procuring goods or services officers must
- (a) take into account the requirements arising from any Best Value review
  - (b) ascertain whether a contractual arrangement is already in place or central purchasing arrangements exist or are being contemplated
  - (c) appraise the need for the expenditure and its purpose
  - (d) define the objectives of the purchase
  - (e) assess the risks associated with the procurement and determine how to manage them
-

- (f) ascertain whether the service can be undertaken in-house from within the Council's own resources
- (g) consider what procurement method is most likely to achieve the purchasing objectives, including using a framework agreement, consortium, collaboration with other purchasers, partnering and long-term relationships
- (h) prepare a specification and consider any European or British Standards that may need to be spied
- (i) identify and obtain any approvals that may be required
- (j) estimate the value and record how that estimate was arrived at
- (k) determine how any tender or quotation will be evaluated
- (l) prepare communications upon how any tender or quotation will be evaluated to prospective tenderers
- (m) ascertain whether a "prior information notice" has been, or should be, published
- (n) identify whether a standard form of contract which has been approved by Legal Services for the proposed procurement exists, and should be specified when inviting quotations or tenders

## **5 CORPORATE PURCHASING ARRANGEMENTS**

- 5.1 Where a recurring pattern of purchases for like works, supplies or services is identified, advice should be sought from the Corporate Procurement Officer upon establishing and adopting Central Purchasing Arrangements. Consideration should be given to:
- (a) Whether the works, supplies or services are or are capable of being delivered by the Council itself
  - (b) Whether a nationally or regionally negotiated contract exists which can be accessed (for example through the Office of Government Commerce or Centre of Excellence)
  - (c) Whether one or more Corporate Framework Contracts or arrangements will provide better value in terms of price, service, invoicing or other administration costs.
  - (d) Whether letting such a contract through a consortia of which the Council is a member will achieve procurement efficiencies
  - (e) Whether goods services or works would be better obtained through a Measured Term contract
  - (f) Whether efficiencies can be gained through the adoption of an e-procurement solution such as a Purchasing card
  - (g) How any consequent procurement exercise will be lead and managed
- 5.2 A Framework Contract to which more than one contractor is party must provide for competition between the contractors in respect of any Call Off above £50,000
- 5.3 Where aggregate annual spend in a given category of supply or service exceeds EU Procurement levels any Contract must be tendered in accordance with EU Procurement Rules for a maximum duration of four years.
- 5.4 Any framework contract let by the Council in accordance with EU rules shall include the following text within the OJEU notice:
- "Tenderers should be aware that although the contracting authority for the purposes of this procurement is Scarborough Borough Council one or more other local authorities and/or public bodies may choose to access the concluded contract, without creating any obligation on behalf of any of them to do so".
- 5.5 Where central purchasing arrangements exist or are established there shall be a presumption in favour of using those arrangements. These include arrangements undertaken by the following Heads of Service:-
- (a) Head of Legal and Democratic Services for general materials, plant and vehicles
  - (b) Head of Legal and Democratic Services for office equipment, printing and stationery
  - (c) Head of Engineering and Harbours for Construction Consultancy Services;
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- (d) Head of Finance for computer equipment; and
- (e) Head of Tourism and Leisure Services for catering stores.

Any departure from the foregoing arrangements must be agreed in writing with the central purchasing service concerned.

- 5.6 Unless the Council is obliged by a third party to offer work to competitive bids (for example where there is grant funding) goods, services or works should be obtained from in house services or approved central purchasing arrangements.

## **REQUIREMENT TO OBTAIN QUOTATIONS OR TENDERS**

### **6 PRE-TENDER/QUOTATION ENQUIRIES**

- 6.1 The Officer responsible for the purchase:-

- (a) may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential Contractor

- 6.2 In making enquiries:-

- (a) no information shall be disclosed to one Contractor which is not then disclosed to all those of which enquiries are made;
- (b) no Contractor shall be led to believe that the information they offer will necessarily lead to them being invited to tender or quote, or awarded the Contract;
- (c) no technical advice on the preparation of the Invitation to Tender or Quotation must be sought from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Contractors or distort competition
- (d) a written record including notes of any meetings held and persons and names of any individuals present shall be kept on the Contract File.

### **7. CONTRACT SPECIFICATIONS**

- 7.1 Before entering into a contract with any firm, or arranging for works or services to be carried out by another Head of Service, the appropriate Head of Service must:

- (a) be satisfied that a Specification which will form the basis of the contract/arrangement has been prepared; and
- (b) have prepared and documented an estimate of the cost of the contract/arrangement, including where appropriate any maintenance costs

- 7.2 Contract specifications shall specify

- (a) the task required, their volume and frequency
- (b) the level of input, time and resources required or the outputs required
- (c) the facilities on-site and access to them
- (d) the standards of performance expected
- (e) the length of any contract and any other details not included elsewhere
- (f) quality of materials
- (g) relevant Council policies

- 7.3 Technical specifications shall be defined by reference to relevant European specifications or, where they do not exist, in the following order: to British technical specifications, British standards implementing international standards, other British standards and technical approvals or any other standards.

- 7.4 Technical specifications should not refer to trade marks, nominated suppliers, patents, specific makes, sources or means of production unless the subject matter of the contract either:

- (a) justifies the reference or
-

(b) cannot otherwise be described by reference to technical specifications that are sufficiently precise and intelligible to all contractors. In such circumstances the specification must be qualified by the words “or equivalent”.

## 8. PROCEDURES FOR CONTRACTS WITH A VALUE UP TO £5,000

8.1 For Contracts with a value up to £5,000 the only requirement is that at least one quote shall be sought and evidenced in writing.

## 9. PROCEDURES FOR CONTRACTS WITH A VALUE BETWEEN £5,001 AND £50,000

9.1 For Contracts with a value between £5,001 to £50,000 at least three written quotations shall be requested upon an **Invitation to Quote**. The Invitation to Quote must:

- (a) be in a form approved by the Head of Legal and Democratic Services
- (b) specify the goods, services or works that are required, together with the terms and conditions of contract that will apply, and
- (c) state that the Council is not bound to accept any Quotation

9.2 All quotations shall be either:

- (a) addressed to the appropriate Head of Service or Corporate Procurement Officer in an unmarked, sealed envelope endorsed only with the word “Quotation” and the subject matter of the quotation; or
- (b) delivered to the appropriate Head of Service or Corporate Procurement Officer via an electronic procurement system which has been adopted by the Council

9.3 A quotation may be accepted by the appropriate Head of Service provided that where the most economically advantageous criteria is used a written note shall be placed on the Contract File giving the reason(s) for accepting the quotation.

9.4 Unless the Head of Legal and Democratic Services considers a formal contract document is necessary, orders for procuring goods and/or services the value of which is no greater than £50,000 shall be on the official form of order (official order) as approved by the Head of Legal and Democratic Services.

9.5 All official orders must refer to the Invitation to Quote and be issued in sufficient detail:

- (a) to identify the works, goods and/or services required,
  - (b) the price to be paid,
  - (c) the time within which the contract is to be performed
- and show the appropriate expenditure code.

9.6 Competitive prices may be sought and received electronically provided that hard copies of all electronically processed information and correspondence relating to the price are made and retained on the contract file.

9.7 Officers authorised to sign official orders shall not certify the receipt of any goods or services for which they have signed the order.

9.8 Any orders which are given orally must be confirmed by an official order on the same day, or as soon as possible thereafter.

9.9 Where goods and/or services are obtained under agreement from a Contractor throughout a year it shall be sufficient to invite quotations once in that year, however, consideration must be given to establishing a Framework or Term Contract.

## 10. PROCEDURES FOR CONTRACTS WITH A VALUE BETWEEN 50,001 AND EU PROCUREMENT LEVELS

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10.1 Any Contract with a value between £50,001 and EU Procurement levels shall be procured upon an **Invitation to Tender** in accordance with the Approved List or Restricted Procedure unless the appropriate Head of Service in consultation with the Strategic Director of Corporate Services, has decided that tenders for a Contract are to be obtained by open competition on the basis that the approved list or restricted list procedure would be inappropriate for the particular Contract.

## 10.2 Approved List Procedure

10.2.1 The Approved List procedure shall be used where the appropriate Head of Service, in consultation with the Head of Legal and Democratic Services and the Strategic Director of Corporate Services has determined that a list shall be kept of persons to be invited to tender for Contracts for the supply of goods and/or services of specified categories, values or amounts.

10.2.2 The list shall:-

- (a) be compiled and maintained by the Corporate Procurement Officer or in such other manner as the Cabinet may approve
- (b) contain the names of all Contractors who are approved for inclusion in Invitations to Tender under the Approved List Procedure ; and
- (c) indicate whether the Contractors whose names are included in it are approved for Contracts for all or only some of the specified values, amounts or categories.

10.2.3 At least four weeks before the list is first compiled public notice inviting applications for inclusion on the list shall be published via the Council's website and/or Electronic Contract Management System Thereafter the list may be compiled and maintained in such manner as Cabinet may approve.

10.2.4 Where an invitation to tender for a Contract is limited to Contractors whose names appear on the list, invitations to tender shall be sent to:-

- (i) not less than four Contractors selected in a manner that ensures open and fair competition amongst those approved for a Contract of the relevant category or value; or
- (iii) where fewer than four Contractors are approved for a Contract of the relevant category and value, all those Contractors.

## 10.3 Restricted Procedure

10.3.1 The restricted procedure shall be used where the proposed Contract does not fall within one of the specified categories for the approved list procedure.

10.3.2 Where this procedure applies, the invitation to tender is to be limited to Contractors who reply to a public notice advertising the Contract.

10.3.3 Public notice shall be given in at least one local newspaper and, at the appropriate Head of Service's discretion, in other trade, regional or national media. The response time allowed should be at least fourteen days. [For EU contracts, notices must be placed in the OJEU at the same time and the response time must be in accord with EU Timescales]. The advertisement must include the following information:

- (a) what the contract involves (and if available the form of contract to be used)
  - (b) an invite to people to register their interest
  - (c) that when they register they must provide
    - (i) proof of their technical ability
    - (ii) their financial position
    - (iii) their equalities policy
    - (iv) health and safety policy
    - (v) environmental policy, and
-

- (vi) any other information that is identified as necessary
- (d) that a shortlist will be drawn up and only contractors or suppliers on the shortlist will be invited to tender: and
- (e) the timescales involved and the name and address of the Head of Service, so that they can register their interest and return the information.

10.3.4 After the expiration of the period specified in the public notice, the contractors who are proposed to be Invited to Tender shall be reported to the appropriate Cabinet Member for approval and Invitations To Tender for the Contract sent to not less than four Contractors (save that all Contractors who have provided the information required under rule 10.3.3(c) will be invited to tender where fewer than four respond).

[10.3.5 If EU procurement legislation applies, any advertisements, timescales and procedures must be in accordance with the requisite EU timescales and the number of Contractors invited to tender in accordance with rule 10.3.4 is increased to five.]

#### 10.4. Open Procedure without shortlisting

10.4.1 The open tendering procedure allows for all contractors who are interested in tendering for a contract to submit a tender. It shall apply where:-

- (a) a Head of Service in consultation with the Strategic Director of Corporate Services has decided that tenders for a Contract are to be obtained by open competition on the basis that other forms of tendering for the Contract are unlikely to give rise to adequate competition; or
- (b) the Contract and subsequent documentation is for the disposal of land.

10.4.2 Where this procedure applies at least ten days public notice shall be given in one or more local newspapers and, at the appropriate Director's discretion, in other regional or national media and appropriate trade journals.

10.4.3 The advertisement must include the following information:

- (a) what the contract involves
- (b) an invite to people to register their interest
- (c) that an Invitation to Tender and questionnaire are available when they register which they should complete in full and return to the Council to consider
- (d) the latest date and time by which they must return their completed tender, questionnaire and other documents
- (e) the name and address of the Head of Service so that they can register their interest and obtain the tender and questionnaire

10.4.4 An Invitation to Tender and questionnaire must be sent to everyone who shows an interest.

[10.4.5 If EU procurement legislation applies, any advertisements, timescales and procedures must be in accordance with the requisite EU timescales.]

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## CONTRACTS TO WHICH EC PROCUREMENT RULES APPLY

### 11. Thresholds

- 11.1 Advice should be sought from the Head of Legal and Democratic Services in respect of any procurement with an estimated value greater than EC Procurement thresholds upon whether EC Procurement Rules apply. The threshold values are reviewed on a regular basis, normally every two years. Table 1 identifies when EC Procurement Rules are likely to apply:

**Table 1: EC Procurement Thresholds - Valid from January 2006**

	All Procedures	Prior-information Notice
Supplies	£144.371	£513,166
Services	£144.371	£513,166
Works	£3,611,319	£3,611,319

- 11.2 Procurement exercises with an estimated contract value within 10% of Threshold levels where EC Procurement Rules apply should also be advertised in the OJEU to avoid OJEU advertising requirements being unintentionally breached.

### 11.3 Standards

If the European Committee for Standardisation (CEN) has issued a relevant standard, all the goods and materials used or supplied, and all the work done under the contract, must be in line with that standard.

### 11.4. The Euro

A provision should be included in any contractual documentation requiring the contractor to convert prices from sterling to Euro and to submit invoices for payment accordingly once we give the contractor notice to do this.

### 11.5 Number of tenderers

If the contract is expected to exceed EC limits, a minimum of five contractors or suppliers must be invited to tender save where the adopted procedure provides otherwise. (In cases where fewer than five contractors or suppliers apply and are shortlisted, all contractors or suppliers must be invited to tender.)

- 11.6 If during the course of a competitive tendering exercise, an officer becomes aware that the value of bids received exceeds the EC Thresholds, but bid invitations have not been extended through the OJEU notice procedure - as it was anticipated that the threshold would not be exceeded advice must be sought from the Head of Legal and Democratic Services upon how to proceed.

- 11.7 Where the Council has an aggregated requirement for specified goods or services with an estimated annual value at or greater than the figures provided in Table 1, a Prior Indicative Notice (PIN) must be placed in the Supplement to the Official Journal of the European Community (OJEU) once annually.
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## 11.8 Buyer's Profile

The Corporate Procurement Officer shall publish and maintain a buyer's profile via the internet incorporating the following information:

- (a) a brief description of future and current tenders within the year 1 April to 31 March
- (b) the date the advert was dispatched to OJEU
- (c) the OJEU reference number
- (d) the closing date for notification of interest in relation to expressions of interest
- (e) the tender dispatch date
- (f) the closing date for tenders
- (g) the award date
- (h) the identity of the successful tenderer
- (i) the award notice reference number
- (j) the date of the award notice

## 11.9 EC Procedures:

All contracts with a value in excess of EC limits shall be let in accordance with a procurement method which is acceptable within EC law. The acceptable methods are:

- (a) the Restricted Procedure, (rule 10.3 above) ;
- (b) the Open Procedure, (rule 10.4 above);
- (c) the Negotiated Procedure, under which purchasing bodies may negotiate the terms of a contract with one or more suppliers of their choice. The Negotiated Procedure must never be used without specific written advice from the Head of Legal and Democratic Services confirming that he considers that the procedure applies. Advice upon the potential application of the Negotiated Procedure must be sought where:
  - (i) the open or restricted procedure has produced no tenders
  - (ii) the contract follows a design contest and the rules require it to be awarded to the successful contestant
  - (iii) there is extreme urgency and:
    - (a) the events that have led to extreme urgency were not foreseeable and were not attributable to the contracting authority,
    - (b) the time limits required for open and restricted procedures cannot be met, and
    - (c) the scope of proposed contract is necessary to respond to the immediate emergency.
  - (iv) an open or restricted procedure was discontinued because of irregular tenders.
- (d) Competitive Dialogue: subject to the agreement of the Head of Legal and Democratic Services the authority may use the Competitive Dialogue procedure to advertise its needs, requirements and Award Criteria rather than a specific contract, to enable the development of solutions for a final contract through dialogue:

The pre-tender stage:

- (i) determination of the form of contract to be tendered is not required prior to the final tender stage
  - (ii) a candidate submitting a bid within the competition must be treated equally with, and be provided with the same information as, any other candidate;
-

- (iii) information provided by candidates within the competition is treated as confidential and must not be disclosed to third parties, save with the agreement of the candidate concerned;
- (iv) the evaluation team may enter into dialogue with a number of candidates in order to:
  - a. develop solutions upon which to invite tenders and
  - b determine the Award Criteria to be applied

The preliminary tender stage:

- (v) a minimum of three candidates must be selected to participate in the preliminary tender stage unless less than three candidates meet the Award Criteria, in which case all qualifying candidates must be invited to participate;
- (vi) the evaluation team may enter into dialogue with those invited to submit a preliminary tender to:
  - a. clarify their preliminary tenders
  - b. ensure they meet the authority's requirements and
  - c. establish the principal terms for the proposed contract
- (vii) the evaluation team must evaluate the preliminary tenders against the pre-determined Award Criteria to determine which preliminary tender is the most economically advantageous,

The final tender stage:

- (viii) at the final tender stage best and final offers on the proposed contract must be invited from those tenderers who have submitted a preliminary tender and have not formally withdrawn from the process
- (ix) subsequent dialogue with the winning bidder will only be permissible if it does not impose any substantial new requirement, or have the effect of modifying substantial aspects of the tender,

11.4 Where the Restricted Procedure, Open Procedure or Competitive dialogue are used the Council is required to place a Contract Notice in the Official Journal of the European Community and the timescale for expressions of interest in response to such notices is prescribed.

Advertisement is subject to the following constraints:

- (a) Legal advice must be sought upon the applicable timescales
- (b) the accelerated procedure may only be used with the consent of the Head of Legal and Democratic Services

Table 2 sets out the ordinary timescales. The applicable timescales may be reduced further as indicated in Tables 3 and 4 where electronic systems are used to publish the contract notices and provided unrestricted electronic access to documentation:

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Table 2: Advertisement in OJEU without use of electronic media

<b>Minimum no. of calendar days after sending the Contract Notice to OJEU</b>	EC Open Procedure	EC Restricted Procedure	EC Accelerated Procedure	<i>EC Negotiated Procedure</i>
(i) to the closing date for receipt of registrations of interest from contract notice	-	37 days	15 days	37 days (if poss.)
(ii) to the closing date for receipt of tenders	52 days	40 days	10 days	21 days*
as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	36 days	26 days	N/A	21 days*(i.e., same as above)
Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

Table 3: Notice of contract compiled and submitted electronically:

<b>Minimum no. of calendar days after sending the Contract Notice to OJEU</b>	EC Open Procedure	EC Restricted Procedure	EC Accelerated Procedure	EC Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice	-	30 days	10 days	30 days (if poss.)
(ii) to the closing date for receipt of tenders	45 days	35 days	10 days	14 days*
as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	29 days	19 days	N/A	14 days*(i.e., same as above)
Minimum no. of days to allow following decision on contract	10 days	10 days	10 days	10 days

award before formalising contract				
Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

Table 4: Notice of contract compiled and submitted electronically and unrestricted electronic access to all contract documentation provided at tender receipt stage

<b>Minimum no. of calendar days after sending the Contract Notice to OJEU</b>	EC Open Procedure	EC Restricted Procedure	EC Accelerated Procedure	EC Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice	-	30 days	10 days	30 days
(ii) to the closing date for receipt of tenders	40 days	14 days	10 days	21 days*
as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	29 days	5days	N/A	21 days*(i.e., same as above)
Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

## 12. SUBMISSION OF TENDERS

12.1 All Hard Copy tenders shall be addressed to the Head of Legal and Democratic Services.

12.2 Subject to 12.3 where an electronic tendering system is available which meets the satisfaction of the Head of Legal and Democratic Services and the s151 officer Invitations To Tender may be transmitted by electronic means.

12.3 Tenders may be submitted by electronic means provided that:

- a) evidence that the transmission was successfully completed is obtained and recorded;
- b) each tender submitted electronically is deposited in a secure mailbox approved by the Head of Legal and Democratic Services before the return date, and;

c) electronic tenders are kept in a separate secure folder until the deadline is passed for receipt of tenders.

- 12.3 No Hard Copy tender may be considered unless it is contained in the approved form of envelope endorsed only with the word "Tender" and the subject to which it relates and addressed and delivered to the Head of Legal and Democratic Services. The envelope must not bear any mark or name indicating the name of the sender.
- 12.4 The date and time of receipt of every Hard Copy tender shall be indicated on the envelope by the Head of Legal and Democratic Services and must remain in the secure custody of the Head of Legal and Democratic Services until the time and date appointed for their opening.
- 12.5 Any tender received after the time specified for the receipt of tenders but before the opening of tenders may be opened and accepted provided that if such a tender is accepted, the fact that it was a late tender is reported to the Cabinet.
- 12.6 Any tender received after the opening of tenders has taken place, must be promptly returned to the Tenderer. The tender may be opened to ascertain the name of the Tenderer but no details of the tender may be disclosed.
- 12.7 No alteration of any tender shall be allowed after the closing date for the receipt of tenders except as allowed in accordance with post tender negotiation.

### 13 **OPENING AND REGISTRATION OF TENDERS**

- 13.1 All tenders for a Contract shall be opened at one time in the presence of the a member of the Internal Audit team and the appropriate Head of Service.
- 13.2 The Strategic Director of Corporate Services (or his nominee as relevant) shall at the time tenders are opened record in a book kept for this purpose the following:-
- (a) the nature of the goods or services to be provided;
  - (b) the name of each Tenderer by or on whose behalf a tender was submitted;
  - (c) the date and time of receipt of each tender as recorded on the envelope;
  - (d) the amount of each tender;
  - (e) the date and time of the opening of the tender; and
  - (f) the names of all persons present at the opening of the tenders.
- 13.3 The tenders opened shall be signed and dated by the Strategic Director of Corporate Services.

### 14. **EVALUATION OF QUOTATIONS OR TENDERS**

- 14.1 Quotations or Tenders may be evaluated on the basis of one of the following criteria.
- (a) the most economically advantageous quotation or tender where criteria other than price are important
  - (b) the highest price (if we are receiving the payment)
  - (c) the lowest price (if we are making the payment),

Contractors or suppliers must be advised in the Invitation to Quote or Tender which will be used:

If using criteria (a) all the criteria to be considered must be included in the Invitation to Quote or Tender. The inclusion of the criteria must be relevant, objectively justified and listed in order of importance eg:

- (i) technical excellence
  - (ii) price
  - (iii) quality of services, work materials or goods; and
-

(iv) a commitment to continuous improvement.

- 14.2 An evaluation record must be maintained and only officers who are named on the evaluation record may take part in the evaluation process. At least two officers must evaluate the tenders.
- 14.3 The identified officers must decide how to evaluate tenders before they are invited and set out the evaluation method in the tender documents. The same standards must be used to evaluate all the tenders.
- 14.6 If it is necessary to discuss a particular tender with an individual contractor or supplier to make sure what they are offering is understood, the discussions must not add anything to the tender.
- 14.7 If there is a simple mistake or arithmetical error in a bid, contact with the relevant contractor or supplier can be made to obtain the contractor's or supplier's amendment in writing.
- 14.8 All detailed discussions about important or complicated points must be recorded. The officers taking part and the contractor or supplier must sign the record and it must be retained on file.
- 14.9 An evaluation report for the Head of Service should be prepared advising upon the outcome of the evaluation process and details of the tenders evaluated.
- 14.10 During the evaluation stage details about the number of tenders received, where those tenders came from or what is in them will remain confidential. However, financial, technical or legal advice can be sought to assist with the evaluation.
- 14.11 Before entering into a contract with any firm, the appropriate Head of Service must:
- (a) be satisfied about the technical capability of such firm; and
  - (b) ensure that all evaluation criteria have been determined in advance; and
  - (c) ensure that these Standing Orders have been complied with.

## **15 BONDS AND PARENT COMPANY GUARANTEES**

- 15.1 Heads of Service must consult the Strategic Director of Corporate Services:
- (a) about whether a Parent Company Guarantee is required when a Contractor is a subsidiary of a parent company, and:
    - (i) the Total Value of the Contract exceeds £50,000 or
    - (ii) award is based on evaluation of the parent company, or
    - (iii) there is some concern about the stability of the Contractor, and
  - (b) about whether a Bond is needed:
    - (i) where the Total Value of the Contract exceeds £140,000, or
    - (ii) where it is proposed to make staged or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Contractor.

## **16. POST-TENDER NEGOTIATION**

- 16.1 Post-tender negotiation may take place where:-
- (a) the tenders received are in excess of the budget provision; or
  - (b) the appropriate Head of Service, after consultation with the Head of Legal and Democratic Services, considers, from an analysis of the tenders received, that additional financial or other benefits may be obtained for the Council through post-tender negotiation.
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- (c) A clause allowing for negotiations after tenders have been opened was included in the Invitation to Tender

16.2 Any post-tender negotiation may be undertaken with the Tenderer submitting the Preferred Bidder exclusively. However, where any such post-tender negotiation is proposed for other than the Tenderer submitting the preferred tender then the opportunity for such post-tender negotiation shall be extended to all those who have submitted tenders.

16.3 Where any post-tender negotiations are appropriate a written record shall be kept of all negotiations, including notes of all meetings and the names of the individuals present, and placed on the Contract File.

## 17. **CONTRACT AWARD**

17.1 A tender may be accepted by the appropriate Head of Service, provided that:

- (a) the Head of Service notifies award of the contract to:
  - (i) the Head of Legal and Democratic Services, and
  - (ii) in the case of a tender which falls above EU Procurement Levels the responsible Cabinet Member in the form provided at Appendix A;
- (b) confirmation of receipt of the form provided at Appendix A has been returned to the Head of Service by the Head of Legal and Democratic Services, and where required the responsible Cabinet Member in accordance with (a) above;
- (c) where the contract value exceeds EU Procurement Levels the contract is not awarded until the time period identified in rule 11.4 (table 2) has elapsed.
- (d) the identity of any Tenderer other than the Tenderer submitting the tender accepted shall not be disclosed to any other Tenderer.

17.2 The acceptance of a tender shall be notified in writing to the Tenderer submitting the successful tender by the appropriate Head of Service.

17.3 In any case where any acceptable tenders are equal in amount, the tender of a local Tenderer shall be accepted which shall be taken to mean any company, firm, partnership, or other business whose registered office, principal or other place of business is situated within the locality.

## 18. **STARTING THE CONTRACT**

18.1 Unless the Head of Legal and Democratic Services agrees, no Contractor or supplier will start a contract until they have met the following conditions:

- (a) there are completed formal contract documents in place that the Head of Legal and Democratic Services is satisfied with;
- (b) the contractor or supplier has provided proof that they are adequately insured
- (c) where it is relevant, the Head of Legal and Democratic Services has received a performance bond, parent company guarantee or other security;
- (d) if it is necessary under the contract, that the contractor or supplier has a health and safety plan that the Council's Health and Safety Services Manager has agreed and approved in writing
- (e) the Head of Legal and Democratic Services in conjunction with the Head of Human Resources is satisfied that relevant matters relating to TUPE have been settled; and
- (f) any other relevant matters (eg relating to the use of land) have been completed or settled to the satisfaction of the Head of Legal and Democratic Services.

## 19. **MUNICIPAL CHARGING OR TRADING**

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- (a) Nothing within these CPRs restricts the ability of Heads of Service to charge for the provision of Goods or Services where a legal power exists enabling them so to do
- (b) Where the Council establishes a trading company the rules formulated by that company will govern the contractual arrangements relating to the trading activities of that company.

## 20. EXEMPTIONS TO CONTRACT PROCEDURE RULES

20.1 Exemption from CPRs is only permitted where:

- (a) European Union Procurement Rules prevent the use of an exemption, and
- (b) one of the following applies:
  - (i) the consent in writing to use one of the exemptions referred to under rule 20.2 has been obtained, or
  - (ii) Cabinet agreement in accordance with rule 1.2 has been obtained, or
  - (iii) in a case of urgency, the consent of the Cabinet Member with delegated powers has been obtained by a formal decision notice

20.2 Exemptions for which the consent in writing of the Head of Legal and Democratic Services can be given:-

- (a) purchases at public auction;
- (b) the procurement of proprietary or patented goods or materials or services which in the opinion of the appropriate Head of Service are obtainable only from one contractor, and where no reasonably satisfactory alternative is available;
- (c) the purchase of goods or materials, the execution of works or supply of services for which the Head of Service considers that no genuine competition can be obtained;
- (d) the purchase of a named product required to be compatible with an existing installation
- (e) the execution of work or supply of services of a specialised nature which in the opinion of the appropriate Head of Service are carried out by only one contractor and where no reasonably satisfactory alternative is available
- (f) the instruction of, advice from, or service provided by Counsel
- (g) the purchase of a work of art or museum specimen;
- (h) purchases, works and services required by the appropriate Head of Service so urgently as not to permit compliance with the requirements of competition;
- (i) procurements made through or on behalf of any consortium, association or similar body provided that tenders or quotations are invited and contracts placed in accordance with procedures which are equivalent to these Contract Procedure Rules and also comply with any national or EU legislation;
- (j) procurements where the number of quotations or tenders received is below that required by these Contract Procedure Rules.

20.3 The Head of Legal Democratic Services may only grant an exemption in relation to a contract with a value which exceeds £50,000 if the consent of the responsible Cabinet Member, or in his absence the Cabinet member for Finance, Legal and ICT has been obtained.

20.4 In each case a note of the action taken and the reasons therefore must be recorded on the Contract File for audit purposes.

## 21. ELECTRONIC COMMERCE

21.1 Nothing in these Rules shall prevent:-

- (a) invitations to quote or tender being issued by use of the internet. A Head of Service (in consultation with the Head of Legal and Democratic Services) may publish invitation to tender notices on appropriate internet web sites in substitution for publication in newspapers or trade journals.
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- (b) receipt of quotations or tenders by use of the internet provided the Head of Service and the Head of Legal and Democratic Services have agreed that suitable privacy and security mechanisms are in place for the receipt and opening of such submissions.

## **FORM OF CONTRACT**

### **22. DOCUMENTATION- FORM OF CONTRACT**

22.1 Every Contract shall be in writing and:-

- (a) where the Contract value is no greater than £50,000 the Contract shall be approved and signed in accordance with CPR 1.5 and 1.6 unless:-
  - (i) the Contract is in a standard form previously approved by the Head of Legal and Democratic Services; or
  - (ii) is to be dealt with on an official order in accordance with CPR 9.4 in which case it may be signed by the appropriate Strategic Director or Head of Service; and
- (b) where the Contract value is £50,001 or more it shall be approved by the Head of Legal and Democratic Services and signed or sealed, as appropriate, in accordance with CPR 1.5 and 1.6

### **23. EXTENSIONS TO EXISTING CONTRACTS**

- 23.1 No extension to a contract is permitted which would have the effect of taking the total value of a contract which was not let in accordance with EU Procurement regulations above EU thresholds.
- 23.2 If the original contract was let in accordance with EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice.
- 23.3 Subject to CPR 23.1 and 2 a Head of Service may, with the consent of the Head of Legal and Democratic Services, extend a contract subject to the extension being within the scope of the original scheme. All such decisions shall be maintained on the contract file and a copy sent to the Corporate Procurement Officer.
- 23.4 Extensions to capital project contracts that fall outside the scope of the original scheme require the approval of the Strategic Director of Corporate Services
- 23.5 If the contract was awarded as a framework contract, the total contract period, including any extensions shall not exceed four years.

### **24. SIGNING AND SEALING**

- 24.1 All Contracts presented for sealing or signing shall be accompanied by a statement of the Council's authority to enter the Contract or seal the document. The statement shall specify the appropriate resolution giving the authority or in the case of an authority delegated to an officer shall specify the precise delegated authority being exercised.

### **25. CONTRACT CONDITIONS**

25.1 Every Contract for goods and/or services shall state:-

- (a) the goods or services to be provided;
  - (b) the parties to the Contract, including any guarantor;
  - (c) the price and any discounts, or the method by which prices and discounts are to be calculated, and the method and timing of payments;
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- (d) the time within which the Contract is to be carried out;
- (e) such other terms and conditions as may be agreed between the parties;

25.2 Unless the Head of Legal and Democratic Services considers it unnecessary or impractical the Contract shall also state:-

- (f) that the Contractor will not assign the Contract without written consent of the supervising officer/contract administrator;
- (g) that the Contractor will pay liquidated damages (where these can be assessed and ascertained) or other damages to the Council should the terms of the Contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable;
- (h) the contractor must provide evidence of adequate insurance to cover both Public and Employers' liability, appropriate indemnity provisions and any performance bond or parent company guarantee required;
- (i) that the Contractor shall not unlawfully discriminate within the meaning of the Race Relations Act 1976 or any comparable statutory provision relating to discrimination in employment, and shall ensure that all employees, agents and sub-contractors do not unlawfully discriminate, and shall comply with all relevant codes of practice issued by the Commission for Racial Equality or comparable body and, so far as practicable, operate an equal opportunities policy which complies with the practical guidance and recommendations contained in such codes of practice;
- (j) that the Contractor shall adopt safe methods of work and comply with all other requirements of Health and Safety at Work legislation in order to protect the health and safety of its personnel and to the extent applicable the personnel of the Council and all other persons;
- (k) that the Contractor shall comply with Data Protection legislation and indemnify the Council in respect of the use, disclosure or transfer of personal data by the Contractor, its employees, agents and Sub-Contractors;
- (l) that the Council may cancel the Contract and recover any loss if the Contractor, its employees, agents and Sub-Contractors offer any inducement or reward relating to the Contract (even if the Contractor does not know what has been done) or commit any offence under the Prevention from Corruption Acts 1889 to 1916 or section 117(2) of the Local Government Act 1972;
- (m) where under any contract, one or more sums of money are to be received by the Council, the contractor responsible for the payment of such sum or sums must pay interest at the rate stated in the contract from the date when payment is due until the date when payment is received;
- (n) whenever, under the contract any sum of money is recoverable from or payable by the contractor, this sum may be deducted from any sum due or which at any time may become due to the contractor under this or any other contract with the Council
- (o) the contractor must not sub-contract the works or any part of the works, without the prior written consent of the appropriate Head of Service, no sub-letting by the contractor will relieve the contractor of its liability to the Council for the proper performance of the contract and the contractor remains responsible to the Council for the proper performance and observance by all sub-contractors of all the contractor's obligations, and
- (p) the principles of Best Value required and any other terms and conditions specified by the Head of Legal and Democratic Services (who has general powers to set standard and special contract conditions).

25.3 Any standard terms and conditions of contract submitted by contractors shall not be accepted without advice from the Head of Legal and Democratic Services.

## **SUB-CONTRACTORS**

### **26. NOMINATED SUB-CONTRACTORS**

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26.1 These CPRs shall apply where a Sub-Contractor or supplier is to be nominated to a main Contractor.

## 27 **POST CONTRACT MONITORING AND EVALUATION**

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

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

27.2 A contract must not be terminated, assigned, varied or novated without first obtaining advice from the Head of Legal and Democratic Services and any requisite authorisation.

27.3 Where the Total Value of the contract exceeds £140,000, the Officer must make a written report to the relevant Strategic Director evaluating the extent to which the purchasing need and the contract objectives were met by the contract. This should be undertaken when the contract is completed.

## **PART IV**

### 28. **DEFINITION AND INTERPRETATION**

28.1 In these CPRs the following definitions apply unless the context requires otherwise:-

CPR(s)	Contract Procedure Rules
Cabinet	includes the Leader and individual Cabinet Members if the Cabinet delegates the relevant function to them.
Call Off	goods, services or works purchased from time to time under a Framework Contract or Arrangement
Committee	any committee or sub-committee of the Council.
Chairman	a Chairman of a Committee or the Vice-Chairman of a Committee if the Chairman is absent or unavailable.
Contract	any agreement for the supply of goods, materials or services, the execution of works or the awarding of concessions.
Contract File	a record of all matters relating to a Contract.
Contractor	a supplier of goods, materials, works, services or concessions.
EU contract	a contract covered by the Public Supply, Works or Services Contracts Regulations.
Framework Contract	a general term for agreements with suppliers which sets out terms and conditions under which specific purchases ("call-offs") can be made throughout the term of the agreement. Such agreements can create an obligation to make call-offs (a framework agreement) or set out the terms and conditions for subsequent call-offs but place no obligations, in themselves, on the procurers to buy anything (a framework arrangement)

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Goods and/or services	includes goods or materials to be supplied and/or works or services (including concessions) to be carried out or performed.
Hard Copy Tender	A tender document provided to the Council in paper form
Invitation to Quote	Invitation to quote documents in the form required by contract procedure rules
Invitation to Tender	Invitation to tender documents in the form required by contract procedure rules
Nominated Suppliers and	Those persons specified in a main contract for the discharge of any part of that contract
Preferred bidder	The tenderer submitting the tender that scored highest under the adopted criteria for evaluating tenders.
Sub-contractors Officer	The officer designated by the Head of Service to deal with the contract in question
OJEU	The Official Journal of the European Union.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the council, they can require the parent company to do so instead
Tenderer	any person who is invited to submit a tender for the supply of goods, materials, works, services or concessions to the Council.
Total Value	<p>the whole of the value or estimated value [in money or equivalent value] for a single purchase or disposal, whether or not it comprises several lots or stages</p> <p>The total value shall be calculated as follows:</p> <p>(a) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period</p> <p>(b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months</p> <p>(c) Where the contract is for an uncertain duration, by multiplying the monthly payment by 48</p> <p>(d) For feasibility studies, the value of the scheme or contracts which may be awarded as a result</p> <p>(e) For nominated suppliers and sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor</p> <p>(f) Where an in-house service provider is involved, by taking into account redundancy and similar/associated costs</p>
Year	a year commencing on the 1 April and finishing on the following 31 March.

28.2 References to “lowest tender” or “lowest tenderer” means “highest tender” or “highest tenderer” where payment is to be received by the Council.

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28.3 Where Contract values are specified by reference to a Band, the Contract values for each Band are those within the financial limits specified in Part 2 of the Schedule.

APPENDIX A

**NOTIFICATION OF INTENTION TO AWARD A CONTRACT (CPR 17)**

*CONTRACT:*

**SERVICE RESPONSIBLE:**

Nature of Contract:

<b>Value of contract:</b>	

DATE OF AUTHORISATION TO ENTER CONTRACT AND REPORT REFERENCE (WHERE APPLICABLE):

RECEIVED BY HEAD OF LEGAL AND DEMOCRATIC SERVICES  
DATE OF RECEIPT:

RECEIVED BY CABINET MEMBER (ITEMS WHICH HAVE A VALUE ABOVE EU PROCUREMENT LIMITS ONLY)  
DATE OF RECEIPT:

*ONCE THE ABOVE RECEIPTS HAVE BEEN OBTAINED, THE CONTRACT MAY BE AWARDED.*

COMPLETED FORMS TO BE RETURNED TO LEGAL SERVICES

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## **8. Officer Employment Procedure Rules**

### **Contents**

1. Recruitment and Appointment
  2. Recruitment of Head of Paid Service (i.e. Chief Executive Officer)
  3. Appointment of Head of Paid Service (i.e. Chief Executive Officer)
  4. Monitoring Officer and Chief Financial Officer
  5. Recruitment of a Strategic Director and a Head of Service
  6. Appointment of a Director and a Head of Service
  7. Other Appointments
  8. Disciplinary Action
  9. Dismissal
  10. Posts on the approved establishment
-

*Set out below are procedural rules incorporating the Model Standing Orders arising from the Local Government and Housing Act 1989. The roles of the Appointments Committee, to which reference is made elsewhere in the Constitution, are clarified in terms of recruitment, appointment and discipline.*

## **1. RECRUITMENT AND APPOINTMENT**

### **(a) Declarations**

- (i) A candidate for any appointment under the Council, who knows of a relationship to or with any Member or Chief Officer or Senior Officer of the Council will be required by the Council, when making application, to state in writing that relationship by notice to the Head of Paid Service and Head of Service making the appointment. A candidate who fails to declare such a relationship will be disqualified for the appointment and, if appointed, will be liable to dismissal without notice.
- (ii) Every Member, Chief Officer or Senior Officer of Council shall declare to the Head of Paid Service or relevant Head of Service any relationship to, or with, any person who to the knowledge of that Member, Chief Officer or Senior Officer, is a candidate for appointment under the Council.
- (iii) The Head of Human Resources or Head of Service making the appointment shall advise the other of any such declarations and any appointing Committee or Panel will be made aware of the declaration by the relevant Head of Service or Head of Paid Service, whichever is appropriate. If there is no appointing Committee, the Leaders of the Political Groups on the Council will be notified of the disclosure by the Head of Paid Service or relevant Head of Service.
- (iv) For the purpose of this rule, "Chief Officer of the Council" shall mean:
  - (a) The Head of Paid Service designated under Section 4(10) of the Local Government and Housing Act 1989;
  - (b) The Monitoring Officer designated under Section 5(1) of the Local Government and Housing Act 1989;
  - (c) The Chief Finance Officer having responsibility under Section 151 of the Local Government Act 1972, as amended;
  - (d) Any Strategic Director of a Department of the Council; and
  - (e) Any Head of Service within a Department of the Council.
- (v) For the purpose of this rule "Senior Officer of the Council" shall mean any employee of the Council whose post is graded at or above Senior Officers' Grade 1 or its monetary equivalent.
- (vi) Under this rule, persons shall be deemed to be related to a Member, Chief Officer or Senior Officer if they are related as the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of Member, Chief Officer or Senior Officer of the Council; or of the partner of such persons.
- (vii) No candidate so related to a Member, Chief Officer or Senior Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.

### **(b) Seeking Support for Appointment**

- (i) Subject to Paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) Subject to Paragraph (iii), no Member will seek support, directly or indirectly for any person for any appointment with the Council.
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- (iii) Nothing in (i) or (ii) will prevent a Member from giving a written reference of a candidate's ability, experience or character.

## **2. RECRUITMENT OF HEAD OF PAID SERVICE (i.e. CHIEF EXECUTIVE OFFICER)**

- (a) Where the Full Council proposes to appoint the Head of Paid Service and it is not proposed that the appointment be made exclusively from among the existing Chief Officers, the Council will make all necessary arrangements relating to the appointment through the Appointments Committee.
- (b) The Appointments Committee for this purpose will be constituted from the Leader of the Council, a representative from each of the other Political Groups (normally the Leader of such Groups), together with the Cabinet Member (Human Resources).
- (c) The Committee will
  - (i) draw up a statement specifying:
    - (a) the duties of the Officer concerned; and
    - (b) any qualifications or qualities to be sought in the person to be appointed;
  - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (iii) make arrangements for a copy of the statement mentioned in Paragraph (i) to be sent to any person on request; and
  - (iv) ensure all relevant legislative and procedural arrangements are satisfied and the Council's Policy on Equal Opportunities is complied with.
- (d) The Committee may appoint an officer from amongst the existing Chief Officers, or in the alternative a suitably qualified individual who has previously fulfilled the duties of a Chief Executive, to discharge temporarily the duties of the post until the post is filled following an appointment approved on a substantive basis by the Full Council.

## **3. APPOINTMENT OF HEAD OF PAID SERVICE (i.e. CHIEF EXECUTIVE OFFICER)**

- (a) The Full Council will approve the appointment of the Head of Paid Service following the recommendation of the Appointments Committee, as constituted under 2(a) above.
- (b) The Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Cabinet.
- (c) The Appointments Committee may only make a recommendation to the Council on the appointment of a Head of Paid Service where any objection to the intended appointment from any Cabinet Member has been considered and resolved.
- (d) To resolve such an objection, the Committee must either be satisfied that the objection is not well-founded or have taken action in respect of the objection, which is appropriate to resolve the matter, before they make a recommendation to Council. The Appointments Committee will take all legal advice, as appropriate.

## **4. MONITORING OFFICER AND CHIEF FINANCIAL OFFICER**

- (a) The Appointments Committee, as constituted under 2(a) above, will designate one Officer from amongst the existing Chief Officers, other than the Head of Paid Service, as Monitoring Officer. It will be the responsibility of the Monitoring Officer to nominate a Deputy and to notify the Head of Paid Service and the Leader of the Council of the nominee of his choice.
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- (b) The Appointments Committee, as constituted under 2(a) above, will designate an Officer, satisfying the requirements of Section 151 of the Local Government Act 1972, as amended, as Chief Financial Officer. It will be the responsibility of the Chief Financial Officer to nominate a suitably qualified Deputy and to notify the Head of Paid Service and the Leader of the Council of the nominee of his choice.

**5. RECRUITMENT OF CHIEF OFFICER (i.e. STRATEGIC DIRECTOR OR HEAD OF SERVICE)**

- (a) The Appointments Committee will be responsible, on behalf of the Council, for making any necessary arrangements when a vacancy occurs in any existing post of Chief Officer (i.e. Strategic Director or Head of Service).
- (b) The Appointments Committee for this purpose will be constituted from the Leader of the Council, a representative from each of the other Political Groups (normally the Leader of such Groups), together with the Cabinet Member (Human Resources) and the relevant Cabinet Member(s) for the functional area(s) for which the particular Strategic Director or Head of Service will have direct managerial responsibilities.
- (c) The Committee will decide in the case of any vacant Strategic Director or Head of Service post, which the Council is not required by statute to fill, whether it is necessary; and, in any case, what will be the terms and conditions of the post; and no steps will be taken to fill it on any basis until these decisions have been taken.
- (d) Where the Committee proposes that a vacant Strategic Director or Head of Service post will be filled and it is not proposed that the appointment be made exclusively from amongst the existing Officers of the Council, the Committee will:
- (i) draw up a statement, specifying:
    - (a) the duties of the Officer concerned; and
    - (b) any qualifications or qualities to be sought in the person to be appointed;
  - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (iii) make arrangements for a copy of the statement mentioned in Paragraph (i) to be sent to any person on request; and
  - (iv) ensure all relevant legislative and procedural arrangements are satisfied and the Council's Policy on Equal Opportunities is complied with.
- (e) (i) where a post has been advertised, as provided above, the Appointments Committee will
- (a) select a short list of qualified applicants; and
  - (b) interview those on the shortlist.
- (ii) where it is not possible to recommend a candidate for appointment, the Appointments Committee will make further arrangements in accordance with Paragraphs (c) and (d) above.
- (f) The Committee may appoint, from amongst the existing Chief and/or Senior Officers, an Officer(s) to discharge temporarily the duties of the vacant post, in full or in part, until the post is filled following an appointment on a substantive basis.

**6. APPOINTMENT OF CHIEF OFFICER (i.e. STRATEGIC DIRECTOR OR HEAD OF SERVICE)**

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- (a) The Appointments Committee, as constituted under 5(b) above, will appoint any Chief Officer (i.e. Strategic Director or Head of Service).
- (b) An offer of employment as a Strategic Director or Head of Service will only be made where no well-founded objection from any Member of the Cabinet has been received.
- (c) In exercising delegated powers with regard to the appointment of any Strategic Director or Head of Service, the Appointments Committee will consider and resolve any objection to the intended appointment from any Cabinet Member, before making an appointment.
- (d) To resolve such an objection, the Committee must either be satisfied that the objection is not well-founded or the Committee must have taken action in respect of the objection, which is appropriate to resolve the matter, before they make a recommendation to Council. The Appointments Committee will take all legal advice, as appropriate.

## **7. OTHER APPOINTMENTS**

- (a) **Officers below Head of Service.** The appointment of all Officers below Head of Service (other than any Assistants to Political Groups) is the responsibility of the Head of Paid Service or his nominee, and may not be made by Members.
- (b) **Assistants to Political Groups.** The appointment of any Assistant to any of the Political Groups on the Council on a fixed term contract basis, in accordance with the Local Government and Housing Act 1989, will be made in accordance with the wishes of the particular Political Group.

## **8. DISCIPLINARY ACTION**

- (a) Statutory Offices. The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months from the date of the suspension taking effect. The decision to suspend will be taken on behalf of the Full Council by the Appointments Committee, as constituted under 2(a) above, or by some other person authorised by that Committee.

No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated Independent Person under Regulation 7 of Part I of the Local Authorities (Standing Orders) Regulations 2001.

- (b) Chief Officers. The Head of Paid Service shall be responsible for initiating any formal disciplinary action against any Chief Officer, who is not in a Statutory Office. In cases where serious disciplinary action may be necessary, he shall report accordingly to the Appointments Committee, as constituted under 5(b) above, in accordance with the procedural arrangements set out in the Chief Officers' Conditions of Service.

The Appointments Committee shall have power to take any disciplinary action, including dismissal, which it considers appropriate on behalf of the Council.

The Council's Appeals Committee shall consider and determine any Appeals by a Chief Officer against disciplinary action taken by the Head of Paid Service.

- (c) Members will not be involved in any disciplinary action, as defined under Regulation 2 of Part I of the Local Authorities (Standing Orders) Regulations 2001, against any Officer below Head of Service, except where, under the Council's Disciplinary, Capability and related Procedures, as adopted from time to time, those Procedures allow a right of appeal to Members in respect of any action taken.

## **9. DISMISSAL**

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- (a) The dismissal of the Head of Paid Service must be approved by the full Council.
- (b) Members will not be involved in the dismissal of any Officer below Head of Service, except where, under the Council's Disciplinary, Capability and related Procedures, as adopted from time to time, those Procedures allow a right of appeal to Members in respect of any action taken to terminate employment.

**10. POSTS ON THE APPROVED ESTABLISHMENT**

- (i) No new office shall be created, nor any person shall be employed in addition to a Department's approved establishment of employees other than by a minor restructuring within budget constraints as provided for under the Scheme of Delegation to Officers at Part 3 of this Constitution. The process of job evaluation shall be used in assessing the grade for any new post or in re-assessing the grade for any existing post in respect of those posts which fall within the purview of the Council's Job Evaluation Scheme.
  - (ii) Existing employees engaged in Trainee or Career Grade posts may be offered promotion to an appropriate vacant Technical or Professional post. Existing employees may be transferred to vacant posts under the Council's Disciplinary, Capability and related Procedures. Otherwise, all vacancies to be filled within the Council's service shall be publicly advertised.
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## Part 5

### Codes and Protocols

#### **Content**

1. Members' Code of Conduct
  2. Officers' Code of Conduct
  3. Protocol on Member/Officer Relations
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## 1. Members' Code of Conduct

### INTRODUCTION

*Set out below is the Members' Code of Conduct adopted by the Council on the 30 April 2007.*

*The Code sets out standards of conduct which Members must observe. It also sets out the rules for the declaration of interests at meetings and also provides for the maintenance of a register of Members' interests.*

*There is a statutory duty on requiring Members, and co-opted Members, to give a written undertaking within two months of the adoption of the Code that in performing their functions they will observe the Code otherwise they will be deemed to vacate their office at the end of that period. In the case of Members elected after the adoption of the Code, then until a Member or co-opted Member has signed the undertaking they may not act in the office of Councillor. The undertaking will normally be signed as part of the Declaration of Acceptance of Office.*

*There is a wide range of sanctions which can be applied for breach of the Code, the enforcement of which will be under the supervision of the Standards Board for England.*

## MEMBERS' CODE OF CONDUCT

### PART 1

#### GENERAL PROVISIONS

##### Introduction and interpretation

1. (1) This Code applies to you as a member of an authority.
  - (2) You should read this Code together with the general principles prescribed by the Secretary of State.
  - (3) It is your responsibility to comply with the provisions of this Code.
  - (4) In this Code—
    - "meeting" means any meeting of—
      - (a) the authority;
      - (b) the executive of the authority;
      - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;
    - "member" includes a co-opted member and an appointed member.
  - (5) In relation to a parish council, references to the authority's monitoring officer and the authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the Borough Council which has functions in relation to parish councils for which it is responsible under section 55(12) of the Local Government Act 2000.
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## *Scope*

2. (1) Subject to sub-paragraphs 2 – 5 you must comply with this Code whenever you:-
- (a) conduct the business of the authority (which in this code includes the business of the office to which you are elected or appointed);
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,
- and references to your official capacity shall be construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority:-
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## *General Obligations*

3. (1) You must treat others with respect.
- (2) You must not
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
4. You must not:-
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
    - (i) you have the consent of a person authorised to give it,
    - (ii) you are required by law to do so; or
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- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is
    - (aa) reasonable and in the public interest;
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority;
  - (aa) The Authority requires that information given in confidence or of a confidential nature is not disclosed by you unless and until you have taken legal advice from the Council's Monitoring Officer upon disclosure of the information.
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You:-
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority:-
    - (i) act in accordance with the authority's requirements;
    - (ii) ensure that such resources are not used for political purposes (including party political purposes); and
    - (iii) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
- (a) your authority's chief finance officer; and
  - (b) your authority's monitoring officer;
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## PART 2

### INTERESTS

#### *Personal Interests*

8. (1) You have a personal interest in any business of your authority where either-
- (a) it relates to or is likely to affect-
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
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(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body which has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority's area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in paragraph (vi) is the tenant;
- (xi) any land in the authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

#### *Disclosure of Personal Interests*

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any

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business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

- (2) When you have a personal interest in an business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only to disclose to the meeting the existence and nature of that interest which you address the meeting on that business.
- (3) Where you have a personal interest of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where, you have a personal interest but, by virtue of paragraph 14, sensitive information relating to a member is not registered in the authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to that meeting.
- (6) Subject to paragraph 12(1)(b), a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

*Prejudicial interests generally*

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
  - (2) You do not have a prejudicial interest in any business of the authority where that business
    - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8; or
    - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8;
    - (c) relates to the functions of your authority in respect of-
      - (i) housing where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
      - (ii) school meals, or school transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
      - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;
      - (iv) an allowance, payment or indemnity given to members;
      - (v) any ceremonial honour given to members; and
      - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
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*Prejudicial interests arising in relation to Overview and Scrutiny Committees*

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

*Effect of prejudicial interest on participation*

12. (1) Subject to sub-paragraph (2) below, where you have a prejudicial interest in any business of your authority :-
- (a) you must withdraw from the room or chamber where a meeting is being held
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from the authority's standard's committee;
  - (b) you must not exercise executive functions in relation to that matter; and
  - (c) you must not seek improperly to influence a decision about that matter.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or a sub-committee of such a committee), but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
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## PART 3

### THE REGISTER OF MEMBERS' INTERESTS

#### *Registration of Financial and Other Interests*

13. (1) Subject to paragraph 14, you must, within 28 days of
- (i) this code of conduct being adopted by or applied to your authority or
  - (ii) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a) by providing written notification to your authority's Monitoring Officer;
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change in any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.
14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Town Hall  
Scarborough

Adopted by the Council at its meeting on 30 April 2007

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## 2. Officer' Code of Conduct

*Set out below is the Code of Conduct approved by Council on 3 July 1995 for Officers as employees of the Council.*

*The Code identifies the areas that Officers are required to be aware of in order to discharge their duties effectively with the Council and will form part of an individual employee's Contract of Employment.*

*In addition, there is a statutory requirement for disclosure under Section 117 of the Local Government Act 1972, as amended, If it comes to the knowledge of any Officers that a contract in which they have a pecuniary interest, whether direct or indirect, but to which they are not a party, has been, or is proposed, to be entered into by the Council, they must as soon as practicable give notice in writing to the Council of the fact that they have an interest in the contract.*

*Officers have an indirect interest in a contract if:-*

- (a) they or a nominee of theirs is a member of a company or other body with which the contract was, or is proposed to be made;*
- (b) they are a partner or in the employment of a person with whom the contract was made or is proposed to be made (i.e. employment other than with the Council).*

*Officers do not have an indirect interest in such a contract if the membership or employment is with another public body as defined in the Act. If the Officers do not have a beneficial interest in the securities of the company or other body, their membership does not amount to an indirect interest.*

*In the case of persons living together, the interest of their spouse or partner, if known to the Officers, is the interest of the Officers for these purposes.*

*A book is kept by the Chief Executive to register pecuniary interests in accordance with Section 117 of the Act.*

*It is a criminal offence to fail to register an interest under Section 117 and will lead to disciplinary action whether or not a prosecution is brought.*

*Officers must not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration from the Council.*

*It is a serious criminal offence for Officers as employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made and disciplinary action has to be taken, it is for the particular employees to demonstrate that any such rewards have not been corruptly obtained.*

### **A. Employees' Contractual Obligations**

- (i) All Officers of Scarborough Borough Council will be required to undertake their duties and work to an acceptable standard of performance and conduct themselves as employees in accordance with the following Code of Conduct, which forms part of their Contract of Employment.*
  - (ii) It is important that employees make themselves aware of the minimum standards of behaviour required by the Council, as failure to comply may result in disciplinary action being taken against them.*
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## **B Standards**

- (i) Local Government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Members and fellow employees with impartiality. Employees of the Council will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of Management any deficiency in the provision of service.
- (ii) It is a duty of each employee to report to the appropriate Business Unit Manager any impropriety or breach of procedure.

## **C Disclosure of Information**

- (i) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any information received by an employee during the course of their employment, either from or affecting another employee, or from a Member, which is of a personal nature, should not be divulged by the employee without prior approval of that person, except where such disclosure is required or sanctioned by the law. In such circumstances, disclosure will be channelled through the appropriate Head of Service to the Chief Executive.

## **D Political Neutrality**

- (i) Employees serve the Council as a whole. It follows that they must serve all Members and not just those of the controlling Political Group, and must ensure that the individual rights of all Elected and Co-opted Members are respected.
- (ii) Where employees are required to advise Political Groups, they must do so in ways that do not compromise their political neutrality.
- (iii) Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- (iv) Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act, 1989, are exempt from the standards, set out in paragraphs (i) to (iii) above.

## **E Relationships**

### **(i) *Members***

Employees are responsible to the Council through the agreed Management structure. Some employees may be required to give advice to Management through the established structure and/or advice to Members. All employees are engaged to carry out their work reflecting Council policy and in accordance with agreed procedures and practices. Mutual respect between employees and Members is essential to good Local Government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees or Members and should, therefore, be avoided wherever practicable. In all circumstances, a commonsense approach should be adopted.

### **(ii) *The Local Community and Service Users***

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community, as defined by the policies of the Council.

### **(iii) *Contractors***

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All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- (iv) Employees, who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate Manager.

## **F Appointment and other Employment Matters**

- (i) Employees involved in appointments should ensure that these are made on the basis of merit in accordance with the provisions contained in the Council's Policy on Equal Opportunities. It would be unlawful for an employee to make an appointment that was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are deemed to be related to an applicant, or have a close personal relationship outside work with him or her.
- (ii) Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee, who is deemed to be related, in accordance with the provisions of Paragraph 1(a)(vi) of Part 4(8) of this Constitution.

## **G Outside Commitments**

- (i) Employees should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of their position. It is irrelevant whether or not the work is paid employment.
- (ii) Although employees' off duty hours are their own personal concern, they should not subordinate their duty to a private interest where it may put them in a position whereby their duty and private interest conflict. Additional employment should not in any way conflict with or react detrimentally to the Council's interest or in any way weaken public confidence in the conduct of the Council's business. Employees are required to notify their Head of Service of any additional employment which they would wish to undertake, prior to commencing it.
- (iii) No outside work of any sort should be undertaken in the office and the use of facilities, e.g. telephones or access to typists, is not permitted. Unless arising out of an emergency situation or by special arrangement agreed with the appropriate Head of Service, incoming correspondence and/or private telephone calls received in the office environment are not allowed.
- (iv) The law relating to ownership of intellectual property or copyright created during employment is complex. The following are general guidelines, although each case will be considered on its individual merits:-

*(a) Intellectual Property* : Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer.

*(b) Inventions and Patents* : Inventions made before 1st June, 1978, are the property of the employer if made in the course of that employer's employment. However, the Patents Act, 1977, states that after 1st June, 1978, inventions are only the property of the employer if:

- they have been made in the course of the employee's normal duties; or
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- they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

To avoid any doubt whatsoever with regard to future claims of copyright, intellectual rights, ownership of inventions and patents etc, employees are required to notify their Head of Service or Strategic Director in writing giving full details of your involvement so that a ruling can be made on ownership.

(c) *Copyright* : Copyright covers artistic and literary works, and even industrial drawings if drawn before 1st August, 1989. The Copyright Designs and Patents Act, 1988, changed and updated the law in this area. The employer will be the owner of copyright for all works if they are produced in the course of employment. If the work was commissioned to be performed during an employee's own time or outside the course of their employment, the employee is the owner of the copyright.

The 1988 Act instituted what are known as moral rights for an employee even when the employee does not own the copyright. The employee has a right to be identified in any publication as the author in certain circumstances. Some of the exceptions to this right are the production of computer programmes, computer generated work and copy for newspapers and magazines.

If employees are affected in any way by the Copyright Act for artistic and literary work and a specific clause is not included in their contract of employment, they should seek clarification from the Council as to their position.

(d) *Designs* : This can include industrial design rights in "any aspect of shape or configuration of the whole or part of an article".

If specifically commissioned, the right to design belongs to the person commissioning the design. If the design is created in the course of employment, the design belongs to the employer.

## **H Personal Interests**

- (i) Employees must declare in writing to the Chief Executive any non-financial interests that they consider could bring about conflict with the Council's interests, e.g. involvement with, say, an organisation or pressure group, which may seek to influence the Council's policies or which may receive Council assistance.
- (ii) Employees must declare any financial interests, which could conflict with the Council's interests.
- (iii) Employees should declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.
- (iv) In order to encourage open local government free of discrimination and bias, etc., membership of a secret society/association can be defined as follows:-

"Any lodge, chapter, society, trust or regular gathering or meeting, which:

- (a) is not open to members of the public who are not members of that lodge, chapter, society or trust;
  - (b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, gathering or meeting; and
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- (c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering, or meeting.

A lodge, chapter, society, trust, gathering or meeting as defined above, should not be regarded as a secret society, if it forms part of the activity of a generally recognised religion.”

## **I Equality Issues**

- (i) All employees should ensure that policies relating to equality issues, as agreed by the Council, are complied with, in addition to the requirements of the law, i.e. Sex Discrimination Act 1975, as amended, Race Relations (Amendment) Act 2000, and the Disability Discrimination Act 1995.
- (ii) This Council, as a major employer within the area, is committed to the principle and achievement of providing equality of opportunity in employment at the workplace to existing and prospective employees. The Council’s Policy on Equal Opportunities identifies good practice and the steps necessary to ensure a working environment free of discrimination and Service provision accessible to all.
- (iii) It is in the interests of each employee to be aware of the Council’s Equal Opportunities Policy. All members of the community, customers and other employees have a right to be treated with dignity, fairness and equity.

## **J Separation of Roles during Tendering**

- (i) Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Chief and Senior Officers, who have both a client and contractor responsibility, must be aware of the need for accountability and openness.
- (ii) Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (iii) Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- (iv) Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate Manager and withdraw from the contract awarding processes.
- (v) Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **K Use of Financial Resources**

- (i) Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure Best Value for the local community and to avoid legal challenge to the Council.

## **L Contact with the Press and Media**

- (i) Unless specifically nominated and authorised by the appropriate Strategic Director or Head of Service or the appropriate Director, Officers are not permitted to give reports or speak to the press and media on matters relating to employment with the Council, Council business or decisions of the Council. Officers with this responsibility should guard themselves against declaring a view which is contrary to a position taken by the Council and which may be
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deemed to be critical of that decision. The Chief Executive, Strategic Directors and Heads of Service are charged with making factual statements to the news media and, when necessary, explaining Council policy. Press releases in the name of the Council will normally be issued through the Press Office maintained for that purpose by the Chief Executive.

- (ii) In the event of an industrial dispute involving an employee's Trade Union organisation, an elected representative of that Trade Union may be called upon by the press or media to comment on the dispute. Where a decision is taken by that Trade Union organisation to respond, the Officer should exercise great care in presenting the facts of the case and should avoid personal opinions which may be damaging to the Council.
- (iii) In all circumstances, Officers are under a general duty of care to avoid, wherever practicable, a conflict of interests situation arising and should not undertake to criticise, damage or act in any way against the best interests of the Council. Should this occur, the Officer will be subject to disciplinary action in accordance with the agreed Procedures.

## **M Hospitality**

- (i) Employees should only accept offers of hospitality, if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded.
- (ii) When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- (iii) Employees should not accept significant personal gifts from contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc. Should employees be in receipt of hospitality and be unsure of its significance, they should report this to their Head of Service, who will decide whether it is appropriate, having discussed the matter with the relevant Strategic Director.
- (iv) When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- (v) Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance, and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the cost of such visits are met by the Council to avoid jeopardising the integrity of subsequent purchasing decisions.

## **N Sponsorship - Giving and Receiving**

- (i) Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
  - (ii) Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate Head of Service or Chief Executive of such an interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.
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## **O Whistleblowing**

- (i) The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, the Council encourages employees and others with serious concerns about malpractices in the form of irregularity, wrongdoing or a serious failing in standards at work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a highly confidential basis and the Council wishes to make it clear that employees can do so without fear of reprisal. The "Whistleblowing" Policy is intended to provide a framework to encourage and enable employees to raise serious concerns within the Council. The overriding consideration should be that it would be in the public interest for the malpractices to be corrected and for any necessary sanctions to be applied. The Policy has been discussed with the relevant Trade Unions and professional organisations and has their support.

### **AIMS AND SCOPE OF THE POLICY**

- (ii) The Policy aims to:-
- (a) provide avenues for any employee to raise concerns and receive feedback on any action taken;
  - (b) allow any employee to take the matter further if they are dissatisfied with the Council's response; and
  - (c) reassure any employee that they will be protected from reprisals or victimisation for "Whistleblowing" in good faith.
- (iii) There are existing Procedures in place to enable any employee to lodge a grievance relating to their own employment. The "Whistleblowing" Policy is intended to cover concerns that fall outside the scope of other Procedures.
- (iv) The "Whistleblowing" Policy will cover issues which:-
- (a) are believed to be unlawful; or
  - (b) are against the Council's Constitution or Policy; or
  - (c) fall below established standards of practice; or
  - (d) amount to improper conduct.

### **SAFEGUARDS**

(v) Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect an employee, when a concern is raised in good faith.

- (vi) This does not mean, however, that, if the particular employee is already the subject of Disciplinary or Redundancy Procedures, those Procedures will be halted as a result of their "Whistleblowing".

(vii) Confidentiality

The Council will do its best to protect an employee's identity, when a concern is raised and there is a desire for their name not to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement may be required later from the employee as part of the evidence.

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(viii) Anonymous Allegations

The Policy encourages employees to put their name to an allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising the discretion, the factors to be taken into account would include:-

- (a) the seriousness of the issue raised;
- (b) the credibility of the concern; and
- (c) the likelihood of confirming the allegation from attributable sources.

(ix) Untrue Allegations

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the employee concerned. If, however, malicious or vexatious allegations are made, possibly out of spite or in order to pursue a private vendetta or retribution, disciplinary action may be taken against the employee.

### **HOW TO RAISE A CONCERN**

- (x) As a first step, employees should normally raise concerns with their immediate Manager or their Supervisor. This depends, however, on the seriousness and sensitivity of the issues involved, and who is thought to be involved in the malpractice. For example, if it is believed that Management is involved, an approach should be made to the Head of Human Resources.
- (xi) Employees will be required to record in writing the background and history of their concerns, giving names, dates and places, where possible, and to state the reasons why there are particular concerns about the situation. If employees do not feel able to put their concerns in writing, they can telephone or meet the appropriate Officer. Such a meeting can take place away from the workplace, if that is what is preferred.
- (xii) The earlier the concern is expressed, the easier it is to take action.
- (xiii) Although employees are not expected to prove the truth of the allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern.
- (xiv) Advice and guidance on how matters of concern may be pursued can be obtained from the Head of Human Resources.
- (xv) A Trade Union Organisation or Professional Association may be invited to raise a matter on behalf of a particular employee.

### **HOW WILL THE COUNCIL RESPOND?**

- (xvi) The action taken by the Council will depend on the nature of the concern. The matters raised may:-
    - (a) be investigated internally; and/or
    - (b) be referred to the Police;
    - (c) be referred to the External Auditor; and/or
    - (d) form the subject of an Independent Inquiry.
  - (xvii) In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific Procedures (for example discrimination issues), will normally be referred for consideration under those separate Procedures.
  - (xviii) Some concerns may be resolved by agreed action without the need for investigation.
  - (xix) Within ten working days of a concern being received, the Council will write to the employee:-
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- (a) acknowledging that the concern has been received;
  - (b) indicating how it proposes to deal with the matter;
  - (c) giving an estimate on how long it will take to provide a final response;
  - (d) stating whether any initial enquiries have been made; and
  - (e) indicating whether further investigations will take place, and if not, why not.
- (xx) The amount of contact between Officers considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the employee.
- (xxi) When any meeting is arranged, employees have the right, if they wish, to be accompanied by a Trade Union Representative, Professional Association Representative, or a work colleague who is not involved in the area of work to which the concern relates. Where appropriate, meetings can be arranged and held "off site" to safeguard confidentiality.
- (xxii) The Council will take steps to minimise any difficulties which employees may experience as a result of raising a concern and they will be protected, as far as possible, from reprisals and victimisation. For instance, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure and offer guidance and, where appropriate, counselling.
- (xxiii) The Head of Human Resources, or some other nominated Officer, will investigate the nature of the complaint in the first instance, and will make a recommendation to the Chief Executive (or the Strategic Director of Corporate Services if the complaint concerns the Chief Executive) without disclosing the employee's identity, so far as possible.
- (xxiv) The Council accepts that employees will need to be assured that the matter has been properly addressed and, where appropriate, subject to any legal constraints, they will receive information about the outcome of any investigation.
- (xxv) Managers and/or employees, who are shown to exercise undue pressure on other employees to deter them from raising a concern about abuse or malpractice, will be subject to the Council's Disciplinary Procedure.
- (xxvi) The Council reserves the right to initiate disciplinary proceedings against employees who raise matters under the "Whistleblowing" Procedure in bad faith and are deemed to have acted maliciously or vexatiously.

#### **HOW THE MATTER CAN BE TAKEN FURTHER?**

- (xxvii) The "Whistleblowing" Policy is intended to provide an employee with an avenue to raise concerns within the Council. If there are concerns relating to anonymity, these should be discussed with the Head of Human Resources. Should this be an employee's preferred choice, special arrangements will be implemented, as far as it is reasonably practicable, to ensure that any information they are able to give in order to resolve a serious malpractice will not affect their employment with the Council. Employees are requested to pursue any area of concern through the appropriate internal Procedures, in the first instance. The rights under the Policy are in addition to any other rights which might already exist.
- (xxviii) If any employee does decide to take the matter outside the Council, they need to ensure that they do not disclose confidential or privileged information.

#### **THE RESPONSIBLE OFFICER**

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- (xxix) The Chief Executive, as Head of Paid Service, has overall responsibility for the maintenance and operation of the Policy. The Chief Executive, through the Head of Human Resources, will maintain a record of concerns raised and their outcomes, in a form which does not endanger an employee's confidentiality, and will report to the Council as and when appropriate.

### 3. Protocol on Member/Officer Relations

*Set out below is a Protocol identifying basic principles which are considered to be fundamental to the development and maintenance of good relations between Members and Officers of the Council.*

*The Protocol should be considered in conjunction with the Members' and Officers' Code of Conduct elsewhere in the Constitution and the standards of behaviour applying throughout the Council's service.*

1. Both Members and Officers of Scarborough Borough Council are servants of the public and they are indispensable to one another. Their relationship is to be based on mutual respect, understanding and support of and for their respective roles.
  2. Members are either responsible to the Electorate and serve only so long as their term of office lasts or are co-opted to undertake specific tasks. Officers are responsible to the Council, their role as employees being to give advice to Members and the Council, the Cabinet and Committees and Sub-Committees of the Council. Control is exercised by Overview and Scrutiny Committees through their ability to investigate matters, to interrogate Members and Officers and to make comment, as appropriate, to the Cabinet or the Council.
  3. It is important that Members and Officers recognise that they both have an essential role to play in the success of the Council and they should both seek to achieve the Council's Mission Statement and strategic objectives, core values and any stated vision.
  4. Close personal familiarity between individual Members and Officers can damage the mutual trust and respect which is essential to good Local Government. Members and Officers should, therefore, recognise the limitations to personal friendship and to the restrictions placed by National Statutory Provisions and agreed Codes of Conduct.
  5. Members and Officers will work towards achieving the Council's objectives and must not undertake any actions which could be perceived as being designed to achieve personal, as opposed to the Council's objectives.
  6. A Member must not do anything which compromises or which is likely to compromise the political neutrality of an employee of the Council. All Officers, apart from Political Assistants where they exist, are expected to be politically neutral at all times in their work for the Council. Officers who hold Politically Restricted Posts, as is required under the Local Government Housing Act 1989, must be sensitive to their position and ensure that any advice given is entirely professional and not political. Officers should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to the Leader, Cabinet and Members without fear or favour and make available to them all information relevant to a decision. Officers should not deceive or knowingly mislead Members or the public or withhold information that may be relevant to a decision.
  7. Information communicated to an employee by a Political Group in confidence should not be communicated to any other Political Group(s).
  8. On occasions, Chief Officers or Senior Officers may be invited to attend and brief Political Group meetings. Officers may be required to attend to provide factual information and answer questions restricted to matters of fact and professional competence and only the same briefing where offered to other Groups. Officers should not be asked or expected to take part in any political discussion or otherwise compromise their political neutrality. Officers will be particularly careful not to divulge any information confidential to the Council when in the presence of persons who are not Members or otherwise associated with the Council.
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9. On occasions, Officers with professional responsibilities may hold a duty to observe codes and standards established by outside Professional Bodies. There may be occasions when these duties conflict with that of the Council and in such circumstances, the advice of the Officer shall be recorded in accordance with the usual decision-making process. Officers should not, without authority, disclose information communicated in confidence within the Council which is not in the public domain.
10. The Mayor of Scarborough Borough Council has a unique role in representing the Council and the Borough and is entitled to the highest level of respect from Officers and Members.
11. The Leader and Members of the Cabinet discharge the following functions:
  - (a) Proposing the budget to full Council (as defined in Article 4.01(b));
  - (b) Proposing to full Council new policies (or amendments to existing policies) which fall within the policy framework as defined in Article 4.01(a);
  - (c) Adopting on behalf of the Council any plans or strategies which do not form part of the policy framework;
  - (d) Implementing and delivering the agreed budget and policy framework;
  - (e) Responsibility for local choice functions to the extent indicated in Schedule 1;
  - (f) Discharging the Council's responsibilities as an employer for health and safety;

Appropriate Officer support will be provided to them in discharging these functions but not to the detriment of support to the Council, the Overview and Scrutiny Committees and the Standards Committee.

12. Members involved in Overview and Scrutiny are entitled within the relevant procedure rules to information, advice and support from Officers, but will always bear in mind that Officers may also be called upon to support, advise and inform the Cabinet and/or the Council from time to time.
  13. Similarly, Members of the Cabinet and the Council and its Committees will respect the multi-functional/split role which is required of some Officers.
  14. Chief Officers of the Council must ensure that Cabinet Members and Committee Chairmen are kept informed of matters within their own area of responsibility. The Chief Executive and/or Chief Officers will ensure that any written or verbal response made to Councillors on matters affecting the Cabinet Member Portfolio or Committee will be copied to that Cabinet Member or Chairman, unless the matter is a confidential one. Officers should use commonsense in deciding whether to copy correspondence entered into with members of the public.
  15. Elected Members are entitled to Officer support in representing their Ward or individual Constituents in matters within the control of the Council. This support will usually be limited to the provision of information and, through the Centralised Typing Service, secretarial support will also be provided.
  16. Officers will facilitate access by Members to documents and information, in accordance with common law and statutory principles. Members will not seek to obtain information outside of their entitlement, as specified under statute. If an Officer, who is requested to provide information to a Member, believes that information to be either restricted or confidential and has reservations about supplying the information, they should seek clarification from the Chief Executive as Head of Paid Service.
  17. The Chief Executive, Chief Officers and other nominated Senior Officers, when requested to do so by a Cabinet Member or Committee Chairman, will keep that Member informed on issues. To not keep such a Member informed, as requested, will constitute a dereliction of duty.
  18. The Chief Executive must have the opportunity to evaluate an issue before it is brought before the Leader of the Council and then, as appropriate, the Leaders of the other Political
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Groups. If the issue affects the Corporate Body, the views of the Corporate Officers' Group should be sought and their views made known to the Leader.

19. The Leader, Cabinet Members and Committee Chairmen, etc. shall be provided with all relevant information prior to them making a decision on a particular issue. The provision of selective information does not make good Local Government and is to be avoided.
  20. Co-opted Members shall be entitled to be treated and receive all appropriate support, advice and guidance, as reflected in this Protocol, and extended to Elected Members.
  21. Cabinet Members, Committee Chairmen and, where appropriate, the Chief Executive will be responsible for making all statements of a policy nature to the news media. The Chief Executive/Chief Officers are charged with making factual statements to the news media and, when necessary, explaining Council policy. Press releases in the name of the Council will normally be issued through the Press Office maintained for that purpose by the Chief Executive.
  22. There is a joint responsibility between Cabinet Members, Chairmen and Chief Officers for considering the need for correction of material published in the press, which may be inaccurate or misleading.
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*A great place to live, work & play*

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## **SCARBOROUGH BOROUGH COUNCIL MONITORING OFFICER PROTOCOL**

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## **A GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES**

- 1 The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Scarborough Borough Council.
- 2 The current responsibilities of the Monitoring Officer role rest with the Head of Legal and Democratic Services, who undertakes to discharge his statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, he will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 3 A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
  - a) complying with the law (including any relevant Codes of Conduct);
  - b) complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
  - c) making lawful and proportionate decisions; and
  - d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

## **B WORKING ARRANGEMENTS**

- 4 The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
    - (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
    - (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet,
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Cabinet Member, Committee meetings and/or Chief Officers Group / Executive Management Team (or equivalent arrangements);

- (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Chief Officers Group / Executive Management Team (or equivalent arrangements);
  - (d) in carrying out any investigation(s) have unqualified access to any information held by the Borough Council and to any Officer who can assist in the discharge of his functions;
  - (e) ensure the other statutory officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - (f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
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- (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Financial Officer;
  - (h) as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources he requires to discharge his statutory functions;
  - (i) have a relationship of respect and trust with the Mayor and the Chairs of the Cabinet, Standards, Regulatory and Overview and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
  - (j) develop effective working liaison and relationship with the Standards Board for England, the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Borough Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle compensation payments for alleged or actual maladministration found against the Council;
  - (k) maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
  - (l) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Standards Board for England) and, if appropriate, make a written report to
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the Standards Committee (unless the Standards Committee agrees a report is not necessary) or to the Standards Board for England if, in the opinion of the Monitoring Officer, there is a serious breach of Scarborough's Code of Conduct for Members;

- (m) in consultation, as necessary, with the Mayor, Cabinet, Standards Committee and the Standards Board for England, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
  - (n) make arrangements to ensure effective communication between his office and Parish Council's within the Borough on Monitoring Officer and Standards Committee issues;
  - (o) have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
  - (p) subject to the approval of the Standards Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and
  - (q) appoint one or more deputies and keep him or her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer.
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- 5** To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
  - 6** The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).
  - 7** To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Borough Council and the proper discharge of the Monitoring Officer role.
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**C SANCTIONS FOR BREACH OF SCARBOROUGH BOROUGH COUNCIL  
CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL**

9. Complaints against any breach of Scarborough's Code of Conduct for Members must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member will be referred to the Standards Committee. Complaints against any breach of this Protocol by an Officer may be referred to the relevant Chief Officer and/or the Chief Executive.

**Ian Anderson**

**Head of Legal and Democratic Services**

**& Monitoring Officer**

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## SUMMARY OF MONITORING OFFICER FUNCTIONS

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on resources.	Section 5 Local Government and Housing Act 1989.
5	Receive copies of whistleblowing allegations of misconduct.	Draft Model Code.
6	Investigate misconduct in compliance with Regulations (when made) and directions of Ethical Standards Officers.	Regulations when made. Directions when made in individual cases. LGA 2000 Section 66(1)+66(6).
7	Establish and maintain registers of members interests and gifts and hospitality.	Section 81 LGA 2000 and draft Model Code.
8	Advice to members on interpretation of Code.	Draft Model Code and consultation Paper.
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance paragraph 8.20.
10	Liaison with Standards Board and Ethical Standards Officers.	New ethical framework, practical implications.
11	New ethical framework functions in relation to Parish Councils.	Section 83(12) LGA 2000.
12	Compensation for maladministration.	Section 92 LGA 2000.
13	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members.	DETR guidance.

## Irregularities Response Plan

This plan sets out the actions to be taken when dealing with:

- (a) a Whistle-Blowing allegation or
- (b) other suspected Irregularity

Examples of other irregularities which are included in this plan are:

1. An allegation indicating that an officer has committed a criminal offence
2. An allegation that an officer has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
3. A breach by an officer of Financial Regulations or Contract Procedure Rules which may:
  - a. at serious financial risk (that is with a consequence beyond delegated authority to Heads of Service
  - b. place the Council at risk of serious adverse publicity,
  - c. require a report to Members or
  - d. lead to adverse media coverage.
4. An allegation that the health or safety of any individual has been, is being or is likely to be endangered by the action or inaction of an officer or officers
5. Death or serious injury to an individual while on premises managed by the Council.

### 1. **Action to be taken by an Officer suspecting or receiving a Whistle-Blowing allegation or dealing with an Irregularity.**

- 1.1 Guidance for staff on how to raise a concern is documented within the Whistle-Blowing Policy.
- 1.2 Any officer who is informed of a potential problem through the Whistle-Blowing Policy or is notified of any other irregularity must record the following:
  - Date discovered
  - Discovery method
  - Names of contacts

- Nature of irregularity

1.3 Where any officer receives such a report, they must not embark on an investigation. The Officer must immediately report details of the irregularity to a member of the Irregularity Response Team. That officer must then convene a meeting of at least three members of the team as soon as possible, and ensure all of the Team members are notified of the issue and the proposed course of action.

1.4 The Irregularity Response Team members are :

- The Chief Executive (as Head of The Paid Service)
- The Strategic Director of Corporate Services (as section 151 Officer)
- The Head of Legal and Democratic Services (as Monitoring Officer)
- The Head of Human Resources
- The Internal Audit Manager

1.5 If the allegation relates to a member of the Irregularity Team, that individual should not be invited to attend the meeting.

## **2. Initial response of the Irregularity Response Team**

The initial response will include:

2.1.1 An initial risk assessment, this will establish the plausibility of any fraud or irregularity and identify the possible implications to the authority.

2.2 If necessary the Irregularity Response Team will provide advice to the Leader of the Council regarding minimising any future loss to the Council. If it is considered that a precautionary suspension may be required the Head of Human Resources must be consulted for advice.

2.3A decision as to who will carry out an investigation. The options for investigating include an internal investigation (Service or Internal Audit) or external investigation (Police or

External Auditor).

2.4 The formation of a 'Investigation Team' to handle an investigation (or provide a contact for an external investigation), this will consist of some or all of the Irregularity Response Team plus any other officers thought appropriate. The Irregularity Response Team should appoint a lead officer.

2.5 A decision as to whether to plan a media response.

2.6 The notification, if appropriate, to the External Auditor.

2.7 The notification of the potential problem on a strictly confidential basis to the Leader of the Council and relevant Cabinet Member by the Chief Executive.

2.8 An assessment of the implications of the Public Interest Disclosure Act must be considered if the potential problem has been notified via Whistle Blowing arrangements.

### **3. Preventing further loss or irregularity**

3.1 Where initial investigation provides reasonable grounds for suspecting fraud or irregularity the Irregularity Response Team will decide what action to take to minimise any future loss to the Council. If a suspected fraud or irregularity involves an employee this may require suspension of the suspect(s). The Head of Human Resources must be consulted regarding the procedure for suspending employees. A decision to suspend an employee rests with the relevant Chief Officer, having received advice from the Head of Human Resources.

3.2 It should not be assumed that suspension must follow automatically from an allegation of irregularity or that an investigation can only proceed in the absence of the employee who may have been responsible. Broadly, suspension need only be considered where the particular circumstances are such that an investigation is impeded by the presence of the individual, or where it appears that there is a danger of further irregularities occurring.

3.3 As an investigation proceeds the Officer leading an investigation will bring to the Irregularity Response Team's attention any information that might lead to a review of their decision as to the appropriateness of suspension. The decision must, however, remain with the relevant Chief Officer. The precautionary suspension of an employee is not disciplinary action and carries no implication of guilt.

3.4 It is important that an individual who is being suspended is not given the impression that they are being dismissed or that any decision has yet been taken about their future. Accordingly a Chief Officer should not normally carry out suspension without prior consultation with the Head of Human Resources. However, there may be cases, for example, where sites are functioning outside the Council's normal office hours, where it is not possible for a Manager to obtain advice even though they feel it is important that the individual should be immediately removed from their duties. In such cases the Manager should send the individual home and tell them to await further instructions. The Manager must inform their Chief Officer and the Head of Human Resources at the earliest opportunity. The Chief Officer with advice from the Head of Human Resources will ask the employee to return to work or inform the employee that they have been suspended.

3.5 It may be necessary to plan the timing of suspension to prevent the suspect from destroying or removing evidence that may be needed to support disciplinary or criminal action. In these circumstances the suspect should be approached unannounced. They should be supervised at all times before leaving the Council's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Council. Any security passes, keys to premises, offices and furniture should be returned. The possibility of collusion between Officers must be considered and the merits of carrying out simultaneous suspensions evaluated.

3.6 The Information Technology Service Manager must be instructed to withdraw without delay access permissions to the Council's computer systems.

#### **4. Investigation Arrangements**

4.1 Internal investigations will normally be lead by a member of the Irregularity Response Team or service management.

4.2 Where an investigation is lead by a member of the Irregularity Response Team the relevant Chief Officer may be asked to nominate a suitably independent officer to represent a service in an investigation. The Service Management representative may be asked to assist in gathering information and / or interviewing staff.

4.3 No action under the disciplinary procedure should normally be commenced until after the investigation has been completed and a report submitted.

4.4 It is essential that the investigation should be a complete one and the officer to whom it is delegated is entitled to expect the fullest co-operation from all employees

4.5 Where there is a need for an internal investigation Internal Audit or where appropriate the Health and Safety Officer may be used. Internal Audit are trained to carry out investigations regarding fraud and irregularity. The Internal Audit Manager will allocate resources to the investigation and this may mean an amendment to the annual Internal Audit plan. The Health and Safety Officer is trained to carry out Health and Safety Investigations.

4.6 As the outcome of any investigation may be that there has been no irregularity, the investigator will take every possible care, as far as is compatible with their task to avoid prejudicing the position of, or embarrassing, an employee involved.

4.8 As part of their fact finding it may be necessary for the investigator to interview employees suspected of irregularities, some of which may be of a criminal nature. Interviews may also be required with relevant staff that have a detailed knowledge of the operations of the Authority in the area in question. The precise form of the interview must, within certain constraints, remain a matter for the investigator's discretion but they will normally ensure that:

- (i) Another officer of the Council accompanies them.

- (ii) They say nothing to the employee that might provide a basis for the individual to argue that they were forced to resign.
- (iii) Where a person does express a wish to resign they will be told that the investigator is not authorised to receive resignations and informed of the correct procedure for tendering resignations. No resignation will be accepted without consultation with the relevant Chief Officer, the Head of Legal and Democratic Services and the Head of Human Resources on the potential implications of a resignation. In certain circumstances it may be necessary to refuse the resignation.
- (iv) Where a person offers to repay money they will be told that the offer cannot as yet be accepted. Any such offer will be reported to the Strategic Director of Corporate Services for consideration as a matter of urgency.
- (v) These procedures are not designed to provide for interviews that comply with the Police and Criminal Evidence Act and where there is a possibility of criminal offence guidance should be sought from the Head of Legal and Democratic Services or the Police.
- (vi) The interviewer and interviewee should sign interview notes, alternatively the tape recording of interviews may be considered with the agreement of both parties.

4.9 The extent of an enquiry will be a matter for the investigator's discretion but will be discussed with the relevant Chief Officer. There may be cases where the nature or extent of the offences revealed indicates that the facts should be reported to the Police before a report is completed. Referrals to the Police will be made with the agreement of the Chief Executive or the Strategic Director of Corporate Services or the Head of Legal and Democratic Services.

4.10 The interview does not form part of the disciplinary process but the employee will be allowed to be represented, by a union steward or workplace colleague. The representatives' role is that of an observer but they will be allowed to clarify details both

during and at the end of the interview. Interview transcripts or summaries will not be made available to the employee being interviewed except where they form part of the overall investigation report. Outside discussion by the employee or representative of the contents of such an interview should be considered a disciplinary offence in its own right.

**4.11** It is important that no disciplinary action should be taken before an investigation report has been completed. It will be crucial in justifying any subsequent disciplinary action to show that there has been a full and thorough investigation and it is important to establish the scale of the irregularity before any action is taken.

## **5. Investigation Progress Reports**

The Investigation Team must provide progress updates to the relevant Chief Officer and the Irregularity Response Team to enable findings to be shared and facilitate different courses of action where appropriate. Update reports regarding internal investigations can facilitate the review of decisions to suspend employees or not and referring the matter to the Police.

## **6. Completion of Investigation**

6.1 When the full report is completed it will be sent to the relevant Chief Officer and the Irregularity Response Team. The purpose of the full report is to set out facts and all the relevant circumstances as a basis on which the relevant Chief Officer can consider whether disciplinary proceedings are appropriate or whatever other action needs to be taken arising from the findings in the report. Referrals to the Police will be made with the agreement of the Chief Executive or the Strategic Director of Corporate Services or the Head of Legal and Democratic Services. All members of the Irregularity Response Team and the External Auditor will be informed of any report to the Police.

6.2 The relevant Chief Officer will consider whether the report indicates a need for disciplinary proceedings in accordance with the agreed disciplinary procedure, this decision will be taken following advice of the Head of Human Resources.

6.3 A copy of the investigation report will be made available to members of the Irregularity



Response Team.

6.4 Any Disciplinary action will be taken by following the Council's Disciplinary procedure.

## **7. Post Investigation Review**

7.1 The investigating officer will carry out a Post Investigation Review. The purpose of Post Investigation Review is to identify any system weaknesses and to recommend actions for improvement.

7.2 The Post Investigation Review will include a timetable for implementing any recommendations and will include a response from the relevant management.

7.3 Reporting arrangements regarding replying to someone raising a Whistle-Blowing concern are documented in the Whistle Blowing Policy.

7.4 Where an irregularity has occurred it is important that staff are made aware that action has been taken and procedures strengthened to minimise a future occurrence. It is important that staff working in an area that has been the subject of a Whistle-Blowing complaint are aware of action as a result of bringing a concern to the attention of management.

7.5 A summary of findings and recommendations as a result of the irregularity should be presented to the Standards Committee. If criminal proceedings are to follow the content of any report must be agreed with the Head of Legal and Democratic Services

# Part 6

## Members' Allowances Scheme

This scheme of allowances was introduced by the Council on 10 November 2003. The scheme complies with Regulation 3 of the Local Authorities (Members' Allowances)(England) Regulations 2003 in that it has regard to the recommendations of an [Independent Remuneration Panel](#). The panel is appointed and its terms of reference determined by the Council's [Audit Committee](#).

The recommendations of the panel have been accepted by the Council.

*The scheme provides for the following payments:*

Responsibility	Allowance	Value (£)
Leader	Basic x 4	14,000.64
Group Leader*	Basic x 1.5	5,250.24
Cabinet Member	Basic x 2	7000.32
Planning and Development Committee Chair	Basic x 1.8	6,300.29
Scrutiny Committee Chair	Basic x 1.66	5,810.28
Audit Committee Chair	Basic x 1.66	5,810.28
Human Resources Committee Chair	Basic x 1.66	5,810.28
Licensing Committee Chair	Basic x 1.66	5,810.28
Standards Committee Chair	Basic x 0.66	2,310.12
Area Committee Chair	Basic x 1.33	4,655.28
All other Members – Basic	Basic x 1	3,500.16

\* In order to qualify for this allowance, a group must comprise a minimum of 10% of the total number of Members





**PART 7**

**Management Structure**

The following is the description of the overall structure of the Council referred to in Article 12.01(e).

**SBC CORPORATE STRUCTURE**

<p><b><u>Chief Executive</u></b> Overall corporate management and operational responsibility (including overall management responsibility for all Officers)</p> <p>Overall management responsibility for policy and performance, elections and together with the Strategic Director of Corporate Services for human resources</p>	<p><u>Strategic Director of Corporate Services</u></p>	<p>Overall management responsibility for finance, legal and democratic services, ICT, governance support, property, marketing (including Tourist Information Centres) central support services, customer services and together with the Chief Executive for human resources,</p>
	<p><u>Strategic Director of Operations</u></p>	<p>Overall management responsibility for planning, community health and environment, regeneration, tourism and leisure, engineering and harbours and street scene.</p>

<p><b><u>Strategic Director of Operations</u></b></p>	<p><u>Head of Environmental Health Services</u></p> <ul style="list-style-type: none"> <li>◆ Environmental Health</li> <li>◆ Cems and Crems</li> <li>◆ Strategic Housing</li> <li>◆ Waste Management and Recycling</li> <li>◆ Pest Control</li> <li>◆ Animal Care and Dog Control</li> <li>◆ Licensing and Endorcement</li> </ul>	<p><u>Head of Regeneration</u></p> <ul style="list-style-type: none"> <li>◆ <u>Economic Development</u></li> <li>◆ <u>Regeneration</u></li> <li>◆ <u>Community Safety</u></li> <li>◆ <u>External Funding</u></li> <li>◆ <u>Business Support</u></li> <li>◆ <u>Neighbourhood Regeneration</u></li> <li>◆ <u>Social Inclusion</u></li> <li>◆ <u>Town Centre Management</u></li> <li>◆ <u>Community Strategy/LSP</u></li> </ul>	<p><u>Head of Tourism and Leisure Services</u></p> <ul style="list-style-type: none"> <li>◆ <u>Tourism Services</u></li> <li>◆ <u>Culture</u></li> <li>◆ <u>Leisure Services</u></li> <li>◆ <u>Catering</u></li> <li>◆ <u>Entertainments</u></li> <li>◆ <u>Community Services</u></li> <li>◆ <u>Conferences and Events</u></li> </ul>	<p><u>Head of Planning Services</u></p> <ul style="list-style-type: none"> <li>◆ <u>Forward Planning</u></li> <li>◆ <u>Development Control</u></li> <li>◆ <u>Building Standards Consultancy</u></li> <li>◆ <u>Conservation and Historic Buildings</u></li> <li>◆ <u>Renaissance</u></li> <li>◆ <u>Local Development Framework</u></li> <li>◆ <u>Regional Planning</u></li> </ul>	<p><u>Head of Engineering and Harbour Services</u></p> <ul style="list-style-type: none"> <li>◆ <u>Flood and Coastal Management</u></li> <li>◆ <u>Capital Projects</u></li> <li>◆ <u>Procurement – Construction-related Services</u></li> <li>◆ <u>Structural Engineering</u></li> <li>◆ <u>Project Management (Client)</u></li> <li>◆ <u>Harbours</u></li> <li>◆ <u>Transportation</u></li> <li>◆ <u>Car Parks</u></li> <li>◆ <u>Traffic Management</u></li> <li>◆ <u>CCTV</u></li> </ul>
	<p><u>Head of Street Scene Services</u></p> <ul style="list-style-type: none"> <li>◆ Highways</li> <li>◆ Parks and Countryside Services</li> <li>◆ Cleansing Services <ul style="list-style-type: none"> <li>- Refuse</li> <li>- Street Cleansing</li> <li>- Public Conveniences</li> </ul> </li> </ul>				

<p><b><u>Strategic Director of Corporate Services</u></b></p>	<p><u>Head of Financial Services</u></p> <ul style="list-style-type: none"> <li>◆ Accountancy</li> <li>◆ Benefits and Fraud</li> <li>◆ Exchequer and Control</li> <li>◆ Local Taxation and Recoveries</li> <li>◆ ICT Services</li> <li>◆ Electronic Service Delivery</li> </ul>	<p><u>Head of Legal and Democratic Services</u></p> <ul style="list-style-type: none"> <li>◆ Legal Services</li> <li>◆ Monitoring Officer</li> <li>◆ Democratic Services</li> <li>◆ Procurement</li> <li>◆ Print and Design</li> <li>◆ Administrative Services</li> <li>◆ Land Charges</li> </ul>	<p><u>Head of Property Services</u></p> <ul style="list-style-type: none"> <li>◆ Asset Management</li> <li>◆ Valuation and Estates Services</li> <li>◆ Architects</li> <li>◆ Markets</li> <li>◆ Building Works</li> <li>◆ Project Development</li> </ul>	<p><u>Head of Marketing and Communications</u></p> <ul style="list-style-type: none"> <li>◆ Promoting the Borough</li> <li>◆ Corporate Marketing</li> <li>◆ TICs</li> <li>◆ Destination Marketing</li> <li>◆ Public Relations and Internal Communications</li> <li>◆ Customer Services</li> </ul>
	<p><u>Head of Policy and Performance</u></p> <ul style="list-style-type: none"> <li>◆ Corporate Policy Development</li> <li>◆ Corporate Performance Management</li> </ul>	<p><u>Head of Human Resources</u></p> <ul style="list-style-type: none"> <li>◆ Industrial/Employee Relations</li> <li>◆ Learning and Development</li> <li>◆ Recruitment and Retention</li> <li>◆ Health, Safety and Welfare</li> <li>◆ Pay and Reward</li> <li>◆ Organisational Development</li> <li>◆ Equal Opportunities</li> </ul>		





### Decision Making Responsibility:

Issue	Council	Cabinet	Individual Cabinet Member	Head of Service
<b>Nature of decision</b>	Policy/budget	Strategic <a href="#">[Art 7]</a>	Operational <a href="#">[Pt 3, Sch 2, 1.1(i)]</a>	Operational [Pt 3, Sch 3, 2]
<b>Mechanism for decision</b>	Council Meeting	Cabinet Meeting unless urgency applies	Decision Notice [Pt 4,s2, 21]	Decision
<b>Financial value</b>	Responsibility for setting the Budget [Pt 3, Art 2.1(ii)]	Above £140,000 -limited only to the Council's budget [Pt 3, 4.1]	£50,001 - £140,000 [Pt 3, Sch 2, 1.1(v)]	Up to £50,000 [Pt 3, Sch 3, 2.6(vi)]
<b>Is it a Key Decision – ie must it appear in the forward plan? [Art 13.03 &amp; Pt 4, 2, 13]</b>	Yes	Yes, unless: (a) it is a decision to invite tenders or sign a contract to implement a previous key decision (b) it is for expenditure which is inevitable for the day to day provision of services (eg energy purchase) <a href="#">[Art 13.03]</a>	No	No
<b>No of days notice prior to decision</b>	Five days <a href="#">[Pt 4.s2, r4.01]</a>	Five days <a href="#">[Pt 4, s2, r4.01 &amp; 14.01]</a>	Three days <a href="#">[Pt 4, Rule 21]</a>	None
<b>No of days before decision comes into effect</b>	None	Five days, unless CE certifies urgent scrutiny (or decision called in) <a href="#">[Pt 4, s6, 10(ii)]</a>	Three days, unless CE certifies urgent scrutiny (or called in) [Pt 4,s2, r21; & Pt 4, s6, <a href="#">10(iii)</a> ]	None
<b>No of days before decision comes into effect if CE certifies the decision for urgent scrutiny</b>	N/A	Two days [Pt 4, s6, <a href="#">10(v)</a> ]	Two days [Pt 4, s6, <a href="#">10(v)</a> ]	N/A
<b>Who may make Urgent decisions – ie without notice or subject call in?</b>	The Leader if: (a) it is not practical to convene a quorate meeting of Council, and (b) if the chair of the relevant O & S committee agrees that any delay in implementation would seriously prejudice the interests of the Council or the public <a href="#">[Pt 3, Sch 2, 1.4, Pt 4, r 4]</a>	The Leader following agreement from the Chair of the relevant O & S Committee that the decision cannot be reasonably deferred. [Pt 3, Sch 2, 1.4; Pt 4, 2, <a href="#">r15</a> ]	The ICM following agreement from the Chair of the relevant O & S Committee that the decision cannot be reasonably deferred. [Pt 4, 2, <a href="#">r15</a> ]	The Head of Service
<b>Who may make decisions in an emergency</b>	The Chief Executive <a href="#">[Pt 3.Sch 3.4(iv) &amp;(v)]</a>	The Chief Executive <a href="#">[Pt 3.Sch 3.4(iv) &amp;(v)]</a>	The Chief Executive <a href="#">[Pt 3.Sch 3.4(iv) &amp;(v)]</a>	The Head of Service or Chief Executive
<b>EU Proc rules?</b>	N/A	Possibly: legal advice must be taken	No	No

## Executive Member Decision-making process

Individual Cabinet Member (£50,000 to £140,000)	Cabinet (above £140,000 )
	Advise Democratic Services to place proposed decision in the Cabinet Forward Plan ( <a href="#">Access to Information Rule 13</a> )
Prepare Report seeking approval for expenditure and forward to Democratic Services	Prepare Report seeking approval for expenditure and forward to Democratic Services
Report considered by SDCS/HLS(MO)	Report considered by SDCS/HLS(MO)
Democratic Services ( <a href="#">Access to Information Rule 21</a> ) 1. Prepare Draft decision notice 2. Forward report and decision notice to ICM 3. Advise ICM that decision can only be made after three days have elapsed 4. Publish proposed decision and copy to Members by email/fax	Report included on Cabinet agenda ( <a href="#">Access to Information Rule 5</a> )
ICM makes decision after three days (unless "Urgency" applies)	Cabinet makes decision (unless "urgency" applies)
Decision notice published and despatched by email/fax to Members	Cabinet minutes despatched to Members
Decision subject to call in for 3 days unless "Urgency" applies or unless Chief Executive specifies decision requires "urgent implementation" ( <a href="#">O &amp; S Rule 10(iii)</a> )	Decision subject to call in for five days unless Chief Executive specifies decision requires "urgent implementation" ( <a href="#">O &amp; S Rule 10(ii)</a> )
Decision into effect after three days unless called in for scrutiny	Decision into effect after five days unless called in for scrutiny
If "urgent implementation applies decision subject to call-in for two days ( <a href="#">O &amp; S Rule 10(v)</a> )	
If called in for Scrutiny, placed on the agenda of the next meeting of the relevant Overview and Scrutiny Committee, or if Urgent on Special O & S Committee convened within five days ( <a href="#">O &amp; S Rule 10(vi)</a> )	
<p>O &amp; S Committee meets.</p> <p>If determine to take no action, decision comes into immediate effect at end of meeting.</p> <p>If refer back to decision maker, decision remains suspended pending further decision by decision maker.</p> <p>If O &amp; S Committee consider decision to be outside Budge and Policy Framework, and Monitoring Officer (Policy Framework) or Chief Financial Officer (Budget) agrees,</p> <p>O &amp; S Committee refer to Full Council and decision remains suspended pending meeting of Full Council (<a href="#">O &amp; S Rule 10(vii)(b)</a> and Budget and Policy Rule 7)</p>	
Council either make decision or if they consider decision to be within Budget and Policy Framework refer back to decision maker ( <a href="#">O &amp; S Rule 10(viii)</a> )	
If referred back to decision maker decision maker makes the decision	
No further decisions required for implementation of decision. Head of Service may approve tenderers and accept tender ( <a href="#">Article 13.03(c)</a> and Rule 36)	No further decisions required for implementation of decision, however, ICM must be advised of any proposed award of a tender in excess of EU procurement limits prior to acceptance. ( <a href="#">Article 13.03(c)</a> and <a href="#">Rule 17</a> )

### Contract Procedure Rules

Contracts up to £5000 (Band 1)	Contracts between £5000 & £50000 (Bands 2 and 3)	Contracts between £50,000 and EU Procurement levels	Contracts above EU Procurement levels
Consider Steps prior to purchase ( <a href="#">Rule 4</a> ) and whether Corporate Purchasing Processes exist ( <a href="#">Rule 5</a> )			
<a href="#">Rule 8.1</a> at least one quote, recorded in writing	Obtain Head of Service Approval	Obtain Individual Cabinet Member approval ( <a href="#">Pt 4,s2, r21</a> ) or Cabinet if above £140,000)	Obtain Cabinet Approval
Prepare Specification (see <a href="#">Rule 7</a> ) referring to EU standards			
Agree with Legal Services form of contract to be used ( <a href="#">Rule 22</a> )			
Determine Evaluation criteria to be used and refer to in Invitation to Quote/Tender ( <a href="#">Rule 14</a> )			
	Prepare Invitation To Quote ( <a href="#">Rule 9.2</a> )	Prepare Invitation to Tender ( <a href="#">Rule 10.1</a> )	
	Identify prospective suppliers by reference to Approved List ( <a href="#">Rule 10.2</a> ) or other means (internet search/yellow pages)	Identify prospective suppliers by reference to Approved List ( <a href="#">Rule 10.2</a> ) unless no Approved List exists	
		If no Approved List exists use Restricted Procedure ( <a href="#">Rule 10.3</a> )	Use Restricted Procedure ( <a href="#">Rule 10.3</a> )
identify evaluation team if not already done so			
		Prepare advert in accordance with <a href="#">Rule 10.3.3</a> requesting expressions of interest	
	Despatch ITQs	Check responses to adverts and questionnaires and invite four to tender (or each prospective tenderer if less than four) ( <a href="#">Rule 10.2.5</a> and <a href="#">10.3.4</a> )	Check responses to adverts and questionnaires and invite six to tender (or each prospective tenderer if less than six) ( <a href="#">Rule 10.3.5</a> and 14.5)
	Head of Service receives quotes	Chief Executive receives tenders ( <a href="#">Rule 13</a> )	
		Consider if Parent Co Gtee reqd ( <a href="#">rule 15</a> )	Consider if Bond reqd ( <a href="#">rule 15</a> )
	Head of Service accepts quotes but unless approved standard contract or order form used, stated to be "subject to contract" ( <a href="#">Rule 17</a> )	Evaluation Team evaluate tenders and Head of Service accepts best tender on basis of Evaluation criteria, "subject to contract"	Evaluation Team evaluate tenders and seeks ICM approval to accept best tender on basis of Evaluation criteria, "subject to contract"
	Papers to Legal Services for preparation of Contract and signing, unless below £50,000 and Official Order Form used ( <a href="#">Rule 22</a> )	Papers to Legal Services for preparation of Contract and signing ( <a href="#">Rule 17</a> )	
When contract in place work may begin ( <a href="#">Rule 17 &amp; 18</a> )			