



Date: **6 August 2018**  
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## CONSTITUTIONAL REVIEW WORKING PARTY

14 AUGUST 2018

A meeting of the Constitutional Review Working Party will be held at **3.00 pm on Tuesday, 14 August 2018** in the Pugin and Rossetti Rooms, Cecil Street, Margate, Kent.

Membership:

Independent Members: Dr Jonathan Sexton (Chairman) and Mrs Janet Bacon (Vice-Chairman)

Councillors: Campbell, Dennis, Dixon, Game and Tomlinson

## A G E N D A

- | <u>Item No</u> | <u>Subject</u>  |
|----------------|---|
| 1.             | <b><u>APOLOGIES FOR ABSENCE</u></b>   |
| 2.             | <b><u>DECLARATIONS OF INTEREST</u></b><br>To receive any declarations of interest from Members in accordance with Council Procedure rule 2.2 (v)                          |
| 3.             | <b><u>MINUTES OF PREVIOUS MEETING</u></b> (Pages 3 - 4)<br>To approve the Minutes of the Constitutional Review Working Party meeting held on 14 June 2018, copy attached. |
| 4.             | <b><u>REVISION TO CONTRACT STANDING ORDERS</u></b> (Pages 5 - 26)   |
| 5.             | <b><u>RE-DRAFTED FINANCIAL REGULATIONS</u></b> (Pages 27 - 78)  |
- Declaration of Interest form - back of agenda**

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# Public Document Pack Agenda Item 3

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 14 June 2018 at 3.00 pm in Austen Room, Cecil Street, Margate, Kent.

**Present:** Dr Jonathan Sexton (Independent Chairman); Mrs Janet Bacon (Independent Vice-Chairman)

Councillors: Campbell, Dixon and Tomlinson

### **97. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Dennis and Game.

### **98. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **99. MINUTES OF PREVIOUS MEETING**

Councillor Campbell proposed, Councillor Dixon seconded and it was AGREED that the minutes of the Constitutional Review Working Party held on 20 February 2018 be approved and signed by the Chairman.

### **100. CHANGES TO THE CONSTITUTION AS A RESULT OF THE VARIATION OF OVERVIEW AND SCRUTINY ARRANGEMENTS**

Nick Hughes, Committee Services Manager outlined the proposed changes to the Council's Constitution.

The following points were discussed:

- Members queried what would happen if an issue related to both finance and policy. Members were advised that the responsibilities are split in that the Executive, Policy & Community Safety Scrutiny Panel considered petitions that request new services or requiring council action on an emerging matter affecting the local community, whereas the Finance, Budget & Performance Scrutiny Panel reviewed or scrutinised decisions made and progress.
- Members were advised that whilst it was not possible to create working parties, it was possible to create a time-limited scrutiny review and any Member could be part of a scrutiny review excepting Cabinet.
- The changes did not affect the Boundaries and Electoral Arrangements Working Party.
- The call-in function will be exercised by the Executive, Policy & Community Safety Scrutiny Panel as the alternative of creating a process to decide which panel was considered too laborious and there would be deadlock if the Chairmen did not agree on which Panel the issue should go to.
- The Working Party commended officers for the work that had gone into the changes to the Constitution.

The Working Party AGREED to recommend the changes to the Constitution to the Standards Committee.

Meeting concluded : 3.35pm

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## REVISION TO CONTRACT STANDING ORDERS

To:	Constitutional Review Working Party(CRWP),14th August 2018
Report Author	Karen Paton, Strategic Procurement Manager
Portfolio Holder	Cllr Ian Gregory
Status	<b>For Recommendation</b>
Classification:	<b>Unrestricted</b>
Key Decision	<b>No</b>
Reasons for Key	N/A
Previously Considered by	N/A
Ward:	N/A

### **Executive Summary:**

The purpose of this report is to propose revisions to Contract Standing Orders (CSO's) to CRWP

### **Recommendation(s):**

CRWP are asked to support content of CSO's and recommend changes contained to the Standards Committee

## **1.0 Introduction and Background**

- 1.1 Section 135 of the Local Government Act 1972 requires Local Authorities “to make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works”.
- 1.2 Contract Standing Orders form part and are included within the Council’s Constitution and set out the minimum obligations and minimum requirements to be followed by officers when making purchases.
- 1.3 The format and general content for Contract Standing Orders originates from a joint piece of work undertaken by Kent Legal Secretaries in May 2009. Whilst each authority has included their own specific requirements, in general the formatting has largely been maintained and continues to provide a level of standardisation across the Kent authorities. Standardisation is especially beneficial across East Kent as this provides consistency of rules for shared service providers (i.e. East Kent Services/East Kent Housing) and also provides ease of approach when undertaking joint or collaborative procurements with other local authorities.
- 1.4 A requirement of the existing Contract Standing Orders (CSO's) is that they are reviewed and updated as necessary with any such recommendations made by the Strategic Procurement Manager being considered by the Constitutional Review Working Party and recommended to the Standards Committee. Following which, they are to be presented to Full Council for adoption.

## **2.0 Reasons necessitating review and changes undertaken**

2.1 The Council's Contract Standing Orders have been reviewed in the light of changes to Procurement Regulations and other statutory obligations (i.e. General Data Protection Regulations [GDPR]). At the same time, opportunity has been taken to align spend thresholds with our neighbouring authorities, Canterbury, Dover and Folkestone and Hythe to provide standardisation for shared service and partner organisations (i.e. East Kent Services, East Kent Housing) and our local and Regional supplier base. Further changes have been made to tighten the controls operating over the Council's procurement processes and to support the government's objectives in relation to greater transparency and the further digitalisation of the procurement process.

Whilst there are a number of subtle amendments, the main changes of significance are:

- **Page 6 - 4 General Principles applying to All Contracts** - (4.8 of CSO's) Notification of contract variations with a value of £10,000 or more or when value is 20% of the annual value of the existing contract
- **Page 7 - 5 Responsibilities of Chief Executive, Deputy Chief Executive, Directors, Heads of Service and Responsible Officers** - (5.4.6 of CSO's) Contracts Register to include all contracts of a value of £5,000 or more
- **Page 8 - 6 Financial Thresholds and Procedures** - (6.3 of CSO's) Requirement for quotations and tenders in excess of £10K to be undertaken via the Kent Business Portal using e-procurement software.
- **Page 8 - 6 Financial Thresholds and Procedures** - (6.5, 6.5.1, 6.5.2, 6.5.3, 6.5.4 of CSO's) Changes in advertising requirements - derived from the Public Contracts Regulations 2015 and Local Government Transparency Code 2015
- **Page 9 - 6 Financial Thresholds and Procedures** - (6.6 of CSO's)
  - i) Use of Procurement templates to produce Invitation to Quote and Invitation to Tender documents
  - ii) Minimum threshold for local tendering increased to £100,000
  - iii) Addition of thresholds and procedures for concession contracts (now subject to own directive and regulations: Concession Contracts Regulations 2016 (CCR2016))
- **Page 11 - 7 Financial Thresholds and Processes Applying to Approval and Execution of Contracts** - (7.2.3 of CSO's) Requirement to have due regard under General Data Protection Regulations (GDPR)
- **Page 11 - 7 Financial Thresholds and Processes Applying to Approval and Execution of Contracts** - (7.3 of CSO's) Requirement to complete Procurement Initiation Form for all contracts £10,000 and above
- **Page 12 - 10 Submission and Opening of Tenders** - (10.1 of CSO's) Threshold for tender opening increased to £100,000 in keeping with change to financial threshold for local tenders
- **Page 12 - 10 Submission and Opening of Tenders** - (10.1, 10.2, 10.3, 10.4 of CSO's) Revised to reflect electronic receipt, security and opening procedures.
- **Page 14 - 13 Extensions and other Variations to Existing Contracts** - (13.2.3) Consultation and notification to Procurement Section
- **Page 15 - 16 Standard Clauses** - (16.1.8, 16.1.9, 16.1.11 of CSO's) Changes to the Council's Standard Clauses

2.2 **E-Tendering** - The implementation of e-tendering not only supports the Government's overarching recommendations for electronic delivery of services and information but also provides the following benefits for the Council and Suppliers: -

**Council Benefits:** -

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- Automation of the quotation/tender process including, advertising opportunities, issuing and receiving quotation and tender responses, central contract store functionality (internally & externally facing) – ensuring all information is quickly/easily available/transmitted to Suppliers
- Opportunity to respond quickly to any Suppliers questions and points of clarification.
- Can notify Suppliers in a standardised manner, ensuring there is no bias to any one Supplier ensuring equal treatment and transparency
- Responses from Suppliers remain secure and privileged until the closing date (providing greater probity) and are opened ‘electronically’
- All communications are tracked and recorded in the system to create a clear audit trail
- Provides a document repository for contracts and full records of procurement activity to meet statutory reporting obligations (PCR 2015 and Local Government Transparency Code 2015)

## **Suppliers Benefits:** -

- Reduced costs associated with, printing, copying, postage, administration etc. associated with a manual process
- Automated in process updates
- Automatically notifies Suppliers electronically of future ITQ/ITT opportunities for all participating authorities negating the need for suppliers to continually monitor & search for future business opportunities across various council/authority websites etc.
- Ability to continually review/update their submission documentation right up to deadline
- Free of charge – web based, only requires internet access

- 2.3 TDC uses the ProContract e-Tendering Suite software (in addition to utilising the Kent Business Portal for advertising future ITQ/ITT opportunities [as do the vast majority of other Kent authorities]).
- 2.4 The CSO's have been reviewed to support the use of the e-tendering system for advertising, issuing and receiving quotations and tenders to the Council.
- 2.5 **Changes in Advertising Contract Opportunities** - As part of the Government's commitment to transparency the Public Contracts Regulations 2015 places advertising requirements on contracting authorities in relation to upcoming contract opportunities (and contract award notices)
- 2.6 Where the Council publically advertises any contract opportunities (£25K and over) there is a requirement to advertise the opportunities via the Governments centralised Procurement Portal – ‘Contracts Finder’.
- 2.7 Government Policy (2017) now requires all contract awards (£25k and over) including call-off contracts from Framework Agreements to be to publicly notify via the Governments centralised Procurement Portal – ‘Contracts Finder’
- 2.8 The Councils e-tendering system and Procurement Portal (Kent Business Portal) outlined at 2.2 above links directly to the Government's mandatory system and

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automatically populates the necessary advertisements etc. ensuring compliance with legislation and Government Policy requirements.

- 2.9 The impact of this legislation (and Government initiative to increase opportunities across the wider SME sector) will be reviewed as part of a future Procurement Strategy Report that will consider (amongst other key areas) how TDC can encourage and support the local economy.
- 2.10 **Roles & Responsibilities** – Part of the Strategic Procurement Managers role is to acknowledge and understand best practice, building on existing working practices and to encourage a culture of continuous improvement ensuring a robust, effective and accountable delivery within all procurement activity.
- 2.11 This approach to procurement has realised three Substantial Assurance ratings in 3 procurement related audits during 2017, the most recent being an audit of the Procurement function, processes and procedures. To build on this success, procurement would seek to ensure the benefits of existing local knowledge and service delivery/expertise applied to tendering processes is complimented by consistent, proportionate controls, processes and procedures across procurements activity as a whole including quotation activity, which previously has been viewed as a local departmental activity.
- 2.12 The CSO's have been reviewed to ensure that Officers work in partnership with the Procurement Team which in essence maintains Services as the delivery experts, whilst Procurement (& Legal) ensure that all procurement activity is effective, legal and not open to challenge, reducing and mitigating any potential risk to officers and the authority.
- 2.13 **Standard Clauses** have been updated to reflect both changes in Council protocol and legislation
- 2.14 Please note that intranet/internet hyperlinks are absent from the Contract Standing Orders document appended, due to scoping work being undertaken in parallel in order to review Procurement website content and also provide and launch an internal Procurement Toolkit for officers. All necessary hyperlinks will be included and available ahead of adoption of the reviewed CSO's.

## 3.0 Options

- 3.1 CRWP endorse the proposed changes and content of CSO's and make recommendation to the Standards Committee
- 3.2 CRWP do not endorse the proposed changes and content of CSO's and provide further instruction in this regard to the Strategic Procurement Manager, accordingly

## 4.0 Next Steps

- 4.1 Standards Committee – 11th September 2018  
Full Council - 11th October 2018

Contact Officer:	Karen Paton, Strategic Procurement Manager, Tel No: 01843 577112, Ext 57112, Email: Karen.paton@thanet.gov.uk
Reporting to:	Ramesh Prashar, Head of Financial & Procurement Services

## Annex List

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Annex 1	Revised Contract Standing Orders
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## Background Papers

Title	Details of where to access copy
Procurement Contract Regulations 2015	<a href="http://www.legislation.gov.uk/uksi/2015/102/contents/made">http://www.legislation.gov.uk/uksi/2015/102/contents/made</a>
Local Government Transparency Code 2015	<a href="https://www.gov.uk/government/publications/local-government-transparency-code-2015">https://www.gov.uk/government/publications/local-government-transparency-code-2015</a>
Government issued Procurement Policy Notes	<a href="https://www.gov.uk/government/collections/procurement-policy-notes">https://www.gov.uk/government/collections/procurement-policy-notes</a>

## Corporate Consultation

Finance	Ramesh Prashar, Head of Financial & Procurement Services
Legal	Tim Howes, Director of Corporate Governance & Monitoring Officer

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# Contract Standing Orders

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14 Purchasing Schemes	15
15 Review and Changes to these Contract Standing Orders	15
16 Standard Clauses	16

# Contract Standing Orders

## 1 Introduction – Purpose of the Contract Standing Orders

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Standing Orders (CSOs) is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
  - 1.1.1 Further its corporate objectives
  - 1.1.2 Uses its resources efficiently
  - 1.1.3 Purchases fit for purpose goods, services and works
  - 1.1.4 Safeguards its reputation from any implication of dishonesty or corruption
  - 1.1.5 Improves the economic, social and environmental wellbeing of the district
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings.
- 1.3 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972.
- 1.4 These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods), and the granting of service or works concessions. They set out **minimum** requirements to be followed. Further information and guidelines are set out in the Council's Purchasing Guide that accompanies this document.
- 1.5 It is a disciplinary offence to fail to comply with these Contract Standing Orders. All employees have a duty to report breaches of Contract Standing Orders to the Section 151 Officer or the Director of Corporate Governance and Monitoring Officer.
- 1.6 Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council must refer to the Council's Whistleblowing Code and following the guidance contained. The Whistleblowing Code can be found on the Council's intranet @ ..... or a copy is available from the Council's Monitoring Officer

## 2 Regulatory Framework in Context

- 2.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:
  - 2.1.1 The relevant EU Rules and EC Treaty Principles which are defined in the Council's Purchasing Guide.
  - 2.1.2 Relevant UK legislation.
  - 2.1.3 The Council's Constitution including these Contract Standing Orders, the Council's Financial Regulations and Scheme of Delegation.

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- 2.2 In the event of conflict between the above, the EU Rules will take precedence, followed by UK legislation, then the Council's Constitution as stated at 2.1.3

### **3 General Principles – Application and Compliance with Contract Standing Orders**

- 3.1 These Contract Standing Orders apply to the purchase by or on behalf of the Council of works, supplies (goods), services and the granting of service or works concessions.
- 3.2 These Contract Standing Orders apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, but there are exemptions from part of the stated CSOs for specific types of contracts and purchasing methods which are listed in 3.3.
- 3.3 Contract Standing Orders 1.1 - 1.4 apply, all other Contract Standing Orders do not apply to the following contracts:
- 3.3.1 which are employment contracts,
  - 3.3.2 for acquisition or rental of land, existing buildings or other immovable property, or which concern interests in or rights over any of them;
  - 3.3.3 for arbitration or conciliation
  - 3.3.4 for the retention of legal counsel and the appointment of expert witnesses in legal proceedings.
  - 3.3.5 Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies provided these arrangements comply with the guidance on grant agreements set out in the Council's Purchasing Guide.

### **4 General Principles applying to All Contracts**

- 4.1 All purchases however small shall be evidenced in writing.
- 4.2 All contracts of a value of £10,000 or more shall be made using one of the following as applicable to nature and size of contract\*:
- 4.2.1 the Council's Official Purchase Order conditions accompanied by the Council's Standard Clauses\* (Ref CSO 16)
  - 4.2.2 the Council's Standard Clauses\* (Ref CSO 16) available on intranet  
@.....
  - 4.2.3 the Council's General Conditions of Contract\* available on intranet  
@ .....
  - 4.2.4 a standard form of contract (e.g. NEC, JCT etc) using the latest edition as published accompanied by the Council's Standard Clauses\* (Ref CSO 16) or
  - 4.2.5 the Suppliers Terms & Conditions (in exceptional circumstances only) accompanied by the Council's Standard Clauses\* (Ref CSO 16)

Advice and agreement must be sought from Legal Services prior to issue and award in respect of 4.2.4 and prior to award in respect of 4.2.5. **N.B.** In respect of 4.2.2 – 4.2.5 an Official Purchase Order must be raised relating to contract spend

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and budgetary commitment, as required under the Council's Financial Procedure Rules.

*\*Contract clauses are approved and maintained by Legal Services and are subject to amendment from time to time. Officers must therefore check via the intranet or with the Legal Section direct, that they are using the latest version/s.*

- 4.3 As a minimum, all contracts of a value of £10,000 or more shall include clauses which set out:
  - 4.3.1 The works, supplies (goods), services, material, matters or things to be carried out or supplied
  - 4.3.2 Specify the price to be paid, the estimated price or the basis on which the price is to be calculated
  - 4.3.3 The time within which the contract is to be performed
  - 4.3.4 Quality requirements and/or standards which must be met
  - 4.3.5 Requirements on the contractor to hold and maintain appropriate insurance
  - 4.3.6 Adequate contract management and audit provisions
  - 4.3.7 What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
  - 4.3.8 Inclusion of the Council's Standard Clauses (Ref CSO 16) placing a duty on the contractor to comply with all relevant legislative requirements and discharge of obligations under said legislation.
- 4.4 Additional termination clauses are required for contracts over the relevant EU threshold in accordance with the Public Contracts Regulations 2015 (Reg 73) enabling termination for the following events:
  - 4.4.1 the contract has been subject to a substantial modification (change) which would have required a new procurement process.
  - 4.4.2 the contractor has been, at the time of the contract award, in a situation which amounts to a mandatory exclusion and should have been excluded from participating in the procurement process.
  - 4.4.3 the contract should have not been awarded to the contractor due to serious infringement of certain obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union.
- 4.5 Contracts shall not include non-commercial terms unless these are necessary to achieve best value for the Council or are included in accordance with the Public Services (Social Value) Act 2012. In this context, "non-commercial" means requirements unrelated to the actual performance of the contract.
- 4.6 All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability, whole life costings, cost saving and efficiency (as appropriate).
- 4.7 All contracts of a value of £10,000 or more which are assessed as involving a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file. Responsible Officers should use the

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assessment methodology set out in Attachment 1 of the Council's Purchasing Guide and take the follow-up actions set out there.

- 4.8 The Procurement Section shall be made aware at [procurement@thanet.gov.uk](mailto:procurement@thanet.gov.uk) of all proposed variations with a value of £10,000 or more or when value is 20% of the annual value of the existing contract by submission of a Contract Variation form which can be found on the intranet @ .....

Where officers require:

- 4.8.1 legal advice on a procurement; or
- 4.8.2 terms of contract; or
- 4.8.3 award/sealing of the procured contract,

they should send to Legal Services a completed 'Contract Instructions' form which can be found on the intranet @ .....

#### **5 Responsibilities of Chief Executive, Deputy Chief Executive, Directors, Heads of Service and Responsible Officers**

- 5.1 The Chief Executive, Deputy Chief Executive and each Director shall have overall responsibility for the purchasing undertaken by his or her Directorate.
- 5.2 Each Head of Service shall be responsible for the purchasing undertaken by his or her service and shall
  - 5.2.1 be accountable to the Council for the performance of his/her duties in relation to purchasing
  - 5.2.2 comply with the Council's decision making processes including, where appropriate, implementing and operating a Scheme of Delegation
  - 5.2.3 attend training in relation to these Contract Standing Orders and ensure that any Responsible Officer to whom he or she appoints under CSO does the same
  - 5.2.4 take immediate action in the event of breach of these Contract Standing Orders, which will include as a minimum promptly informing their line manager (unless that person is suspected of being involved) and the Monitoring Officer and the Section 151 Officer of such breach.
- 5.3 A Responsible Officer is an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services as authorised by their Head of Service on behalf of the Council.
- 5.4 A Responsible Officer's duties in respect of purchasing are to ensure:
  - 5.4.1 act within the scope of their responsibility and authority, as authorised by their Head of Service
  - 5.4.2 compliance with all Regulatory Provisions (see CSO 2.1)
  - 5.4.3 that all relevant officers are reminded of the relevant statutory provisions and the Council's requirements relating to declarations of interest and confidentiality undertakings affecting any purchasing process in order for them to comply with these requirements

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- 5.4.4 that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
  - 5.4.5 the purchasing process, from planning to delivery incorporates (where appropriate) principles of best value, sustainability, efficiency, whole life costing and cost savings
  - 5.4.6 that all contracts of a value of £5,000 or more are included on the Council's Contract Register, maintained by the Procurement Section to meet transparency obligations of quarterly publication
  - 5.4.7 that proper records are maintained of all contract award procedures, waivers, exemptions, extensions and other variations and contract management activities, regardless of contract value, with separate files for each purchase of a value of £100,000 or more
  - 5.4.8 that proper records to justify decisions taken in all stages of the procurement process, as required under the Public Contracts Regulations 2015 (Reg 83/84), are maintained for every contract or framework agreement with a value of 1,000,000 EUR for supply (goods) or services contracts and 10,000,000 EUR for works contracts. A Contract Report for this purpose is available on the intranet @.....
  - 5.4.9 that value for money is achieved
  - 5.4.10 that adequate and appropriate security (such as a bond or guarantee) is taken to protect in the event of non-performance as deemed necessary to the nature of the contract
- 5.5 In considering how best to procure works, supplies and services, the Chief Executive, Deputy Chief Executive, Directors, Heads of Service and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and e-procurement/purchasing methods, and in-house and/or commercial opportunities that may be available to the council, for which Legal guidance must be sought.
- 5.6 The Responsible Officer, if procuring services under the Public Contracts Regulations 2015, has obligations under the "Public Services (Social Value) Act 2012" namely "a duty to consider" at the pre-procurement planning stage, the following considerations:
- 5.6.1 how what is proposed to be procured might improve the economic, social and environmental well-being of the "relevant" local area.
  - 5.6.2 how in conducting a procurement process it might act with a view to securing that improvement and whether to undertake a consultation with stakeholders on these matters.

## **6 Financial Thresholds and Procedures**

- 6.1 The table below sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values. The table now separates out, concession contracts (services/works) previously falling within the scope of the Public Contract Regulations, however these arrangements are now subject to their own Regulations contained within The Concession Contracts Regulations 2016 (CCR 2016).

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- 6.2 There is a general presumption in favour of competition. Wherever possible, Contract Notices should be advertised by way of a public notice. The Council must consider the potential effect of a contract on interstate trade (at a European level). If a contract may be of interest to contractors from other member states then this may result in a need to advertise in a manner which ensures that potential contractors from other member states are aware of the opportunity, even for small value contracts or contracts under the EU Threshold levels outlined below.
- 6.3 Sourcing of all Contracts of £10,000 or over must be undertaken using the Kent Business Portal via the Procurement Section who manage the e-procurement system and e-procurement process on behalf of the Council.
- 6.4 The public notice referred to at 6.2 must take the form of a notice or advertisement on an easily accessible website or other electronic media and/or in the press, trade journals or Official Journal of the European Union ("OJEU") (as appropriate). The Responsible Officer may choose to place one or more public notices in different media.
- 6.5 In accordance with Part 4 of the Public Contracts Regulations 2015 and guidance issued by the Cabinet Office and, The Local Government (Transparency Requirements) Regulations 2015
  - 6.5.1 All contract opportunities with a value of £25,000 and above must be published on 'Contracts Finder' where the Council has advertised such opportunity in the form of a notice or advertisement as set out in 6.3 above.
  - 6.5.2 All contract opportunities for which a Contract Notice was sent to the OJEU for publication must also be published on 'Contracts Finder'.
  - 6.5.3 Contracts awarded of £25,000 and above must be published on Contracts Finder. This includes awards made following a call-off/s from a Framework Agreement **and contracts that may not have been openly advertised.**
  - 6.5.4 Under the Local Government Transparency Code 2015, contracts of £5000 and over and spend of £500 and above must be published quarterly. Local authorities must also publish details of every transaction undertaken using a Government Procurement Card.

#### 6.6 Table setting out financial thresholds and procedures:

Total value £	Type of contract	Procedure to be used
1,000 to 9,999	Works, supplies and services	Local CSO rules apply - At least one quote in advance – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
10,000 to 99,999.99	Works, supplies and services	Local CSO rules apply - At least three written quotes in advance using the Council's Invitation to Quote documents or electronic method agreed with Procurement – Consideration to be given to suitably qualified Thanet Supplier/s, if available.

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100,000 to 181,301.99 ** Works, supplies and services	Works, Supplies and Services	Local CSO rules apply - At least three written tenders in advance using the Council's Invitation to Tender documents with advertisement by public notice
181,302** plus  <b>**EU Threshold for supplies and services</b>	Supplies and Services	EU Rules, PCR2015 & CSO apply – full competitive process using the Council's Invitation to Tender documents following advertisement in the OJEU for supplies and Part A* services.  For Light Touch * services reduced requirements apply under the EU Rules and the threshold is £615,278** but there is a presumption in favour of advertising and a competitive process.
181,302 to 4,551,412.99 **	Works	Local CSO's rules apply - At least three written tenders in <b>advance</b> using the Council's Invitation to Tender documents with advertisement by public notice
4,551,413 plus **  <b>**EU Threshold for works</b>	Works	EU Rules, PCR2015 & CSO apply – full competitive process using the Council's Invitation to Tender documents following OJEU advertisement

**Service/Works Concession Contracts:** The following spend thresholds are specific to Service and Works Concession Contracts - Officers should seek both Procurement and Legal guidance on Concession Contract arrangements.

Total Value £	Type of Contract	Procedure to be used
1,000 to 9,999	Services and works concessions	Local CSO rules apply – At least one written quote in advance – Consideration to be given to suitably qualified Thanet Supplier/s, if available
10,000 to 99,999.99	Services and works concessions	Local CSO rules apply – At least three written quotes in advance, sourced and receipted electronically using the Council's e-procurement system – Consideration to be given to suitably qualified Thanet Supplier/s, if available
100,000 to 4,551,412.99 **	Services and works concessions	Local CSO rules apply – At least three written tenders in advance, using the Council's e-procurement system with advertisement by public notice

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4,551,413      ** Plus ** EU Threshold for Concessions	Services and works	EU Rules, Concession Contracts Regulations 2016 (CCR2016) apply – full competitive process using the Council's e-procurement system following OJEU advertisement - <b>seek guidance from Legal Services /Procurement</b>
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- \* *For the purposes of the EU Rules services are divided into two types “A” & “Light Touch” and the EU Rules apply to a different degree. Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the EU Rules to services contracts.*

\*\* **or relevant threshold in force at the time under the EU Rules.**

Please note that the thresholds are fixed every two years and converted from Euro's to £ Sterling subject to the exchange rates applicable at that time and published in the relevant regulations.

- 6.7 Where contracts are of a type and value that mean the EU Rules apply to them then there are five main types of EU procedures available. These are the open, restricted, competitive procedure with negotiation, competitive dialogue and innovation partnership procedures. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of EU procedure should be sought from Legal Services and process progressed via the Procurement Section.

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### **7 Financial Thresholds and Processes Applying to Approval and Execution of Contracts**

- 7.1 For contracts over the relevant EU threshold (in force at the time), the choice of purchasing procedure to be used and the decision to proceed to advertisement must be authorised in writing by the relevant Head of Service in consultation with the Head of Legal Services and Deputy Monitoring Officer & Strategic Procurement Manager in advance.
- 7.2 Before the procurement process starts, the Head of Service must also consider:
  - 7.2.1 how any service to be procured may improve the social environmental and economic well-being of the Thanet District, how the improvement can be secured and whether consultation is needed;
  - 7.2.2 ensure the Council has due regard to equality obligations under the Equality Act 2010; and
  - 7.2.3 ensure the Council has due regard to data protection and obligations under the General Data Protection Regulation (GDPR).
- 7.3 For all contracts of £10,000 and above, the responsible officer must ensure the Council's Procurement Initiation Form, which can be found on the intranet @ ..... is fully completed and authorised and submitted to the Procurement Section sufficiently in advance, for the procurement process to be scheduled within the procurement programme.
- 7.4 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Standing Orders ensure, in particular, that:
  - 7.4.1 the appropriate approvals have been obtained to authorise that decision; and
  - 7.4.2 where appropriate, a standstill period complying with the EU Rules is incorporated into the final award process.
- 7.5 Any contracts valued at £100,000 or above including any order made under a framework arrangement shall be executed as a deed under the Council's common seal. Officers with appropriate delegated authority may sign all other contracts.
- 7.6 Any contract with a value of £10,000 or more, entered into on behalf of the Council in discharging an Executive function shall be made in writing. Such contracts shall either be signed by one authorised officer of the Council or be made under the common seal of the Council attested by an authorised signatory of Legal Services.
- 7.7 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Senior ICT Manager.

### **8 Calculating the Contract Value**

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- 8.1 The starting point for calculating the contract value for the purposes of these Contract Standing Orders is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (**including proposed extensions and options**).
- 8.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of the EU Rules and/or these Contract Standing Orders.
- 8.3 The EU Rules can cover contracts, which are below the stated EU threshold, where they constitute repeat purchases and/or purchases of a similar type (goods/services or works) in a specified period. Responsible Officers should therefore seek advice from the Strategic Procurement Manager on the application of the EU Rules where they envisage that they may require repeat purchases and/or purchases of a similar type.

## **9 Principles Underlying Tendering Processes and Tender Evaluation**

- 9.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure:
  - 9.1.1 Sufficient time is given to plan and run the process
  - 9.1.2 Equal opportunity and equal treatment
  - 9.1.3 Openness and transparency
  - 9.1.4 Probity
  - 9.1.5 Outcomes that deliver sustainability, efficiency and cost savings (where appropriate).

## **10 Submission and Opening of Tenders**

- 10.1 An Invitation to Tender shall be issued electronically by the Council for all contracts of £100,000 or more, via the Council's eProcurement system and tenders shall be submitted in accordance with the requirements of Invitation to Tender Document.
- 10.2 Any tenders received shall be kept secure electronically unopened within a sealed mailbox on the e-tendering system until the time and date specified for the opening.
- 10.3 No tenders received after the time and date specified for its opening shall be accepted or considered by the Council unless agreed in writing by the Monitoring Officer and only in exceptional circumstances.
- 10.4 Tenders shall be opened electronically by an officer of the Procurement Section on the Council's eProcurement system providing a full audit trail of all activity undertaken. Where Tenders are expected to have a value of £100,00 or more, invitations to the opening of these tenders will be sent to the appropriate Portfolio Holder or another Cabinet Member and the appropriate Shadow Portfolio Holder or another Shadow Cabinet Member, a Procurement Officer, one Responsible Officer and a Democratic Services Officer to undertake the completion of the Record of Receipt of Tender Document of all tenders received including names and addresses and the date and time of opening. In circumstances where both Portfolio/Cabinet member and/or, both Shadow Portfolio/Cabinet members are

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## Annex 1

unable to attend, opening of tenders can and should be undertaken in presence of officers and at least one substitute Member to ensure procurement programme is maintained.

### **11 Evaluation of Quotations and Tenders**

- 11.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenders by no fewer than 2 officers
- 11.2 Tenders subject to the EU Rules shall be evaluated in accordance with the EU Rules in the presence and under the guidance of procurement officer/s.

### **12 Waivers**

- 12.1 The requirement for the Council to conduct a competitive purchasing process for contracts of £10,000 or more may be waived in the following circumstances:
  - 12.1.1 For contracts which are not subject to the EU Rules, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or
  - 12.1.2 the circumstances set out in the Public Contract Regulations 2015 Regulation 32 apply (whether or not the contract is of a type which is subject to the application of the EU Rules); or
  - 12.1.3 where the supply is for parts for existing machinery, or where the terms of supply of equipment require that maintenance be undertaken by a specified provider; or
  - 12.1.4 where the work is of a specialist nature, the skill of the contractor is of primary importance, and the supply market has been tested and found to be limited; or
  - 12.1.5 where the supply is for maintenance to existing IT equipment or software, including enhancements to current software, which can only be performed by the licensed developer or owner of the system; or
  - 12.1.6 at the discretion of the relevant Director who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing.
- 12.2 A Responsible Officer who seeks a waiver of Contract Standing Orders shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders is set out in the Council's Purchasing Guide.
- 12.3 All waivers from these Contract Standing Orders must be:
  - 12.3.1 Fully documented
  - 12.3.2 Subject to a written report in an approved format, available on the intranet, to be submitted **in advance** to the relevant Director for endorsement which shall include reasons for the waiver which demonstrate that the waiver is genuinely required
  - 12.3.3 Subject to comment and/or endorsement as to existence of exceptional circumstances by the Strategic Procurement Manager

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- 12.3.4 Subject to **approval in advance** by the Deputy Chief Executive/Section 151 Officer or his/her authorised representative, who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
- 12.4 All decisions on waivers must take into account:
  - 12.4.1 Probity
  - 12.4.2 Best value/value for money principles.
- 12.5 For contracts subject to the EU Rules, any waiver from the requirement for competition must meet without exception the conditions set out in the EU Rules, in addition to the general requirements above.
- 12.6 Once a waiver is approved in respect of a specific contract value, the waiver shall cover contract spend up to the next spend threshold negating the need for a further waiver application on occasion when there may be a slight increase in contract spend.

### **13 Extensions and other Variations to Existing Contracts**

- 13.1 An extension to the duration of an existing contract can only be granted if specifically provided for by that contract and for the period (or periods) specified.
- 13.2 Extensions and other variations to existing contracts such as the inclusion of additional works or services must be:
  - 13.2.1 Made in accordance with any statutory restrictions and any specific terms of the contract;
  - 13.2.2 Made in accordance with the principles set out in the Council's Purchasing Guide;
  - 13.2.3 Discussed and notified to the Procurement Section
  - 13.2.4 In a written format approved by Legal Services.
- 13.3 Any extension or other variation must take into account:
  - 13.3.1 Probity
  - 13.3.2 Best value and value for money principles.
- 13.4 For contracts subject to EU Rules, any extension or other variation must meet the conditions set out in the EU Rules in addition to the more general requirements set out above. Responsible Officers should proceed cautiously and seek advice where any extension or other variations are proposed to contracts subject to the EU rules.
- 13.5 For all contracts which are not subject to the EU rules, no variation (nor the cumulative effect of more than one variation) of a contract may artificially modify the subject matter of a contract beyond its original specification nor increase its annual value by more than 20% of the Contractor's original tender bid.
- 13.6 Subject to the nature of changes which may be required to the contracts and framework agreements, certain variations may be lawfully sought. Responsible Officers should contact Legal Services or Procurement to obtain advice on the lawfulness of the changes required.

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### **14 Purchasing Schemes**

- 14.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Purchasing Guide.
- 14.2 Responsible Officers must check and validate in advance that
  - 14.2.1 The Council is legally entitled to use the Purchasing Scheme
  - 14.2.2 The purchases to be made do properly fall within the coverage of the Purchasing Scheme and are made according to any terms of said Scheme
  - 14.2.3 The establishment and operation of each Purchasing Scheme is in compliance with the EU Rules (where they apply) and meets the Council's own requirements.
- 14.3 A "Purchasing Scheme" may include:
  - 14.3.1 Contractor prequalification lists/select lists
  - 14.3.2 Framework arrangements (including those set up by the Crown Commercial Services and other Purchasing agencies i.e. ESPO, TPPL)
  - 14.3.3 Purchasing arrangements set up by central purchasing bodies and commercial organisations
  - 14.3.4 Consortium purchasing
  - 14.3.5 Collaborative working arrangements
  - 14.3.6 E-procurement/purchasing schemes and methods
  - 14.3.7 Other similar arrangements such as the Government eMarketplace
- 14.4 Where a Purchasing Scheme is used then there shall be a whole or partial exemption from the obligations under these Contract Standing Orders in respect of the choice and conduct of procedures to the extent permitted and indicated in the Council's Purchasing Guide.

### **15 Review and Changes to these Contract Standing Orders**

These Contract Standing Orders shall be reviewed and updated on a regular basis. Save in the case of revisions to the EU Thresholds in Contract Standing Order 6.6, amended Contract Standing Orders shall be recommended by the Constitutional Review Working Party to Council. The Strategic Procurement Manager will make revisions to the EU Thresholds as applicable and is permitted to undertake such non-material amendments as a result of business restructuring as required from time to time.

### **16 Standard Clauses**

- 16.1 Each contract of £10,000 or more shall include standard clauses, including those indicated "where applicable" dependant on the nature of the contract as follows:
  - 16.1.1 Anti-Corruption and Bribery
  - 16.1.2 Prevention of Assignment
  - 16.1.3 Equal Opportunities/Health and Safety

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- 16.1.4 Freedom of Information
- 16.1.5 Prompt Payment of Invoices
- 16.1.6 Conflict of Interest
- 16.1.7 Child Protection and Safeguarding Generally
- 16.1.8 Performance Data Sharing
- 16.1.9 Data Protection
- 16.1.10 TUPE and Employment Matters (where applicable)
- 16.1.11 Termination (Reg 73 PCR 2015) (above EU threshold procurements only)
- 16.1.12 Liquidated Damages (where applicable)

These Standard Clauses are available on the intranet @ ..... Standard Clauses are maintained by Legal Services and are subject to amendment from time to time.

## Re-drafted Financial Regulations

CWRP	<b>14 August 2018</b>
Report Author	<b>Tim Willis, Deputy Chief Executive &amp; Section 151 Officer</b>
Portfolio Holder	<b>Cllr Ian Gregory, Portfolio Holder for Financial Services and Estates</b>
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>
Key Decision	<b>No</b>
Ward:	<b>All Wards</b>

This report sets out the re-drafted Financial Regulations which appear in the Council's Constitution.

### **Recommendation(s):**

That CWRP review the re-drafted Financial Regulations.

<b>CORPORATE IMPLICATIONS</b>	
<b>Financial and Value for Money</b>	There are no financial implications arising from this report.
<b>Legal</b>	The Local Government Act 2000 requires the Council to prepare, keep up-to-date and publicise a document known as the Constitution setting out how the Council operates, makes decisions and who is responsible for those decisions.
<b>Corporate</b>	
<b>Equalities Act 2010 &amp; Public Sector Equality Duty</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <p>There are no equity and equalities implications arising directly from this report, but the Council needs to retain a strong focus and understanding on issues of diversity amongst the local community and ensure service delivery matches these.</p> <p>It is important to be aware of the Council's responsibility under the Public Sector Equality Duty (PSED) and show evidence that due consideration</p>

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	had been given to the equalities impact that may be brought upon communities by the decisions made by Council.
--	--

<b>CORPORATE PRIORITIES (tick those relevant)✓</b>	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	✓
Supporting neighbourhoods	✓

<b>CORPORATE VALUES (tick those relevant)✓</b>	
Delivering value for money	✓
Supporting the Workforce	✓
Promoting open communications	✓

## 1.0 Financial Regulations

- 1.1 To conduct business in an efficient and effective manner, the Council needs to ensure that it has sound financial management policies in place and mechanisms to ensure that they are properly applied.
- 1.2 Financial Regulations form an important element of the Council's corporate governance arrangements and provide a control framework through which the Deputy Chief Executive & Section 151 Officer (as the Chief Financial Officer under Section 151 of the Local Government Act 1972) fulfils his statutory responsibilities on behalf of the Council.
- 1.3 All Members and Officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public money. The Financial Regulations therefore apply to every Member and Officer of the Council and anyone acting on its behalf. They provide the overall key control framework to enable the Council to exercise effective financial management and control of its resources and assets. They provide clarity about the financial accountabilities of individuals – Members, the Returning Officer, Monitoring Officer, the Section 151 Officer and Corporate Director. Each of the Financial Regulations sets out the overarching financial responsibilities.
- 1.4 Another key purpose of the Financial Regulations is to support and protect Members and Officers in the performance of their duties where financial issues are involved.
- 1.5 The Council's financial management framework needs to be relevant and flexible enough to meet the challenges ahead. The significant reduction in Government grant and the potential for future changes that are yet to be announced by the government have forced the Council and the whole of local government to radically rethink and "transform" the services themselves. Financial Regulations provide the financial controls and procedures necessary to address these demands on local government and are especially important at a time of this fundamental change.
- 1.6 The updated Financial Regulations are presented to CWRP at Annex 1 for approval.
- 1.7 The Financial Regulations have been rewritten and one of the key points to note are the Regulations have been grouped into 6 parts as follows:
  - (a) Status of Financial Regulations
  - (b) Financial Planning and Budgeting
  - (c) Financial Monitoring and Control
  - (d) Financial Procedures and Systems

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(e) Risk Management and Audit.

(f) External Arrangements

This will make it easier for Members and Officers to refer to in the performance of their duties where financial issues are involved.

Contact Officer:	Ramesh Prashar, Head of Financial & Procurement Services
Reporting to:	Tim Willis Deputy Chief Executive & Section 151 Officer

## Annex List

Annex 1	Re-drafted Financial Regulations
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## Background Papers

Title	Details of where to access copy
None	

## Corporate Consultation

Finance	N/A
Legal	

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### Annex 1

# **THANET DISTRICT COUNCIL - FINANCIAL REGULATIONS**

The council is committed to providing good quality services to the residents of the area and has a requirement for strong financial governance and must ensure that we deliver value for money.

The Financial Regulations provide clarity about the financial accountabilities of individuals - Members, the Head of Paid Service, the Monitoring Officer, the Section 151 Officer (Chief Financial Officer), other Directors and all staff in general. These Regulations are therefore formally endorsed by the Council as a key part of its Council's Constitution.

Another key purpose is to support and protect Members and staff in the performance of their duties where financial issues are involved. These Regulations need to be read in conjunction with the remainder of the Constitution and any other regulatory documents of the Council. Please address queries or comments regarding the Council's Financial Regulations to the Deputy Chief Executive (the Section 151 Officer).

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## Annex 1

### THANET DISTRICT COUNCIL - FINANCIAL REGULATIONS

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## Status of Financial Regulations

### Section 1: General

#### (1) Application of Financial Regulations

Financial regulations provide the framework for managing the Council's financial affairs. They apply to every Officer and Member of the Council and anyone acting on its behalf.

- (i) The regulations identify the financial responsibilities of the Full Council, all the Council's Committees, the Chief Executive (Head of Paid Service), the Deputy Chief Executive (Section 151 Officer), Director of Corporate Governance (Monitoring officer), Directors and all staff in general.
- (ii) References in these Regulations to Directors also apply to the Chief Executive (Head of Paid Service), and shall in every case be considered as referring to authorised persons acting on their behalf (whether authorised to do so or not). The Section 151 Officer has a nominated Deputy who has authority to act on his behalf. In certain cases as specified in these Regulations, Directors are required to maintain a written record where decision making has been delegated to members of their staff, including seconded and temporary staff.
- (iii) These Regulations apply equally to any service carried out by the Council on behalf of the County Council or any other authority, body or person, and to all external agencies and their employees incurring expenditure or receiving income on behalf of the Council. Accordingly the Directors and Cabinet Members shall ensure that partnership and other arrangements with external parties are not set up to operate in conflict with these Regulations as far as this Council's involvement is concerned.
- (iv) Any action, which is an exception to these Regulations, may only be approved in exceptional circumstances by the Section 151 Officer in consultation with the Chief Executive and a report setting out the reasons for such action shall be submitted to the next available meeting of the Cabinet.
- (v) These Regulations shall apply until such time as they are rescinded, amended or suspended by Council.

#### (2) General Responsibilities

- (i) All Members and staff have a general responsibility for taking reasonable action to provide for the security of the resources under their control, and for ensuring that the use of these resources is legal, is properly authorised, and that economy, efficiency and effectiveness are secured.
- (ii) Directors and responsible Cabinet Members are responsible for informing the Section 151 Officer of any matter liable to materially affect the finances (including any financial irregularities) of the Council including negotiations with government departments, before any commitment is incurred or arrangements reached. This includes the Council becoming a shareholder or owner of any company.

#### (3) Compliance

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- (i) Directors are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's Financial Regulations and any guidance issued. They must also ensure that staff, understand the requirement to comply with these financial rules. The Section 151 Officer is responsible for ensuring that a current version of the financial regulations is available for reference on the Council's intranet and public website.
- (ii) Compliance with Financial Regulations is mandatory. Breaches of Financial Regulations of a serious nature may result in disciplinary proceedings. Breaches shall be reported in the first instance to the Section 151 Officer who will decide what further action needs to be taken, if necessary in consultation with the Monitoring Officer. Where the Section 151 Officer considers it appropriate he will report to the next meeting of the Council and/or Cabinet.

(4) Review

- (i) The Section 151 Officer is responsible for maintaining a continuous review of the financial regulations and, except where provided in (ii) below, submit any additions or changes necessary to Council for approval.
- (ii) Any financial amounts referred to in these Regulations may be varied by the Section 151 Officer in line with general price inflation or otherwise as required by statute.

## Section 2: Internal Controls

### (1) Introduction

- (i) The functions of the Council are diverse and therefore to ensure delivery of the Council's strategic objectives, a framework of internal controls is required.
  - (ii) The Council has statutory obligations and therefore requires internal controls to identify, meet and monitor compliance with these obligations.
  - (iii) Moreover the Council is required to produce an Annual Governance Statement (AGS). The Council has adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. The AGS is produced following a review of the Council's governance, risk management, counter fraud and internal control arrangements and explains how Thanet District Council delivers good governance against the six key principles of good governance. It also reviews the effectiveness of these arrangements and includes an action plan to address any significant governance issues identified.
  - (iv) The Council faces a wide range of financial, administrative and commercial risks, from both internal and external factors, which need to be managed to enable the Council to achieve its objectives. Internal controls are necessary to manage these risks in line with the Council's risk appetite.
  - (v) A 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, and
    - (d) Risk management.
- Advice and guidance on an appropriate internal control environment can be obtained from Internal Audit.
- (vi) A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs. All Members and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public money.

### (2) Members

- (i) Members' responsibility for the overall management of the Council's financial affairs is exercised through:
  - (a) Council Meeting– The Council is responsible for:
    - Agreeing and approving the budget for the Council

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- Adopting and changing the constitution, of which these regulations form part.
- Receiving exception reports when the Financial Regulations cannot be adhered to as set out in the Council's Budget and Policy framework.

(b) Cabinet – The Cabinet is responsible for:

- Proposing the policy framework and budget to Council
- Discharging its functions in accordance with the policy framework and budget.

(c) Governance and Audit Committee – The Governance and Audit Committee has responsibility for:

- Undertaking the Council's responsibilities under the Accounts and Audit Regulations 2015. This includes approving the statement of accounts. The committee ensures that the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it. The committee also monitors the effective development and operation of risk management within the Council.
- reviewing the external auditor's reports, the annual audit letter & reports to Members and monitor management action in response to the issues raised by External Audit.
- Approving and monitoring the delivery of the internal audit activity of the council and can consult directly with internal and external auditors.

(d) Overview and Scrutiny – The relevant Overview and Scrutiny Panel has right of access to all information it considers necessary. It is responsible for:

- Review decisions taken by the Cabinet or an Officer to ensure that they are not contrary to the budget or previous Council decision.
- The review of and/or scrutiny of decisions made or actions taken in connection with the discharge of any of the Council's functions.
- Make reports and/or recommendations to the Cabinet, Council or any appropriate Committee in connection with the discharge of any functions

(3) The Head of Paid Service (Chief Executive)

(i) The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Cabinet, Full Council, the Overview and Scrutiny Panel and the other committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance

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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 Council's decisions.

### (4) The Monitoring Officer

- (i) The Monitoring Officer is responsible for promoting and maintaining high standards of financial 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 Full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- (ii) The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers under delegated authority.
- (iii) The Monitoring Officer is responsible for advising all Councillors and officers about who has the authority to make a particular decision. Should a situation arise whereby the Section 151 Officer is not a member of the Corporate Management Team, then an appropriate protocol will be submitted for approval by Council to facilitate access to this group to allow him/her to fulfil his/her statutory duties.
- (iv) The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the policy framework.
- (v) The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be "contrary to the budget" include:
  - (a) Initiating a new policy.
  - (b) Committing expenditure in both the current and future years to above the budget level.
  - (c) Incurring transfers above the virement limits.
- (vi) The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### (5) Section 151 Officer (Deputy Chief Executive)

- (i) The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This responsibility cannot be overridden. The statutory duties arise from:
  - (a) Section 151 of the Local Government Act 1972.
  - (b) The Local Government Finance Act 1988.

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- (c) The Local Government and Housing Act 1989.
  - (d) The Local Government Finance Act 1992.
  - (e) The Local Government Act 2000.
  - (f) The Local Government Act 2003.
  - (g) The Accounts and Audit Regulations 2015.
  - (h) The Localism Act 2011.
  - (i) The Local Government Finance Act 2012.
  - (j) The Audit & Accountability Act 2014.
- (ii) Guidance on the role of the Section 151 Officer is also given by the Chartered Institute of Public Finance & Accountancy (CIPFA) in the paper entitled 'The Role of the Chief Financial Officer in Local Government'.
- (iii) The Section 151 Officer shall nominate a qualified member of staff to deputise for them in their absence.
- (iv) The Section 151 Officer is responsible for:
- (a) The proper administration of the Council's financial affairs.
  - (b) Setting financial management standards and monitoring compliance with them.
  - (c) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
  - (d) Providing financial information.
  - (e) Preparing the revenue budget and capital programme.
  - (f) Reporting on the robustness of estimates made for the purposes of preparing budgets and the adequacy of the proposed financial reserves.
  - (g) The execution and administration of treasury management decisions in accordance with the Council's policy statement and treasury management practices (TMP's).
  - (h) Preparing the Council's Annual Statement of Accounts in accordance with all applicable codes of practice on Local Authority accounting.

The Section 151 Officer may allocate their day to day responsibilities to an appropriate representative in accordance with the Scheme of Delegation Authority to Officers and the Schedule of Financial Authority to Officers (the Authorised Signatory List).

- (v) The Section 151 Officer shall report to the Council, Cabinet, Governance and Audit Committee and the external auditor in fulfillment of the statutory obligations under Section 114 of the Local Government Finance Act 1988 or otherwise if the Authority or any of its Officers:

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- (a) Has made, or is about to make, a decision which involves incurring unlawful or unauthorised expenditure.
  - (b) Has taken, or is about to take, an unlawful or unauthorised action which has resulted or would result in a loss or deficiency to the Authority.
  - (c) Has made or is about to make an unlawful or unauthorised entry in the Authority's accounts.
- (vi) The Section 151 Officer shall assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective operations, financial stewardship, effective risk management, probity and compliance with laws and regulations.
  - (vii) The Section 151 Officer shall ensure that there are effective and properly resourced internal audit and risk management functions, that key controls are operating effectively and that controls are recorded and managed within an effective risk management framework.

### (6) Directors

- (i) Directors shall ensure that:
  - (a) Managerial control systems operate effectively throughout their directorates. These will include the defining of policies, the setting of objectives and plans, the monitoring of financial and other performance, and the taking of appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities and ensuring staff have a clear understanding of the consequences of any lack of control.
  - (b) Financial and operational control systems and procedures operate effectively throughout their directorates. These will include physical safeguards for assets, segregation of duties, checking and authorisation procedures and information systems.
  - (c) The approval of the Section 151 Officer is sought on any matter liable to affect the Authority's finances materially, before any commitments are incurred.
  - (d) Members of all Committees are advised of the financial implications of all proposals and that these have been previously agreed by the Section 151 Officer (see section 6).
  - (e) Contracts are duly signed on behalf of the Authority in accordance with Contract Standing Orders and within their delegated authority and the budgetary framework.
  - (f) Contracts are duly sealed on behalf of the Authority in accordance with Contract Standing Orders and within their delegated authority and the budgetary framework.

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- (g) Key controls and control objectives for internal control systems are reviewed regularly in order to be confident as to the proper use of resources, achievement of objectives and management of risk.
- (h) Processes are managed so as to check that established controls are being adhered to and are effective.
- (i) Existing controls are reviewed in the light of changes affecting the Authority and new controls are established and implemented in line with guidance from the Section 151 Officer.
- (j) Controls which are no longer necessary or no longer cost or risk effective, are removed in consultation with the Section 151 Officer.
- (k) Assurance over the control environment is provided as part of the governance assurance framework.

## Financial Planning and Budgeting

### Section 3: Revenue Budget

- (1) A strong planning process expresses the ambition of the Council in clear priorities over the medium term and promotes a wide understanding of these priorities. This is a vital basis for financial planning as it enables limited resources to be used in a way that best delivers the corporate priorities of the Council.
- (2) Council is responsible for agreeing the Council's policy framework and budget. The purpose of the framework is to explain overall priorities and objectives, and ensure that resources follow the identified priorities, agreed service levels and proposals for improvement. The revenue budget is important in this context because, together with the capital programme (see Section 4) and the levels of reserves (see Section 5), it expresses the approved policies and service levels of the Council in financial terms. Once approved, the revenue budget confers authority on the Council's Executive and officers to incur expenditure to achieve the aims and objectives of the Council. If expenditure plans cannot be met within the approved budget, then they can only proceed with an approval to divert funds (as provided for in Section 7).
- (3) Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the policy framework within the financial limits set by the council.
- (4) The budget is the financial expression of the Council's plans and policies. The Council 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.
- (5) The budget and Council Tax is approved by Council and proposed by the Cabinet on the advice of the Section 151 Officer. The draft budget shall include allocations to different service areas, services and to specific projects. The budget will assess the adequacy of contingencies and reserves.
- (6) The Section 151 Officer shall:
  - (i) with the appropriate Leading Member recommend to the Cabinet appropriate guidelines for preparation of the annual budget and the financial forecast for at least the following three financial years.
  - (ii) issue appropriate guidance to Directors and Members and prepare a corporate budget timetable.
  - (iii) ensure the approved budget guidelines are complied with so that statutory and other deadlines can be met.
- (7) Directors shall:
  - (i) submit to the Section 151 Officer estimates in accordance with the budget guidelines and within agreed time scales.
  - (ii) ensure that the estimates are prepared having regard to the Corporate Plan, Local Code of Governance and other corporate aims and objectives.

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- (iii) for each subjective element of their budget, supply to the Section 151 Officer an estimated profile of the rate of expenditure or income across the budget year.
  - (iv) provide any other information the Section 151 Officer may require.
- (8) The Section 151 Officer, shall, with the appropriate Lead Member, report to the Cabinet who shall make recommendations to Full Council on:
- (i) the draft revenue estimates, ensuring that the content and format comply with legal requirements and relevant codes of practice.
  - (ii) the robustness of the estimates made for the purposes of calculations and the adequacy (or otherwise) of the Council's reserves.
  - (iii) the final proposed budget to enable the appropriate levels of contingencies & reserves, and Council Tax to be agreed for the year.
- (9) Subject to (3.11) below, the approval of a budget for the year by Full Council confirms that finances are available to spend in accordance with the budget for that year. However separate approval may be required to undertake those projects, which would be shown within the Council's scheme of delegations. Directors are responsible for coordinating programmes of expenditure and income that will achieve the objectives on which the budget was based. Commitments affecting future financial years may only be made where the provisions of Section 7(6) are satisfied.
- (10) Directors shall not enter into any new arrangements or other contractual commitments with significant long-term revenue consequences without the prior consent of the Section 151 Officer and subsequently reporting to the Cabinet. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of revenue payments which extend beyond the end of the following financial year.
- (11) If a Director wishes to incur expenditure outside the approved budget provision, or anticipates an under spend against an approved budget, the procedures set out in Section 7(4) and (5) shall apply.
- (12) Directors shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, and details of any limitation on the authority delegated to them (the Authorised Signatory List).

## Section 4: Capital Programme

- (1) Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, 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 that will continue for many years' even decades.
- (2) Capital expenditure is a key part of the Council's investment strategy. It should therefore be linked to asset management plans and be carefully prioritised in order to maximise the benefit of scarce resources.
- (3) The Section 151 Officer shall:
  - (i) issue detailed procedures/guidance on the preparation of capital programme.
  - (ii) prepare annually a rolling Capital Programme (year of budget plus at least the following 3 years) and based on the current Corporate Plan, Asset Management Plan, the Housing Revenue Account Business Plan & other relevant corporate plans & strategies and submit this to the Cabinet who shall make recommendations to Council for approval.
  - (iii) report to the Cabinet and Council on the overall position and the availability of resources to support the Capital Programme.
  - (iv) ensure that the revenue implications of the Capital Programme are contained within the Revenue Budget and Medium Term Financial Strategy.
  - (v) ensure that sources of funding (revenue, capital grants, capital receipts, borrowing, etc) are identified for the entire programme and that all schemes are properly appraised and provide value for money.
- (4) Directors shall:
  - (i) submit to the Section 151 Officer estimates of the cost of capital spending proposals and the estimated amount and timing of any capital receipts, and other contributions receivable.
  - (ii) ensure that the estimates submitted are prepared having regard to the Corporate Plan and other corporate aims and objectives described in 4.3(ii).
  - (iii) provide any other information the Section 151 Officer may require for the review, monitoring or control of the capital programme.
- (5) In working up any capital scheme, Directors shall have regard to the risk of triggering claw back or breaching restrictive covenants or other contractual conditions in relation to land or otherwise.
- (6) The inclusion of a capital scheme within an approved capital programme shall confer authority to spend, including expenditure which may fall in a subsequent financial year, subject to the:
  - (i) subject to approval to undertake those projects as per the Council's scheme of delegation (see Section 3 (a))

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- (ii) provisions of the Council's Contracts Standing Orders.
  - (iii) provisions of (4.(7)) below.
- (7) Directors shall give the Section 151 Officer early warning of known underspends, overspends and changes to planned resources so that the availability of uncommitted capital resources may be monitored effectively.
- (8) Directors shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section and details of any limitation on the authority delegated to them (the Authorised Signatories List).

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### Section 5: Reserves and Balances Policy

(1) It is important that the Council has a policy setting out its approach to reserves and balances. It is also a requirement of Sections 32 and 43 of the Local Government Finance Act 1992 that each local authority has regard to the level of resources needed to meet estimated future expenditure when calculating its annual Council Tax requirement. This policy also has regard to LAAP Bulletin 77 'Local Authority Reserves and Balances', issued in November 2008. All reserves and balances form part of the General Fund apart from the Housing Revenue Account balance which is specifically 'ring fenced' for use in connection with that account.

(2) As there is no specified minimum level of reserves/balances that an authority should hold, it is the responsibility of the Section 151 Officer to advise the Council about the level of reserves.

(3) Types of Reserves

(i) The Council shall maintain the following reserves:

(a) General reserves/balances - to manage the impact of uneven cash flows and unexpected events or emergencies. The general reserves/balances do not have any restrictions as to their use.

(b) Earmarked reserves - sums set aside from time to time to meet known or predicted specific requirements, exceptional risks and uncertainties.

(ii) The Council shall maintain a number of other reserves that arise out of the interaction between legislation and proper accounting practices. These reserves, which are not resource-backed and cannot be used for any other purpose, will be specified by the Section 151 Officer in the Annual Financial Report.

(iii) Details of all reserves, including in-year movements and year-end balances shall be contained in the Council's Annual Financial Report

(4) Principles to Assess the Adequacy of Reserves/Balances

(i) The Section 151 Officer will advise the Council on the adequacy of reserves/balances. In considering the level of general reserves/balances, the Section 151 Officer will have regard to:

(a) The strategic financial context within which the Council will be operating through the medium-term.

(b) The overall effectiveness of governance arrangements and the system of internal control.

(c) The robustness of the financial planning and budget-setting process.

(d) The effectiveness of the budget monitoring and management process.

(ii) Having had regard to these matters, the Section 151 Officer will advise the Council on the monetary value of the required general reserve/balances.

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- (iii) In exceptional circumstances, the actual level of the Council's reserves/balances may happen to or may be allowed to fall below the level that was considered appropriate. This may be consistent with the need to meet short-term unforeseen expenditure. However, the actual level will be monitored against reserves/balances outlined in the Council's MTFS. The MTFS will set out the level of planned balances and if the balance falls outside of the MTFS, a plan shall be agreed by Full Council, on the advice of the Section 151 Officer, to restore balances to the appropriate level.
- (iv) In considering earmarked reserves, the Section 151 Officer will have regard to the purpose and usage in respect of each reserve and will advise Members accordingly.

### (5) Establishing and Utilising Earmarked Reserve

- (i) When establishing earmarked reserves, compliance with the Code of Practice on Local Authority Accounting and, in particular, the need to distinguish between reserves and provisions must be complied with.
- (ii) The Chartered Institute of Public Finance and Accountancy (CIPFA) publish an annual Code of Practice on Local Authority Accounting, which governs the information to be contained within a local authority's Annual Financial Report. The Code of Practice on Local Authority Accounting states that for each reserve established, the purpose, usage and the basis of transaction should be clearly identified.
- (iii) The Council may also create new or add to earmarked reserves at any time
- (iv) In approving the earmarked reserve the following information will be required:
  - (a) Purpose – the reason for creating the reserve should be clearly stated.
  - (b) Usage – there should be a clear statement of how and when the reserve can be used. Without a clearly defined purpose and clearly defined usage there will be ambiguity over the application of reserves.
  - (c) Basis of transactions, management and control – the Section 151 Officer will be responsible for managing the earmarked reserve (including altering the year to year profiling if required) and will have authority for approval of expenditure from the earmarked reserve, although day to day management of the reserve may be delegated to a specific officer.
- (v) Once an earmarked reserve has fulfilled the purpose for which it was established the Section 151 Officer shall advise on whether the balance should be reallocated to another similar purpose reserve or surrendered to the Council's reserves/balances.

### (6) Reporting of Reserves

- (i) The Section 151 Officer will monitor the drawdown of reserves and keep Members informed, through normal budget monitoring reports as and when required.
- (ii) As part of the budget setting report to Council the Section 151 Officer will include:

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- (a) A statement of movements in general reserves for the year ahead and the following 3 years.
- (b) A statement of the adequacy of general reserves and provisions in the forthcoming year.

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#### Section 6: Reports to Members

Any new or changes in policies of the Council result from consideration of reports by either Members or Officers. Policies could therefore be set on the basis of insufficient or misleading information if the financial implications have not been considered, and if commitments are made these could lead to financial difficulties for the Council.

- (1) All financial implications must be detailed within Committee reports and be validated by the Section 151 Officer or delegated officers to their progression through the approval process. Informal advice to Members shall also have regard to these arrangements.
- (2) Reports shall only be put before the Council, Cabinet, Committees, Sub-Committees, Panels or Members if the financial implications for the Council have been considered and presented fairly in the report.
- (3) Consultation shall take place as appropriate between the authors of reports, the Section 151 Officer and any other Director affected, in good time for any financial implications to be properly identified.
- (4) Where there are no financial implications or they are negligible, the report shall say so.

## Financial Monitoring and Control

### Section 7: Budgetary Control

(1) Overall responsibility for budgetary control

The Section 151 Officer is responsible for:

- (i) the overall financial control of the revenue budget and capital programme.
- (ii) providing financial information for corporate performance reports.
- (iii) subdividing and allocating service revenue budgets and the capital programme within the overall budget framework according to the Council structure and services, having regard to relevant Codes of Practice.
- (iv) supplying timely information on receipts and payments on each budget and capital scheme, sufficiently detailed to enable managers to fulfil their budgetary control responsibilities.

(2) Responsibility for control of individual budgets

Directors:

- (i) are responsible for the budgets and programmes allocated to them, for delivering the levels of service on which they were based, and for compliance with their financial obligations.
- (ii) are responsible for monitoring levels of service and performance within services, as measured by expenditure and income incurred against relevant budgets and capital programme provision.
- (iii) are responsible for seeking variations in accordance with (4) below, either to increase or to reduce the provision allocated to particular budgets or capital schemes, including income budgets, in order to maintain budget provisions in line with the service levels required.
- (iv) may exercise powers delegated to them to enter into new financial commitments, including commitments relating to recruitment and remuneration of staff, only where adequate provision has been made in the revenue budget or capital programme and where the revenue consequences for future financial years comply with (6) below.
- (v) shall provide any additional information that the Section 151 Officer may require.

(3) Variances from budget

The Section 151 Officer is responsible:

- (i) for reporting significant variances to the Cabinet where a Director fails to take action under (4) to (6) below.
- (ii) for agreeing annually:

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- (a) a list of expenditure proposals for which revenue budget provision had been made in the previous year and for which the particular goods or services had not been supplied before the financial year end (carry forwards).
- (b) a list of expenditure proposals on capital schemes for which provision had been made in the total capital programme for the previous year but the programme had slipped / or been accelerated.

so that supplementary estimates may be executed for the ensuing financial year. For clarity the approval of items under (ii) does not represent a key decision as the key decision was made when the budget was originally approved.

### (4) Virements between budgets

The overall budget is approved for each year by Full Council following recommendation by the Cabinet. Officers are thereby authorised to incur net expenditure in accordance with the estimates that made up the budget for the current financial year. The rule below covers 'virement'; that is switching resources between approved estimates or heads of expenditure and income.

A 'virement' is 'planned transfer of a budget for use in a different purpose to that originally intended'. The virement rules are outlined in the table below:

Budget Holders	Virement of up to £10,000 within a budget heading
Directors	Virement of up to £20,000 within a budget heading but only after consulting and getting agreement of the Section 151 Officer or Deputy.
Section 151 Officer	Virement of between £20,000 and £100,000 within a budget heading.
Over £100,000	Cabinet
Salary and Income budgets	No virements are permitted

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

Virements will only be permitted where the expenditure is in accordance with the Budget and Policy Framework agreed by Full Council, unless Full Council agrees the virement. There can be no virements between the General Fund and the Housing Revenue Account or from general reserves, building maintenance budgets or central recharges.

### (5) Partnership Expenditure and External Funding

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Where no provision currently exists in the revenue budget or capital programme for specific projects or activities which are to be wholly or partly funded by external agencies or partners, then the above criteria for supplementary estimates will apply to the value of the Council's net financial contribution to the revenue or capital cost of the project.

The Section 151 Officer is empowered to agree a supplementary estimate where the net cost to the Council is nil (for example, a grant has been authorised by the government) and to adjust the revenue budgets and capital programmes to reflect the gross value of all such arrangements and transactions.

Directors and Lead Members must liaise with the Section 151 Officer, and refer to Section 21 of these Regulations, prior to undertaking any bidding for external funding or setting up any partnerships.

(6) Commitments of revenue expenditure affecting future financial years

The following arrangements shall apply in relation to the commitment of expenditure prior to the approval of the revenue budget for the financial year concerned:

- (i) Directors may commit expenditure affecting future financial years provided that:
  - (a) the estimated cost in real terms does not exceed the current year's budget provision
  - (b) and the consent of the Section 151 Officer is obtained where Financial Regulations 3 (10) and 14 (3) apply.
- (ii) Directors may only commit expenditure on new or extended services:
  - (a) With the approval of the Section 151 Officer in consultation with the Lead Member for Finance where the financial commitment in the following financial year does not exceed £50,000 in respect of the proposal and that Financial Regulation 3 is adhered to.
  - (b) Or otherwise with the approval of the Cabinet.
- (iii) The Section 151 Officer is authorised to agree the placing of orders for vehicles, plant and equipment before Council approves the budget where this is necessary in order to secure delivery in the required time scale.

(7) Treatment of year-end balances on budgets

The Section 151 Officer is responsible for agreeing any procedures for carrying forward under and over spendings on budget heads.

(8) Delegation

All delegations under this section will be set out in the directors' schemes of officer delegation.

## Financial Procedures and Systems

### Section 8: Accounting Records

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 duty to prepare its Annual Statement of Accounts on the basis that they give a true and fair view of the Financial Position of the Council on the reporting date. The accounts are subject to external audit, which provides assurance that they have been prepared properly, that proper accounting practices and statutory requirements have been followed and that proper arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources. There is also a statutory right for members of the public to inspect the accounts and relevant supporting documentation.

(1) The Section 151 Officer is responsible for:

- (i) Making arrangements for the proper administration of the Authority's financial affairs.
- (ii) Selecting and applying appropriate accounting policies consistently.
- (iii) Determining accounting procedures and maintaining proper accounting records.
- (iv) Making an annual report to Cabinet on the financial outturn for the previous financial year.
- (v) Ensuring that the Statement of Accounts for that year is completed, approved by the Governance and Audit Committee and published within the corporate and statutory timetable and in accordance with relevant Codes of Practice.

(2) Directors shall ensure that:

- (i) All the Authority's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and promptly.
- (ii) In the allocation of accounting duties of any kind:
  - (a) The duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as completely as possible from the duty of collecting or disbursing such sums.
  - (b) Officers charged with the duty of examining and checking the accounts of cash or stores transactions shall not themselves be engaged in any of those transactions. If this is not possible then the agreement of the Section 151 Officer or Deputy will be required as to an agreed approach.
- (iii) Any Financial Procedure Notes prescribed by the Section 151 Officer are fully complied with.
- (iv) The Section 151 Officer is supplied with such information as may be requested by him from time to time for the purpose of the proper administration of the Council's affairs.

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## Section 9: Procuring and Paying for Works, Supplies and Services

### (1) Placing Orders for Works, Supplies and Services

All orders for works, goods and services shall be placed in accordance with the Council's Contract Standing Orders and Purchasing Guide relating to Contracts, and Purchase Ordering Processes. Standing Orders relating to Contracts form part of the Council's Constitution and are available on the Council's intranet/website. All quotation and tender exercises shall be conducted in accordance with European Directives, enacted into UK law by the Public Contracts Regulations 2015 and as appropriate to service/works concessions in accordance with the Concessions Contract Regulations 2016.

### (2) Other contract terms

Directors shall:

- (i) In consultation with the Section 151 Officer include in every contract appropriate clauses to cover financial and insurance requirements, and to provide sufficient security for due performance.
- (ii) Put in place adequate procedures for the effective cost control of all contracts.
- (iii) Ensure all contracts above £5,000 are entered onto the Council Contract Register.

### (3) Receipt of Works, Supplies and Services

Directors shall put in place adequate systems for verifying the performance of work or the receipt of supplies and services. In particular controls shall be established to ensure that:

- (i) Work done or supplies and services received are as specified.
- (ii) Quality or workmanship is of the required standard.
- (iii) Appropriate entries are made in inventory, stock or other records.

### (4) Contract Management

Directors shall:

- (i) Identify a Contract Manager
- (ii) Put in place adequate contract monitoring systems to monitor performance and to ensure vfm is being achieved throughout contract lifecycle
- (iii) Ensure any changes to contract are formalized by issue of a change order to be kept on contract file and change notified to legal and procurement as required by Contract Standing Orders.

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(5) Payment for Works, Supplies and Services

- (i) Directors shall make adequate and effective arrangements approved by the Section 151 Officer for checking and certifying invoices and other requests for payment without undue delay.
- (ii) Unless covered by (iii) below or where otherwise approved by the Section 151 Officer, all payments shall be made by automated bank transfer or cheque drawn on a bank account of the Council. Payments may only be made by direct debit with the prior approval of the Section 151 Officer.
- (iii) Minor items of expenditure, up to a limit set by the Section 151 Officer, may be paid on procurement cards by officers authorised to hold a card. All cardholders must comply with the Council's Procurement Card User Manual and Employee Agreement, which is available from the Procurement Section.

(6) Delegation

All delegations under this section will be set out in the directors' schemes of officer delegation.

(7) General

- (i) Every Member and Officer engaged in contractual or purchasing decisions on behalf of the Council shall declare any links or personal interests they may have with purchasers, suppliers and contractors and shall comply with the provisions of the appropriate codes of conduct. Conflict of Interest Declaration form is available from the Procurement Section, which must be copied to the Monitoring Officer.
- (ii) Every Member and Officer engaged in contractual or purchasing decisions on behalf of the Council shall maintain confidentiality within the Procurement process as to participants and content of bids. Confidentiality Undertaking form is available from the Procurement Section
- (iii) Directors shall ensure that the duties of ordering works, supplies or services, approving orders, and receipting orders and payment are not performed by the same Officer.

## Section 10: Income

(1) General

Directors shall implement arrangements made by them under this Section only with the approval of the Section 151 Officer.

(2) Prompt identification of sums due to the Council

Directors shall make adequate and effective arrangements for the prompt identification of all sums due to the Council.

(3) Prompt recording in the Council's accounts of all sums due

- (i) Directors shall make adequate and effective arrangements for recording all sums due in the Council's accounts.
- ii) Accounts for sums due may only be raised on the Council's corporate Sundry Debtors system unless alternative arrangements have been approved by the Section 151 Officer.

(4) Collection and receipting of all income

Directors shall make adequate and effective arrangements for the collection and receipting of all income and for the security of all cash and other valuables having regard to agreed insurance limits for locked safes.

(5) Banking of income

Directors shall make arrangements, approved by the Section 151 Officer, for the secure transfer of cash from the Council's offices and facilities to the Council's bankers.

(6) Reconciliation of income

Directors shall make adequate and effective arrangements for the sums collected and banked to be reconciled with the records of sums due.

(7) Debt recovery

In all cases Directors shall cooperate with the relevant Debtors' Team plans to take prompt and appropriate action to recover all sums overdue to the Council.

(8) Writing off sums due

- (i) Directors are responsible for recommending the write off of irrecoverable debts to the Section 151 Officer.
- (ii) Where an individual debtor owes the Council no more than £20,000, the Section 151 Officer may approve the write off of that debt where there is satisfactory evidence that it is irrecoverable. In any other case, where there is satisfactory evidence, the Section 151 Officer shall refer the debt to the Cabinet Member with responsibility for Finance for approval to write off.

(9) Reviews of fees and charges

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Directors shall, in consultation with the Section 151 Officer, review all fees and charges at least annually in accordance with Fees and Charges Policy issued by the Section 151 Officer. In year changes to fees and charges will need to be agreed by Cabinet or individual Cabinet Member decision.

(10) Segregation of duties

The duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as far as is possible from the duty of collecting such sums.

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### Section 11: Banking, Cheques & Money Laundering

The council has a duty to ensure that all moneys are properly safeguarded and only utilised for authorised purposes. The council must also comply with the statutory money laundering regulations. It is therefore necessary to have controls to ensure the proper authorisation and control of all bank accounts, all payments made from them and all income deposited.

(1) Operation of bank accounts

- (i) The Section 151 Officer is responsible for opening, closing and operating all bank accounts and related facilities in the council's name.
- (ii) All communications with the council's bankers concerning its bank accounts and any changes in banking arrangements shall be made under arrangements approved by the Section 151 Officer.

(2) Authorisation of signatories

Only Officers personally mandated by the Section 151 Officer may sign cheques and other documents transferring funds out of the council's bank accounts.

(3) Payments from Council bank accounts

- (i) All payments from the council's bank accounts shall be, so far as is practicable, automated bank transfer or by cheque but the Section 151 Officer may exclude from this regulation such payments as he may consider appropriate.
- (ii) No payments shall be made from the council's bank accounts unless approved personally by a signatory authorised in accordance with (2) above.
- (iii) Payment by Direct Debit must be authorised by the Section 151 Officer.

(4) Custody of cheques

- (i) All cheques and related stationery shall be ordered and controlled by the Section 151 Officer.
- (ii) The safe custody and issue of cheques and related stationery shall be carried out under arrangements made by the Section 151 Officer.

(5) Banking of income

Directors shall make arrangements, approved by the Section 151 Officer, for the secure transfer of cash from the council's offices and facilities to the council's bankers (see Section 10.6).

(6) Reconciliation

The Section 151 Officer shall regularly reconcile the council's bank accounts with the accounting records and investigate any discrepancies.

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## Section 12: Security and Inventories

The Authority holds assets in the form of land and buildings, fixed plant, vehicles and machinery, furniture and equipment, software and data, cash and other items of value (e.g. stocks and stores). It is important that assets are used efficiently in service delivery, that they are adequately insured and that there are arrangements for the security of both assets and information required for service operations. Up to date records are a prerequisite for sound asset management. See also Sections 13 (Stocks and Stores), and 16 (Insurances).

(1) Proper use of the council's resources

Resources are to be used solely for the purposes of the Authority unless authorised otherwise by the council, and are to be properly accounted for.

(2) Asset register

The Section 151 Officer is responsible, in consultation with other Directors, for the compilation and maintenance of an asset register (in appropriate format for accounting purposes) covering land and property and other fixed assets. The function of the asset register is to provide the Authority with information about fixed assets so that they are safeguarded, used efficiently and effectively, and are adequately maintained.

(3) Inventories

- (i) Each Director is responsible for maintaining an inventory of moveable assets above a de-minimis value or as determined by other criteria under procedures determined by the Section 151 Officer.
- (ii) A list of inventories should also be maintained for assets which, although below the de-minimis level, are attractive & desirable and therefore more prone to theft.
- (iii) Inventories are to be reviewed at least once each year and copies made available to the Section 151 Officer.

(4) Security

Directors shall make proper arrangements for:

- (i) The security of all buildings and other assets under their control.
- (ii) The safe custody of all documents held as security.

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### Section 13: Stocks and Stores

The council holds many different types of stocks and stores. It is important that these assets are safeguarded and used efficiently in service delivery. There therefore needs to be adequate arrangements for the receipt, security and issue of stocks and stores and for the disposal of surplus or redundant items.

(1) Receipt, Control and Custody

Directors shall make adequate and effective arrangements for the custody, care and physical control of all stocks and stores in their departments.

(2) Stocks and Stores Records

- (i) In consultation with the Section 151 Officer, Directors shall maintain adequate records of all issues and other movements of stocks and stores.
- (ii) Directors shall provide to the Section 151 Officer each year a stock certificate detailing stocks and stores in hand at 31 March.
- (iii) Directors should make provision for regular stock takes and reconciliations to take place during the year.

(3) Maintenance of stocks

- (i) Directors shall maintain stocks at reasonable levels and subject them to a regular independent physical check.
- (ii) Discrepancies shall be appropriately investigated, pursued to a satisfactory conclusion and removed from the Authority's records by making stock adjustments as necessary. Gains and losses resulting from stock adjustments shall only be written off or adjusted in the records under arrangements approved by the Section 151 Officer.

(4) Disposal of surplus, obsolete or redundant stocks or equipment

Directors shall ensure that all stocks and equipment no longer required are disposed of economically under arrangements approved by the Section 151 Officer.

(5) Delegation

All delegations under this section will be set out in the directors' schemes of officer delegation.

## Section 14: Treasury Management and Leasing

Treasury Management is in place to provide assurance that the Authority's money and overall cash flow are properly managed, in a way that balances risk with return but with overriding consideration being given to the security of investments.

The signing of leases and other forms of credit can have a wider financial impact than just the rental payments. It is therefore necessary that the Section 151 Officer be given the opportunity to evaluate the costs of any potential agreement before it is legally binding.

(1) General

The Section 151 Officer is responsible for all investment, borrowing and leasing undertaken in the name of this Authority.

(2) Treasury Management

The Section 151 Officer shall:

- (i) keep under review the council's Treasury Management Policy Statement and submit any amendments to the Cabinet prior to consideration and adoption by Full Council.
- (ii) maintain, having regard to the recommendations of the CIPFA Treasury Management in the Public Services Code of Practice and Guidance Notes, Treasury Management Practices (TMP's) setting out the duties of Members and Officers covering all aspects of Treasury Management. The Treasury Management Practices will be periodically reviewed.
- (iii) prepare, for adoption before the commencement of each financial year, a Treasury Management Strategy and an Investment Strategy , having regard to any statutory guidance and to the provisions of the CIPFA Code of Practice and Guidance Notes, in respect of the Council's strategy and policies to be set for that financial year. The proposals will be submitted to the Cabinet prior to consideration and adoption by Full Council.
- (iv) recommend to the Council before the commencement of each financial year a range of Prudential Indicators, including borrowing limits, to be set for that financial year in accordance with statute and the CIPFA Prudential Code.
- (v) keep the strategies, policies and Prudential Indicators for the current financial year under constant review and submit revised proposals for adoption from time to time as necessary. In any event, present a mid-year review for consideration to the Cabinet.
- (vi) arrange all borrowing and investments of the Authority in accordance with the Treasury Management Policy Statement, the approved Treasury Management and Investment strategies for the year the approved Debt Repayment Policy for the year and the current Treasury Management Practice.
- (vii) make all investments, borrowings and other financing transactions only in the name of the Authority approved by Full Council.

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(viii) ensure that Council Members tasked with Treasury Management responsibilities, including those responsible for scrutiny, have access to training relevant to their needs and those responsibilities.

(3) Leasing and Similar Arrangements

The taking of a lease or other similar arrangements, including new or extended leases of land and property, may only be entered into with the consent of the Section 151 Officer. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of payments which extend beyond the end of the current financial year.

If the taking of the lease (or other similar arrangement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property may be entered into (either taking or granting) without the consent of the Head of Asset Management.

(4) Delegation

All delegations under this section will be set out in the directors' schemes of officer delegation.

## **Section 15: Value Added Tax**

Value Added Tax (VAT) is a tax applied to many of the goods and services the council either buys in or supplies to others. VAT therefore impacts on many of the council's financial transactions. Whilst generally speaking the council is able to reclaim the VAT it pays on buying in goods and services, this ability is limited in relation to certain types of services made by the council. VAT is a very complex tax, particularly where it relates to land and property transactions and partnership arrangements. It is essential that the VAT implications of all major projects, partnership arrangements and land & property transactions be evaluated well in advance of commitments being made. If this is not done the council could be faced with a substantial irrecoverable VAT bill that is both unplanned and unbudgeted. HM Revenues and Customs also have the power to impose penalties (fines) for late or non-compliance with VAT rules.

- (1) The Section 151 Officer is responsible for the determination of all arrangements for the collection, recording, payment and recovery of VAT.
- (2) The Section 151 Officer shall:
  - (i) maintain complete and accurate accounting records of all the Council's VAT transactions.
  - (ii) submit the Council's VAT return to HM Revenues and Customs monthly in accordance with statutory deadlines.
  - (iii) prepare the Council's partial exemption calculation as at the end of each financial year and monitor the Council's partial exemption position as part of the budget setting and monitoring process.
  - (iv) submit the Construction Industry Scheme returns monthly in accordance with statutory deadlines.
  - (v) prepare and submit Voluntary Disclosure Notices to HM Revenues and Customs and recover any revenues due.
  - (vi) conduct all negotiations with HM Revenues and Customs in respect of VAT matters affecting the Council and make appropriate decisions as a result of these negotiations.
  - (vii) exercise as appropriate the Council's option to tax in respect of land and buildings.
  - (viii) provide guidance, advice and training to Council staff on all aspects of VAT as they affect the Council.
  - (ix) publish and regularly update appropriate VAT guidance notes on the Council's intranet.
- (2) Directors shall:
  - (i) properly account for VAT on all transactions under arrangements determined by the Section 151 Officer.

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- (ii) consult the Section 151 Officer in all cases where the VAT treatment of any transaction is unclear so that the matter can be reviewed and appropriate treatment determined.
- (iii) consult the Section 151 Officer in all cases where new projects, schemes or services are proposed, well in advance of commitments being made, so that any impact on the Council's VAT position can be assessed, any necessary action taken to protect the Council's VAT recovery position and the financial implications of the proposal can be properly considered.
- (iv) co-operate with any VAT inspector and give access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.

## **Section 16: Insurances**

The provision of insurance cover is one of the major methods of responding to corporate and service risks identified under the council's Risk Management arrangements (see Section 20). Cover can be arranged either externally (with major insurance companies) or through an internal insurance pool. Accurate record keeping and timely provision of information are essential if the Council's insurance cover is to be effective. This Section should be read in conjunction with that relating to Risk Management (Section 21).

- (1) The Section 151 Officer is responsible for:
  - (i) effecting all insurance cover on a corporate basis, through external insurance or through internal self-insurance arrangements as they consider appropriate and maintaining proper records of these arrangements.
  - (ii) handling, negotiating, processing and settlement of all claims, in consultation with any external insurers where necessary.
- (2) Directors and Members shall notify the Section 151 Officer immediately:
  - (i) of all new risks, properties, vehicles or other assets that require insurance.
  - (ii) of any alterations to such risks or assets affecting existing insurances.
  - (iii) should any of the Authority's assets be damaged, lost or stolen.
  - (iv) of any loss, liability, damage or personal injury that may lead to a claim against the Authority. Failure of the council to appropriately notify the insurer may invalidate cover under the policies and shall provide any related information or explanation required within time scales determined by the Section 151 Officer and/or relevant legislation.
- (3) Directors and Members shall ensure that no employee or other person covered by the Authority's insurances admits liability (orally or in writing) or makes any offer to pay compensation, because this may prejudice a proper assessment of the council's liability.
- (4) Directors shall maintain proper records relating to assets which require insurances effected by the Authority, under arrangements approved by the Section 151 Officer .
- (5) Directors shall consult the Section 151 Officer and also seek advice from the Legal team on the terms of any indemnity that the Authority is requested to give.
- (6) Directors shall consult the Section 151 Officer to determine the minimum level of insurance cover required of any person or body (including all council contractors and those bodies using council land or facilities) to indemnify the council or to effect insurance cover in accordance with the council's requirements and shall check that appropriate insurance cover is in place.

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### Section 17: Pay and Conditions of Employment

Staffing costs are the largest single item of expenditure for most council services. It is therefore important that payments are accurate, timely, made only where they are due 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 paid in accordance with the scheme adopted by Full Council. Like all organisations, the council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax can be severe. It is therefore important for all Officers to be aware of their role.

(1) General

Terms and conditions of employment of Senior officers is a function of the General Purposes Committee. Terms and conditions of all other officers is a function of the Head of Paid Service. The Head of EK Human Resources is responsible for the administration of all arrangements for the payment of salaries, wages, pensions and other emoluments to existing and former employees, and for all related matters. The Head of EK Human Resources is responsible for car loans to eligible employees, travel and subsistence claims.

(2) Deductions from Pay

The Head of East Kent Human Resources (EKHR) shall make proper arrangements for all statutory and other deductions from pay, including tax, national insurance and pension contributions, and payment of such sums to the bodies concerned.

(3) Terms of employment

Directors shall promptly notify the Head of EKHR of:

- (i) the terms and conditions applying to new contracts of employment.
- (ii) any changes or events affecting the salaries, wages or emoluments of the council's employees.
- (iii) all resignations, retirements and terminations of employment.

(4) Provision of Information

Directors shall provide to the Head of EKHR with:

- (i) all relevant information, including notifications of sickness absence, in an agreed format and within agreed time-scales to enable the prompt and accurate payment of all elements of pay.
- (ii) notification of the impending departure of any employee involved with the custody of cash or stores.

(5) Members' Allowances

Payments to elected Members of the council shall be made by the Head of EKHR in accordance with the council's approved scheme.

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(6) Delegation

All delegations under this section will be set out in the directors' schemes of officer delegation.

## Risk Management and Audit

### Section 18: Internal Audit

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 2016 more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit”. Accordingly, internal audit provides one aspect of an independent and objective assurance in the review of the system of governance, risk management and internal control as a contribution to the proper, economic, efficient and effective use of resources. In fulfilling this responsibility the internal audit service must comply with the mandatory Public Sector Internal Audit Standards and Code of Ethics and CIPFA’s Statement on the role of the Head of Internal Audit.

- (1) The Section 151 Officer shall ensure that the internal audit service is available and adequately resourced and independent in its planning and operation.
- (2) The Section 151 Officer or his authorised representative shall have authority to enter at all reasonable times any offices, premises or land under the control of the Council and shall have unrestricted access to all records, documents and correspondence relating to any matter under consideration, without limitation.
- (3) All staff shall provide such information and explanations as the Section 151 Officer or his authorised representative considers necessary and shall produce upon demand cash, stores, documents or other property of the Council under their control.
- (4) Directors and the Section 151 Officer shall give appropriate consideration of Internal Audit reports and identified control and governance concerns.
- (5) Directors and other staff shall immediately notify the internal audit service on behalf of the Section 151 Officer upon discovery or suspicion of any financial irregularity, whether affecting cash, stores, property, financial records or otherwise. Internal Audit have delegated authority to investigate allegations of Fraud, Theft, Corruption, Bribery, Money Laundering and any other financial irregularity on behalf of the Section 151 Officer. The Section 151 Officer shall notify the Head of Paid Services and Monitoring Officer in all significant cases.
- (6) The Council shall set out in policy documents its approach to countering fraud, theft, bribery, money laundering and corruption and to “whistle blowing”.
- (7) The internal audit service has direct access to the Head of Paid Services, Section 151 Officer, Monitoring Officer and to all levels of management and to elected Members.
- (8) As part of the adequate system of internal audit, the Council will maintain an Governance and Audit Committee in line with Codes of Practices.
- (9) The Internal Audit Service will report its findings, assurances and performance to the Governance and Audit Committee in line with the Internal Audit Charter.
- (10) The Head of Internal Audit will provide an annual opinion on the adequacy and effectiveness of the internal control, governance and risk management arrangements. This opinion will be fed into the Council’s Annual Governance Statement and be considered by the Governance and Audit Committee.

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## Section 19: External Audit and Inspection

The basic duties of the external auditor are governed by statute. In fulfilling his responsibilities the external auditor works to a code of audit practice issued by the National Audit Office. The Authority may from time to time also be subject to audit, inspection or investigation by various other external bodies. Government department inspectorates and bodies such as HM Revenues and Customs have statutory rights of access. Rights of access are also sometimes granted under contractual arrangements, including partnerships where the council is not the lead body. It is important that all Officers of the council respond to external scrutiny in a timely, professional and helpful manner.

- (1) The Section 151 Officer shall facilitate the co-ordination of the work of internal and external audit together with ensuring appropriate consideration of External Audit reports by management and/or Members.
- (2) The Section 151 Officer shall ensure that the council's accounts are scrutinised by the External Auditor, who must be satisfied that the statement of accounts 'gives a true and fair view of' the financial position of the council and its expenditure and income for the year in question and complies with the legal requirements.
- (3) The Section 151 Officer shall ensure that the council's accounts are available for inspection by the general public as per the Local Audit and Accountability Act 2014, (section 24 schedule 7 and sections 25 - 28) and the Accounts and Audit Regulations 2015 (Regulations 9, 10, 14, 15, and 21).
- (4) The Section 151 officer has responsibility for responding to the external auditor with regards to any objections raised by the general public to the accounts.
- (5) Co-ordination of all other inspection and independent review work shall be the responsibility of the Section 151 Officer.
- (6) Directors and relevant Members shall give external auditors and inspectors access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
- (7) The External Auditor will report their findings, assurances and recommendations to those charged with the governance (the Governance and Audit Committee).

## **Section 20: Risk Management**

The council faces numerous risks: to people (including its employees), to property, to its reputation and to continuity of service delivery. Risk is the threat that an event or action will adversely affect the council's ability to achieve its objectives and to successfully execute its strategies. This will include both external and internal risks. An opportunity is an event or action that will enhance the organisation's ability to achieve its objectives and deliver approved strategies. Risk Management is the planned and systematic process by which risks and opportunities are identified, evaluated and controlled. Risk management seeks to protect the Council and enable it to achieve its stated aims and objectives. It also seeks to maximise the rewards that can be gained through effectively managing risk. It is the responsibility of the Governance and Audit Committee to approve the Council's risk management policy and strategy, review it on a regular basis and to promote a culture of risk management awareness throughout the organisation. A designated Member and Officer act as 'risk management champions' to support the integration of risk management into the culture of the Council

This Section should be read in conjunction with that relating to Insurance (see Section 16), which is just one tool used in the control of organisational risk.

- (1) The Governance and Audit Committee shall approve and promote the Authority's corporate risk management process and strategy.
- (2) The Deputy Chief Executive shall:
  - (i) develop risk management processes and procedures to assist in the identification, assessment, reduction and control of material risks and opportunities, in line with Codes of Practice.
  - (ii) undertake regular monitoring and review of the corporate, project and service arrangements for effective risk management.
  - (iii) prepare and promote the Council's risk management policy statement.
  - (iv) Chair any officer working group which has responsibility for risk management.
  - (v) develop risk management controls, including the maintenance of appropriate risk registers, in conjunction with Directors.
  - (vi) in conjunction with Directors, to ensure that all staff are given training and guidance as to how to manage risks in their areas of work.
- (3) The Director of Operational & Commercial Services shall ensure that the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage of its resources.
- (4) Directors are responsible:
  - (i) for risk management within all areas under their control, including service, projects and partnerships, having regard to appropriate advice from the Deputy Chief Executive and other specialist officers (eg crime prevention, fire prevention, health and safety).

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- (ii) for carrying out regular reviews of risk and opportunity, risk reduction and maximisation strategies and the operation of appropriate controls (including business continuity plans) within their departments.
  - (iii) to ensure that their service and project risk registers are appropriately updated on a regular bases, within the Council's approved system.
- (5) Directors and lead Members shall promptly notify the Deputy Chief Executive of all new risks and opportunities that are material, as they are identified

## External Arrangements

### Section 21: External funding, partnership arrangements, third party grant payments and projects

Whilst external funding is a very important source of income, funding conditions need to be carefully considered to ensure they are compatible with the aims and objectives of the Council. In some instances, tight specifications may not be flexible enough to link to the Authority's corporate plan. Also, new ways of working can increase the Council's exposure to fraud and to irregularities in the operation of, for example, VAT, insurances and pay.

(1) Bidding for external funding

- (i) Directors shall seek external resources only to further the priorities and aims of the Council's Plan.
- (ii) Before making a bid for resources which, if successful, would require any financial commitment from the council. Directors shall ensure that appropriate budgets have been approved or earmarked in accordance with these Regulations.
- (iii) In working up bids, Directors shall use appropriate project appraisal processes to assess the viability of the project in terms of resources, staffing and expertise, to identify and assess all potential risks and to ensure achievement of the required outcomes.
- (iv) The External Funding and Grants Protocol must be adhered to.

(2) Partnerships

- (i) Partnerships play a key role in delivering Council Services and in helping to promote and improve the wellbeing of the District. The council works in partnership with others - public agencies, private companies, community groups and voluntary organisations – and its distinctive leadership role is to bring together the contributions of the various stakeholders. The Council will mobilise investment, bid for funds, champion the needs and harness the energies of local people and community organisations. It will be measured by what it achieves in partnership with others.
- ii) Partnerships can provide ways to access new resources and share risk. They can also lead to innovative and improved ways of delivering services whilst forging new relationships.

(3) Setting up partnerships

- (i) Directors shall agree and accept formally the roles and responsibilities of each of the partners involved in a project before the project commences.
- (ii) Where the Council is to be the lead partner, or the accountable body where other public funds are involved, the responsibilities of the Council and the obligations of the various partners are to be clearly defined and understood.

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- (iii) Directors shall consult the Section 151 Officer on:
- (a) any financial control, insurance and audit requirements to be incorporated in the partnership arrangements.
  - (b) the overall financial implications for the council.
- (iv) Prior to entering into any commitment, the relevant Director shall ensure that any match funding or other financial obligations of the Council are provided for within the revenue budget or capital programmes and that arrangements are made for future years' financial provisions to reflect these obligations. This should include any audit and other consequential fees as appropriate.
- (4) Working with partners
- (i) These Financial Regulations and the council's Contracts Standing Orders shall apply equally to any orders for works, goods or services which are the responsibility of the Council under the partnership arrangements.
  - (ii) The relevant Director shall comply with any key conditions of funding and any statutory requirements.
  - (iii) Any variation in resources to be contributed by the council, or in the overall resources of the partnership where the council is the accountable body, shall be dealt with in the same way as other budget variations as set out in Section 7 (Budgetary Control).
  - (iv) The relevant Director shall ensure that any financial control, insurance and audit requirements of the partnership are met.
  - (v) The relevant Director shall communicate regularly with the other partners throughout the project so that any problems are identified and shared on a timely basis to achieve their successful resolution.
- (5) Grants to third parties
- (i) The External Funding and Grants Protocol should be adhered to when any grant is paid to a third party, this is to ensure:
    - (a) Grants are paid to sustainable organisations (those that are not reliant on a grant to remain trading)
    - (b) Expenditure and outputs in relation to grants provided are monitored to ensure the grant has delivered value for money.
    - (c) Grants paid to organisations over £1,000 have a grant offer letter
- (6) Accountable Body
- (i) For some grants the Council are required to be an Accountable body, but only pass on monies to third parties whilst undertaking monitoring. In these instances the bids for funding by third parties shall be assessed as if they were being applied for by the Council itself and that they adhere to the External Funding and Grants Protocol.

Commented [1]: Accepted suggestion

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(7) Delegation

All delegations under this section will be set out in the directors' schemes of officer delegation.

## **Section 22: Work carried out for others**

Legislation enables the Council to provide a range of services to other bodies. Such work may help maintain economies of scale and existing expertise. It may also be helpful to share the council's facilities, expertise and resources with others under partnership arrangements, mutuals, companies etc. Effective controls should be in place to ensure that any risks associated with such work are appropriately managed and that the work falls within the council's statutory powers.

- (1) Financial Regulations apply equally to any service carried out by the council on behalf of the County Council or any other Authority, body or person, and Directors and Members shall not set up partnership or other arrangements with external parties to operate in conflict with these Regulations as far as this council's involvement is concerned.
- (2) Directors shall properly assess the financial implications of the proposal prior to commitment following consultation with the Section 151 Officer and draw up contracts having regard to the council's powers, relevant policies and protocols and in compliance with any insurance or other requirements of the Section 151 Officer.

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### Section 23: Trading Arrangements

The council will at times look for potential trading opportunities. Effective controls should be in place to ensure that any risks associated with trading are appropriately managed.

(1) The Section 151 Officer shall:

- (i) Advise on and approve the financial implications of any proposed trading arrangements between the council and third parties.
- (ii) Advise on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with council and statutory requirements and that the results of trading operations are properly recorded and reported.

(2) Directors shall:

- (i) Identify potential trading opportunities and evaluate the respective risks and financial benefits.
- (ii) Obtain the approval of the Section 151 Officer, in consultation with the relevant Cabinet Members.
- (iii) Maintain a register of contracts entered into.
- (iv) Comply with advice issued by the Section 151 Officer in relation to the operation of trading accounts and the proper recording and reporting of trading results.

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## **THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM**

### **Do I have a Disclosable Pecuniary Interest and if so what action should I take?**

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

### **Do I have a significant interest and if so what action should I take?**

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or  
Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- 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; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
  - exercises functions of a public nature; or
  - is directed to charitable purposes; or
  - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

### **Gifts, Benefits and Hospitality**

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

### **What if I am unsure?**

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services and Scrutiny Manager well in advance of the meeting.

## **DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY**

**MEETING**.....

**DATE**..... **AGENDA ITEM** .....

**DISCRETIONARY PECUNIARY INTEREST**

**SIGNIFICANT INTEREST**

**GIFTS, BENEFITS AND HOSPITALITY**

**THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:**

.....  
.....  
.....

**NAME (PRINT):** .....

**SIGNATURE:** .....

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.

