

# Part 4 - Rules of Procedure

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# Council Procedure Rules

## 1.0 Meetings of the Council

### 1.1 Types of Council meeting

There are three types of Full Council meeting:

- (a) The annual meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

There are two types of Committee meetings:

- (a) Ordinary meetings
- (b) Extraordinary meetings

### 1.2 Annual meeting of the Council

The Council shall hold an annual meeting in the year of ordinary election of members not earlier than the eighth day and not later than the twenty first day of the date of retirement of Members

In any one year when there are no whole elections to the Thanet District Council, the annual meeting will be held on a date in May to be fixed by the Council.

### 1.3 Extraordinary meetings

Those listed below may require The Proper Officer (who for this purpose shall be [to be completed] the Monitoring Officer/CEX) to call Extraordinary Council meetings in addition to ordinary meetings:

- (a) the Council by resolution or
- (b) the Chair of the Council or
- (c) a Statutory Officer of the authority or
- (d) any five members may together call the meeting and the Chief Executive shall make arrangements accordingly provided they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Chair and the Chair has refused to call a meeting or failed within seven days of the presentation to call a meeting.

## 2.0 Agenda

### 2.1 Agenda for Annual Meeting

The annual meeting will consider the following:-

- (i) elect a person to preside if the Chair of Council is not present;
- (ii) elect the Chair of Council;
- (iii) elect the Vice-Chair of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any declarations of interest from members;
- (vi) receive any announcements from the Chair and/or Chief Executive;
- (vii) in the year of an ordinary election of Councillors, elect the Leader of the Council for a term of office ending on the date of the Annual Meeting of Council in the year of the next ordinary election of Councillors. (A casual vacancy in the office of Leader of the Council shall be filled for the remainder of the term of office at the next Ordinary Meeting of Council after the vacancy has arisen);
- (viii) in the year of an ordinary election of Councillors receive from the Leader notification of the councillor appointed as Deputy Leader to act in their absence;
- (ix) receive from the Leader notification of the number and names of Councillors who together with the Leader and Deputy Leader will comprise the Cabinet for the ensuing Council year together with the details of the portfolio responsibilities allocated to each of them;
- (x) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution);
- (xi) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year;
- (xiii) consider any business set out in the notice convening the meeting.

## **2.2 Agenda for Ordinary Meetings**

Ordinary meetings of the Council shall commence at 7.00 pm unless otherwise agreed with the Chair and will take place on a Thursday in accordance with a programme decided at the Council's annual meeting. Subject to rule 2.7, ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice Chair are not present;
- (ii) deal with any business required by statute to be done before any other business;
- (iii) approve the minutes of the last meeting;



- (iv) receive any announcements from the Chair, Leader, members of the Cabinet or the Chief Executive;
- (v) receive any declarations of interest from members;
- (vi) receive petitions from the public;
- (vii) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting; [Pursuant to Rule?]
- (viii) receive reports from the Cabinet Leader, Members of the Cabinet and the Council's Committees etc.

Except for items under (i), (ii) or (iii) of Rule 2.2 the order of business may be varied at the Chair's discretion or by a resolution passed on a motion that has been moved and seconded which shall be put without discussion.

### **2.3 Agenda for Extraordinary Meetings**

Business at extraordinary meetings of the Council shall be restricted to the following:

- (a) to appoint a Member to preside at the meeting if neither the Chair nor the Deputy Chair are present and able to preside;
- (b) to receive apologies for absence from Members;
- (c) to receive any declarations of interest from Members and Officers;
- (d) to consider any business set out in the notice convening the meeting;
- (e) to consider any matter which, by reason of special circumstances (which are to be specified in the minutes of the meeting), the Chair considers should be considered at the meeting as a matter of urgency.

No other business will be transacted.

### **2.4 Leaders Report**

The Leader of the Council will make available in writing the content of their oral report to opposition group leaders no later than the Saturday before the meeting. The speech will not exceed ten minutes on key issues arising since the last meeting of Council.

The Leaders of any other political group may comment on the Leader's report. The comments of the Leaders of the other political groups shall be limited each to five minutes. The other Group Leaders will comment in an order determined by the number of Councillors within those political groups, with the largest group commenting first, and so on.

The Leader has a right of reply to each Group Leader limited to two minutes, in hierarchical order, to any comments made on their report.

The Leader of the Council, the Leader of the Opposition and the Leader of any other political group may appoint substitutes to speak on their behalf.

No motions may be moved nor resolutions passed under this item.

## **2.5 Related Items**

The Chair shall also have discretion to decide that related items of business may be dealt with in accordance with such procedure as the Chair shall consider is most conducive to the dispatch of business.

## **2.6 Application to Committees**

The Chair of any Committee or Sub-Committee shall have the discretion to vary the order of business and decide on related items of business in accordance with such procedure as the Chair shall consider is most conducive to the dispatch of business.

## **2.7 Budget-setting meetings of the Council**

Apart from the essential items of apologies for absence, minutes of previous meeting and declarations of interest, the only items that will be considered at budget-setting meetings of the Council will be the budget and associated items, subject to the Chair of Council having discretion to accept additional items; but only in exceptional or urgent circumstances.

## **3.0 Motions and Amendments**

### Motions on Notice

- 3.1 Any one or more Members of the Council may by notice received by the Monitoring Officer no later than 10:00 am, 11 working days before the day of the Council meeting; require the Council to consider a motion.
- 3.2 The Monitoring Officer shall record all such notices of motion (not including rejected notice) in the order in which they are received and such record shall be open to public inspection on request.
- 3.3 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it save that
- 3.4 Where they consider that the notice of motion, statement or consideration of a notice of motion is likely to result in disclosure of confidential exempt information, in which case they may group such notices of a motion together with other items of business which are in their opinion likely to involve the exclusion of press and public during their consideration.
- 3.5 There will be a thirty minute time limit for moving and debating motions on notice.

### Amendments

- 3.6 Subject to Rule 3.9 notice of an amendment to a recommendation or motion on the agenda for a Council meeting may be given by two members to the Monitoring Officer

up to 12 noon on the day of Council. Only motions which can be moved without notice or amendments to recommendations arising from Officers' reports will be accepted without notice.

#### Putting the Motion at the Meeting

- 3.7 The Member whose name appears first on the Notice will move the motion during their speech and call for a seconder. If seconded, a Member from the controlling political group will be entitled to a reply, the motion shall then stand referred without further discussion to the Cabinet or appropriate Committee for determination or report unless the Council decides to debate the motion in accordance with Rule 16.

#### Scope

- 3.8 (a)
- i. Motions must be about matters for which the Council has a responsibility or which affect the district.
  - ii. Motions must not relate to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a member of the Council.
  - iii. Motions must be expressed in such a form that it shall conform with the requirements of the Council Procedure Rules and be competent for the Council if it so desires to pass it as a lawful and valid resolution. If it is not so expressed the Chair shall rule it out of order.
  - iv. Where a motion on notice would, if adopted, constitute the exercise of an executive function, that motion must be referred to the Cabinet (or relevant Cabinet portfolio holder as appropriate) for decision;
  - v. The Chair shall rule out of order any motion on notice that relates to the adoption of, or amendment to, a policy falling within the Council's adopted Policy Framework if that policy or amendment (as the case may be) has not first been proposed by the Cabinet and considered by the Executive, Policy and Community Safety Scrutiny Panel;
  - vi. The Chair shall rule out of order any motion on notice that proposes the adoption of, or amendment to, any policy outside the adopted Policy Framework which by law or this Constitution is the sole responsibility of the Cabinet;
  - vii. Any motion on notice that proposes the adoption of a policy or the taking of a decision where Council has not received a report from the officers setting out the technical, legal and financial implications of adopting the policy or taking the decision in question shall only be debated. Following the conclusion of the debate, the only action that may be taken is to refer the motion to Cabinet for consideration.

- viii. The Council should not debate any motion which would give rise to a significant change to income of the Council, to its expenditure or contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer as appropriate setting out the legal or financial effect of the motion.
  - ix. If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of Section 100(A)(2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matters shall not be the subject of discussion until the Council or Committee as case may be, has decided whether or not the power to exclude the public under Section 100(A)(2) of the Local Government Act 1972 shall be exercised.
  - x. A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except in accordance with Rule 16.15 (below) unless the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
  - xi. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved except in accordance with Rule 16.16 (below) unless the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
- (b) No Member shall subscribe to more than two notices of motion on an agenda at the same time.
  - (c) Motions submitted to Committees must be in the name of a member of the Committee.

#### Rejecting Motions on Notice

- 3.9 The Chair of Council may rule out of order Motions on Notice that in their opinion:
- (a) are defamatory in nature;
  - (b) are frivolous in nature; or
  - (c) contain offensive language.

where the Chair rejects a notice of motion, they shall inform the Member who submitted the notice as soon as practicable prior to the publication of the agenda and shall not include the rejected notice of motion in the public record or agenda.

#### **4.0 Committees and Sub-Committees**

#### **4.1 Functions**

Every Committee and Sub-Committee shall continue to discharge the functions delegated to them until the Council or relevant Committee resolve otherwise.

#### **4.2 Recommending Delegated Powers**

A Committee or Sub-Committee may decide to recommend any matter (for which it has been given delegated powers) to the Council or its parent Committee as the case may be.

#### **4.3 Duration of Appointment**

Subject to Section 102(5) of the Local Government Act 1972, (Councillor not re-elected to cease to be a member of a Committee) and paragraph 3.5 below, every person appointed as a member of a Committee shall continue as such until the appointment is terminated by the Authority. This Rule shall also apply to Sub-Committees and Working Parties.

#### **4.4 Political Balance**

- (i) Whenever:
  - (a) the Council, resolves or is required to review the allocation of seats between political groups, or
  - (b) a Committee resolves or is required to review the allocation of seats on a Sub-Committee between political groups

the Proper Officer shall submit a report to the Council, the Cabinet or Committee (as the case may be), showing what allocation of seats would meet the requirements of Section 15(4) of the Local Government and Housing Act 1989.

- (ii) In the light of such a report, the Council shall determine the allocation of seats to political groups.

#### **4.5 Appointment of Sub-Committees and Working Parties**

Subject to any resolutions by the Council, every Committee may appoint Sub-Committees or Working Parties for such purposes as they think fit within the remit of the responsibilities of the Committee, and may make arrangements for a Sub-Committee to discharge any of the functions for the authority which the Committee may discharge.

#### **4.6 Parent Committees**

Every Member, except co-opted members, of a Sub-Committee shall be a Member of its Parent Committee.

## **5.0 Appointment of Substitute Members of Committees, Sub-Committees and Working Parties**

### **5.1 Allocation**

The Council will appoint as substitute members of Committees and Sub-Committees those members nominated by each political group. Political groups may nominate every other member of the group provided that neither the Chair nor Vice-Chair of Council nor any member of the Cabinet shall be eligible to be a substitute member at any Committee or Sub-Committee on which either the Chair or Vice-Chair or a member of the Cabinet may not sit.

### **5.2 Powers and duties**

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

### **5.3 Substitution**

- (i) It shall be the duty of Groups themselves to arrange for the attendance of substitute Members. As far as committees and sub-committees to which political balance rules apply, the substitute Member appointed shall be a member of the same political group as the Member being substituted.
- (ii) The Member Services Officer must be notified of the attendance of a substitute member before the commencement of any item of business.
- (iii) If a substitute Member is present at any meeting and the appointed Member subsequently attends during the course of the proceedings, the substitute Member shall withdraw from taking any further part in the meeting at the conclusion of the item under discussion.
- (iv) No substitute Member should be eligible to Chair a meeting if an appointed Member of the Committee or Board is present and willing to take the Chair.
- (v) In relation to the determination of any applications made under the Licensing Act 2003, no Member shall be eligible to be a substitute on the Licensing Board or on a sub-committee established by it.

### **5.4 Working Parties**

These rules shall also apply to Working Parties.

## **6.0 Election of Chair and Vice-Chair of Committees**

### **6.1 Appointment of Chairs and Vice-Chairs**

Subject to Rules 6.2 and 6.3, the Chairs and Vice-Chairs of Committees shall be appointed by Council at its Annual Meeting.

## 6.2 Sub-Committees, Advisory Groups and Working Parties

All Sub-Committees, Advisory Groups and Working Parties shall elect at their first meeting after the Annual Council Meeting, before proceeding to other business, from amongst their Members a Chair for the ensuing year, and shall then appoint a Vice-Chair for the ensuing year.

## 6.3 Appointment of Chairs and Vice-Chairs of Scrutiny Panels

The Chair and Vice-Chair of any panel shall not both be from the same political group. The ruling group will have the first chance to nominate the Chair of the Scrutiny Panel.

It has been the convention at this Council to appoint an opposition Councillor to the role of Chair of the Overview and Scrutiny Panel.

## 6.4 Members not eligible to stand for election

- (i) The Chair and Vice-Chair of the Council shall not be eligible for election as Chair or Vice-Chair of a Standing Committee, Sub-Committee or Working Party.
- (ii) No Member shall be Chair of more than one Standing Committee.

## 6.5 Vacancies

A casual vacancy in the Office of Chair or Vice-Chair of a Committee, Sub-Committee, Advisory Group or Working Party shall be filled as soon as practicable and by the relevant Committee.

## 7.0 Time and Place of Meetings

### 7.1 Timings of Committee Meetings

<b>Committee</b>	<b>Meeting time</b>
Council	<b>7.00 pm</b>
Cabinet	<b>7.00 pm</b>
Governance and Audit Committee	<b>7.00 pm</b>
Joint Transportation Board	<b>7.00 pm</b>
Overview and Scrutiny Panel	<b>7.00 pm</b>
Planning Committee	<b>7.00 pm</b>
Standards Committee	<b>7.00 pm</b>
Licensing Board	<b>10.00 am</b>
General Purposes Committee	<b>Ad hoc</b>

Investigations & Disciplinary Sub committee (IDSC)	<b>Ad hoc</b>
Investigations & Disciplinary Appeals Sub Committee	<b>Ad hoc</b>
Grievance Committee	<b>Ad hoc</b>
Grievance Appeals Committee	<b>Ad hoc</b>
Independent Persons Panel	<b>Ad hoc</b>
Licensing Sub Committee	<b>Ad hoc</b>

The time and place of meetings will be determined by the Committee Services Manager and notified in the summons. The following guidelines will apply:

- (i) The days of the week shall be utilised as follows:-
- Tuesdays to - Meetings of Committees, Sub-Committees,  
Thursdays - Advisory Groups and Working Parties and adjourned, special or additional meetings thereof.
- (ii) The Monday following Council Meetings, or the Tuesday if the Monday is a Bank Holiday, shall be kept clear of meetings to facilitate adjournment of Council to that day.
- (iii) The weeks in which scheduled Council Meetings fall will normally be kept clear of other meetings.
- (iv) The Calendar of Meetings shall generally include a two-week recess at Christmas and no meetings in August.

## **8.0 Notice of and Summons to Meetings**

The Appropriate Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Appropriate Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The agenda for a meeting will give the date, time and place of meeting, specify the business to be transacted, and will be accompanied by such reports as are available.

## **9.0 Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

## **10.0 Quorum**

The quorum of a meeting will be one quarter of the whole number of members except for meetings of the Overview and Scrutiny Panel and Governance and Audit Committee where the quorum shall be one half of the whole number of members. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining



business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **11.0 Duration of Meeting**

### **11.1 Adjournment**

Unless it is resolved to complete the item under discussion, meetings shall stand adjourned at 10.30 pm unless in the opinion of a majority of the Members thereof the business remaining to be dealt with can be concluded by 11.30 pm in which case the meeting may continue until 11.30 pm at which time it shall automatically stand adjourned.

### **11.2 Remaining Business**

Consideration of any business not transacted shall be continued on the following Monday evening and thereafter on consecutive evenings at 7.00 pm except where Monday is a Bank Holiday in which case the business shall be continued on the following Tuesday evening and thereafter on consecutive evenings at 7.00 pm.

## **12.0 Petitions from the Public**

12.1 The Council will receive, accept and deal with petitions from members of the public in accordance with the requirements of any Petitions Scheme from time to time adopted by the Council. The Council's current Petitions Scheme is included in Part 5 of the Council's constitution.

## **13.0 Questions by the Public and Press**

### **13.1 General**

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council. The total time devoted to questions shall not exceed 30 minutes.

### **13.2 Order of questions**

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

### **13.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Appropriate Person at least five full working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

### **13.4 Number of questions**

At any one meeting no person may submit more than one question, limited to one hundred and fifty words.

### **13.5 Scope of questions**

The Chief Executive will reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;
- If the questioner is not normally a resident of Thanet; or
- If a question relates to an individual planning or licensing application.

When the Chief Executive considers rejecting a question, they will consult with the Chair of the Council first.

There is no right of appeal for rejected questions.

### **13.6 Asking the question at the meeting**

The Chair will invite the questioner to put the question to the member named in the notice. If the questioner is not present the question shall not be put and shall be answered in writing.

### **13.7 Absence of Member Named and Written answers**

Any question which cannot be dealt with during public question time because of lack of time will be dealt with by a written answer. If the member to whom the question is directed is not present, the question will be answered by the Leader or another Member nominated by the Leader for the purpose unless it is inappropriate for the Leader to give an oral answer or to nominate another Member to give an oral answer, in which case the question will be dealt with by a written answer.

## **14.0 Questions by Members**

### **14.1 On reports of the Cabinet or Committees**

A member of the Council may during their speech ask the Leader or Chair of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

**14.2** The period allowed for reports, written and all questions and answers will not exceed 30 minutes without the leave of the Chair and such leave will only be granted in exceptional circumstances.

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

Subject to Rule 14.5, a member of the Council may ask:

- a member of the Cabinet; or
- the Chair of any Committee or Sub-Committee

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

#### **14.4 Questions on notice at Committees and Sub-Committees**

Subject to Rule 14.5, a member of a Committee or Sub-Committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that Committee or Sub-Committee.

#### **14.5 Notice of questions**

A member may only ask a question under Rule 14.3 or 14.4 if they have given at least five working days' notice in writing of the question, limited to one hundred and fifty words, to the Committee Services Manager. No Member shall submit more than one question.

#### **14.6 Scope of questions**

A question shall not be:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council;
- related to a matter which has already been raised as a Standards Complaint against a member and which has not yet been concluded through the Code of Conduct procedures.

When the Chief Executive considers rejecting a question, they will consult with the Chair of the Council first.

There is no right of appeal for rejected questions.

#### **14.7 Response**

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within three working days to the questioner.

#### **14.8 Supplementary question**

A member asking a question under Rule 14.3 or 14.4 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. The question must be a question and not a statement.

## **14.9 Timing**

The questioner shall have two minutes for the initial question and one minute for the supplementary and the respondent shall have five minutes for the initial reply and two minutes for the supplementary.

## **14.10 Written questions**

Where a member does not wish to put a question verbally the member may, subject to Rule 14.5, submit a question in writing to the Committee Services Manager at least five working days before a Council meeting, any question to be asked of a member of the Cabinet or the Chair of any Committee on any matter in relation to which the Council have powers or duties or which affects the District. This rule is subject to the following:

- (i) The number of questions which may be asked by any one Member under this Rule at any one meeting shall be limited to one.
- (ii) There shall be no discussion of any question or answer.
- (iii) Any answer may take the form of:-
  - (a) A written answer circulated to Members of the Council at the Council Meeting or as soon as possible thereafter. Provided that where a question cannot be answered at the Council Meeting and in all cases where the member concerned exercises their right not to answer under Rule 14.10(v) the question and an explanation of the member's inability to answer or the reasons for their decision not to answer shall be circulated to all Members at the Council Meeting.
  - (b) Where the desired information is contained in a publication of the Council, a reference to that publication.
- (iv) All questions and answers shall be recorded in a Register to be maintained by the Committee Services Manager.
- (v) Having sought advice from the Monitoring Officer, the member questioned shall have the power to decide that a question shall be not answered if they are satisfied that the public interest would not be served by it being raised or pursued.
- (vi) The Chair shall not allow any question containing unbecoming language, imputation of improper motives or reflections of a personal character.
- (vii) A Member may withdraw their question at any time.

## **15.0 Reports from the Cabinet and Committees**

### **15.1 Reports from the Overview and Scrutiny Panels**

At each of its ordinary meetings, Council will receive a written report introduced by the Chair of the Overview and Scrutiny Panel on the work undertaken by the Panel

since the last Council meeting. Such a report will be subject to comment or debate in the usual way.

## **16.0 Rules of debate**

### **16.1 Motions Without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) to change the order of business in the agenda;
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a Committee or member arising from an item on the summons for the meeting;
- (e) to receive reports or adoption or rejection of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3 ½ hours in duration;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 24.3 or to exclude them from the meeting under Rule 24.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

### **16.2 No speeches until motion seconded**

No further debate shall take place after the mover has moved a proposal and spoken on the item until the motion has been seconded. This rule shall not apply to the Standards Committee or Licensing Board.

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

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to them before it is discussed.

### **16.4 Seconder's speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### **16.5 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Speeches made by the Leader, members of the Cabinet

and Chairs of Committees when presenting items or by a member winding up the debate may not exceed five minutes without the consent of the Chair. No other speech may exceed three minutes without the consent of the Chair. This rule shall not apply to the Standards Committee or Licensing Board or the Non-Executive Functions Committee (when it is dealing with appeals).

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

A member who has spoken on a motion shall not speak again without the consent of the Chair whilst it is the subject of debate, except:

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

#### **16.7 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **16.8 Alteration of motion**

- (a) A member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

- (b) A member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### **16.9 Withdrawal of motion**

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

### **16.10 Right of reply**

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

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3 ½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

### **16.12 Closure motions**

- (a) A member who has not spoken on that item may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.

- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote.

If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **16.13 Point of order**

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

### **16.14 Personal explanation**

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

### **16.15 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by more than 50% of the membership. This Rule shall not apply to motions moved following a recommendation to the Council made by the Cabinet or a Committee.

### **16.16 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by more than 50% of the membership or supported by the Chair (or in their absence the Vice-Chair). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **17.0 Voting**

### **17.1 Majority**



Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put. No Member may cast a vote for another Member who is not present at the time the question is put.

#### **17.2 Chair's casting vote**

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

#### **17.3 Show of hands**

Unless a recorded vote is demanded under Rule 17.4 or required under Rule 17.6, the Chair will take the vote by show of hands (and a count if requested), or by means of an electronic voting system, or if there is no dissent, by the affirmation of the meeting.

#### **17.4 Recorded vote**

If a majority of members present at the meeting demand it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

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

#### **17.6 Recorded votes at Council budget decision meetings**

A recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who cast a vote for the motion/amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2001, it cannot be suspended under Council Procedure 29.1.

#### **17.7 Voting on appointments**

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

#### **17.8 Section 106 of the Local Government Finance Act 1992**

Where a Member has at least two months' arrears of Council tax they must not vote on any matter which:

- (i) Relates directly to the setting of the next year's Council Tax; or
- (ii) Recommends income or expenditure forming part of the next year's levy; or
- (iii) Relates to income or expenditure in the current year which is in excess of the current budget.

When a matter as described above is to be considered at a meeting, the Member affected must declare that section 106 of the Local Government Act 1992 applies to them. The Member may remain in the meeting and may speak, but they may not vote on the matter.

## **18.0 Minutes**

### **18.1 Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

### **18.2 Accuracy of minutes**

The only part of the minutes that can be discussed is their accuracy, provided that any question of their accuracy has been raised by motion of which 24 hours' notice has been given to the Democratic Services Manager.

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

Minutes will only be signed at the Council meeting or at Ordinary Meetings.

## **19.0 Record of Attendance**

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

## **20.0 Attendance at Meetings**

### **20.1 General**

Any Member of the Council who is not a member of the body in question may nevertheless attend any meeting of the Cabinet or of any Committee, Sub-Committee or Working Party. They may speak once only on any item if permission has been given by the Cabinet, Committee, Sub-Committee or Working Party before the commencement of debate on the item. The member shall not occupy a seat provided for members of the body in question until requested to do so by the person Chairing the meeting. The member may speak on one additional occasion on a point of order or by way of personal explanation.

This Rule shall not apply to the following bodies:-

- Management Appraisal Board (when acting)
- Licensing Board
- Appeals Panel
- General Purposes Committee when dealing with issues of officer conduct or employment
- Standards Committee

## **20.2 Attending meetings when Motions under Rule 3.7 will be discussed**

A Member of the Council in whose name a motion under Rule 3.7 has been referred by Council to another Committee shall have notice of the meeting of the Committee, Sub-Committee or Working Party at which it is proposed to consider the motion and they, or in their absence a seconder, shall have the opportunity of speaking to explain the motion and taking part in the debate.

## **20.3 Attendance of Chair/Vice-Chair of Committees**

The Chair, or in their absence, the Vice-Chair, of any Committee, may invite the Chair, or in their absence the Vice-Chair, of any other Committee of the Council to attend the meeting and take part in the debate when matters directly affecting the work of that other Committee are being discussed, provided that they shall have no voting rights.

## **20.4 Meetings of the Cabinet**

This Rule shall also apply to meetings of the Cabinet and the Leader shall have a similar power to invite attendance at meetings of the Cabinet.

## **21.0 Special Meetings of Committees**

### **21.1 Calling special meetings**

Those listed below may call a special meeting of a Committee on any occasion in addition to ordinary meetings:

- (i) the Chair (or in their absence the Vice-Chair) of a Committee;
- (ii) the Chair of the Council;
- (iii) the Chief Executive
- (iv) the Committee Services Manager; and
- (v) any five members of the Committee (or at least one third of the number of members of the Committee if that is less than five) if they have signed a requisition presented to the Corporate Director - Governance (the time and date (provided it is within 14 days of the receipt of the request) and the place of the meeting to be decided by the Chair or Vice-Chair of the Committee).

### **21.2 Business**

No matter shall be dealt with at any special meeting of a Committee other than that specified in the request or requests received under Rule 21.1 for the meeting in question, except in accordance with Section 100B(4) of the Local Government Act 1972.

### **21.3 Timing**

Special meetings shall be held on such dates and at such times as the proper officer may determine after consultation with the Chair or Vice-Chair of the Committee.

### **22.0 Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

### **23.0 Members' Conduct**

#### **23.1 Standing to speak**

When a member speaks at full Council they must stand and address the meeting through the Chair. If more than one member stands, the Chair will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation. However, if a Member is unable to stand through illness or disability, the Chair will ensure that they are given full and equal access to participation and debate.

#### **23.2 Chair standing**

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

#### **23.3 Member not to be heard further**

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

#### **23.4 Member to leave the meeting**

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

#### **23.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

## **24.0 Disturbance by Public**

### **24.1 Removal of member of the public**

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

### **24.2 Clearance of part of meeting room**

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

## **25.0 Suspension and Amendment of Council Procedure Rules**

### **25.1 Suspension**

All of these Council Rules of Procedure except Rule 17.6, 17.7 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### **25.2 Amendment**

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

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

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.6, 3, 6-10, 13, 15-24 (but not 18.2 or 23.1) and Rules 26, 29 and 30 apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 20, 23.3-23.5, 24, 29 and 30.

## **27.0 Members' Correspondence**

All correspondence from Members to persons or bodies outside of the Council shall be endorsed with the following wording (unless otherwise agreed by or on behalf of the Council):-

*This letter is the personal responsibility of the writer; it has not been authorised by the Council and so nothing in this letter shall be taken as creating any legal or other obligation on the part of the Council.*

## **28.0 Urgent Action by or on Behalf of Committees/Boards**

- (1) If urgent action, which cannot await the next scheduled meeting, is necessary, such action may be taken by the Chief Executive or a Corporate Director or a ~~Service Director~~ Head of Service after consultation with the Chair of the

Committee, Board or relevant body holding the delegated power. The action and the reason for it will be reported in writing to the next meeting of the Committee or Board, etc. In addition such action will be reported on the TDC News unless it is the opinion of the relevant officer that to do so would be prejudicial to the interests of the Council and in that event an explanation of that opinion shall be reported to the appropriate Committee/Board, etc. The Committee Services Manager shall keep a register of all such decisions and reasons which shall be open to inspection by Council Members during normal office hours.

- (2) In the absence of the Chair the Vice-Chair shall be authorised to act in their place.
- (3) The Committee Services Manager shall ensure that a copy of every decision taken under this Rule is sent as soon as possible to the Chair of the Council's Scrutiny Panel.

### **29.0 Use of mobile telephones during public meetings**

- 29.1 Council Members, Officers and accredited journalists and members of the public must ensure that their mobile communications devices are switched to silent during all public meetings of the Council.

### **30.0 Audio and Visual recordings of Council Meetings**

- 30.1 Audio or visual recordings shall be allowed in accordance with the "Protocol for Filming and Recording of Council meetings" which is included in Part 5 of this constitution.

### **31.0 Public Speaking at Overview and Scrutiny Panel Meetings**

- 31.1 Public speaking at Overview and Scrutiny Panel meetings is allowed as per the scheme for Public Participation as included in Part 5 – Codes and Protocols of this constitution.

# Access to Information Procedure Rules

## 1.0 Scope

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Committees, area Committees (if any), the Standards Committee and regulatory and other Committees and meetings of the Cabinet (together called meetings). Where additional rules that apply only to Cabinet are included, they are clearly marked as such.

## 2.0 Additional Rights to Information

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, including the Freedom of Information Act 2000

## 3.0 Rights to Attend Meetings

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

## 4.0 Notices of Meeting

- 4.1 Unless the Meeting is called at shorter notice, the Council will give at least five clear working days' notice of any meeting by posting details of the meeting on its website and at Thanet Gateway Plus, Cecil Street, Margate, Kent CT9 1RE (the designated office).

## 5.0 Access to Agenda and Reports before the Meeting

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except that:
- a) where the meeting is convened at shorter notice, copies of the agenda and report shall be published on the Council's website and open to inspection from the time the meeting is convened; and
  - b) where an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public and publish it on the Council's website as soon as the report is completed and sent to Councillors) will be published on the Council's website and open to inspection from the time the item was added to the agenda.

## 6.0 Items of Business

### 6.1 An item of business may not be considered at a meeting unless either:

- a) a copy of the agenda including the item (or a copy of the item) is published on the Council's website and open to inspection by a member of the public for at

- least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
- b) by reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

6.2 “Special circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item or report could not have been available for five clear days before the meeting.

6.3 Where the item of business relates to a Key Decision, Rules 16, 17 and 18 also apply.

## **7.0 Supply of Copies**

7.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Committee Services Manager thinks fit, any other documents supplied to Councillors in connection with an item may be supplied to any person on payment of a charge for postage and any other costs or electronically at no charge. A reasonable number of copies of the agenda and reports will be made available at the meeting.

## **8.0 Access to Minutes etc after the Meeting**

8.1 The Council will make available for public inspection copies of the following documents for six years after a meeting:

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

## **9.0 Background Papers**

### **9.1 List of background papers**



The proper officer will set out in every report that is open to public inspection a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11) and in respect of Cabinet reports, the advice of a political assistant.

## **9.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. As far as Cabinet decisions are concerned, the Council will also publish on its website any background papers that are included in the list.

## **10.0 Public's Rights**

A copy of the Access to Information Procedure Rules, which sets out the public's rights to attend meetings and to inspect and copy documents, shall be kept at and available to the public at the Council's main offices for inspection. A member of the public shall be entitled to a copy of these Rules on request.

## **11.0 Exclusion of Access by the Public to Meetings**

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

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

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

Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) the public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Any resolution to exclude the public due to disclosure of exempt information must identify the proceedings, or the part of the proceedings to which it applies, and state, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

### **11.3 Meaning of confidential information**

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

## 11.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):

N.B. The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as Amended)

1. Information relating to any individual. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
2. Information that is likely to reveal the identity of an individual. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  - a) Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests;
  - b) Information is not exempt if it is required to be registered under:
    - Companies Act 1985;
    - Friendly Societies Acts 1974 and 1992;
    - Industrial and Provident Societies Acts 1965 to 1978;
    - Building Societies Act 1986;
    - Charities Act 1993.
  - c) The rights of access by Members are contained in Section 1007 of the 1972 Act.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
6. Information which reveals that the authority proposes
  - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

b) to make an order or direction under any enactment. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

Information falling within any of the paragraphs above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **11.5 Disclosure by Members**

Members will not make public Confidential or Exempt Information without the written consent of the Authority or divulge information given in confidence to anyone other than a Member or Officer entitled to know it.

### **12.0 Exclusion of Access by the Public to Reports**

12.1 If the proper officer thinks fit, the Council may exclude access by the public to a report or a part of a report which in their opinion relates to an item during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Every copy of such report, or part of report, as the case may be, must be marked, "not for publication" and there must be stated on every copy of the whole or the part of the report:

(a) that it contains confidential information; or

(b) by reference to the descriptions in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision making body discharging the executive function are likely to exclude the public during the item to which the report relates.

### **13.0 Review of confidential / exempt information**

13.1 A confidential / exempt report or part of a report will be reviewed by the Monitoring Officer one year after the ultimate decision-taking body has considered it. If, upon that review, a report or part of report is still treated as exempt, the report or part of report will be subject to a further similar review on the third anniversary of the first review.

13.2 The reviews referred to in paragraph 13.1 above do not apply to decisions taken by the Standards Committee or its sub-committees.

13.3 The Monitoring Officer will publish their decision on each review, giving reasons for such a decision.

- 13.4 The Monitoring Officer will submit to the Council an annual report containing details of decisions reviewed, such report to include the reasons wherever it is considered not possible to release the report/information to the public.

#### **14.0 Reporting of proceedings at Cabinet meetings**

- 14.1 While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

#### **15.0 Procedure prior to a Private Meeting of Cabinet**

- 15.1 Subject to 15.2, a decision by Cabinet to hold a meeting, or part of a meeting in private may not be taken unless:
- (a) a notice has been published in the Forward Plan and Exempt Cabinet Report List at least 28 clear days before the meeting in question and made available on the council's website and at Thanet Gateway Plus, Cecil Street, Margate. This notice is to include a statement of the reasons why the meeting, or part of the meeting, is held in private;
  - (b) a further notice will be published on the Council's website and at Thanet Gateway Plus, Cecil Street, Margate at least five clear working days before the meeting; such notice to include:
    - i. a statement of the reasons for the meeting to be held in private;
    - ii. details of any representations received by the Cabinet not later than 14 calendar days in advance of the meeting about why the meeting should be open to the public; and
    - iii. a statement of its response to any such representations, which will be decided upon by the Leader in consultation with the Monitoring Officer.
- 15.2 Where the date by which a Cabinet meeting must be held makes compliance with Rule 15.1 impracticable, the meeting, or part of the meeting, may only be held in private where Cabinet has obtained agreement from:
- a) the Chair of the Overview and Scrutiny Panel; or
  - b) if there is no such person, or if the Chair of the Overview and Scrutiny Panel is unable to act, the Chair of Council; or
  - c) where there is no Chair of either the Overview and Scrutiny Panel or of Council, the Vice-Chair of Council.

#### **16.0 Publicity in connection with key decisions**

- 16.1 Subject to Rule 18 (general exception) and Rule 19 (special urgency), a key decision may not be taken unless:
- (a) a notice has been published in the Forward Plan and Exempt Cabinet Report List in connection with the matter in question;

- (b) the notice referred to at sub paragraph (a) has been available for public inspection at least 28 days at Thanet Gateway Plus, Cecil Street, Margate and on the Council's website;
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **17.0 The Forward Plan and Exempt Cabinet Report List**

### **17.1 Contents of forward plan and exempt cabinet report list**

The Forward Plan and Exempt Cabinet Report List will contain matters which will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers, area Committees or under joint arrangements in the course of the discharge of an Executive function It will provide the following details:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision maker is an individual, their name and title, if any and where the decision maker is a body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker;
- (h) the procedure for requesting details of those documents (if any) as they become available.

The Forward Plan and Exempt Cabinet Report List must be published on the Council's website and at Thanet Gateway at least 28 clear days before a key decision is made.

Where in relation to any matter, the public may be excluded under Rule 11 from the meeting at which the matter is to be discussed, or the documents relating to the decision need not by virtue of Rule 12 be disclosed to the public, the forward plan and exempt cabinet report list must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

## **18.0 General Exception**

- 18.1 Subject to Rule 19 (special urgency), where the publication of the intention to make a key decision under Rule 16 is impracticable, that decision may only be made:
- (a) where the proper officer has informed the Chair of the Overview and Scrutiny Panel, or, if there is no such person, each member of the Overview and Scrutiny Panel by notice in writing, of the matter about which the decision is to be made;
  - (b) where the proper officer has made available at Thanet Gateway Plus, Cecil Street, Margate for inspection by the public and published on its website a copy of the notice given pursuant to sub-paragraph (a); and
  - (c) after five clear working days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- 18.2 Where Rule 18.1 applies to any matter, Rule 16 need not be complied with in relation to that matter.
- 18.3 As soon as reasonably practicable after the proper officer has complied with Rule 18.1, they must make available at Thanet Gateway Plus, Cecil Street, Margate a notice setting out the reasons why compliance with Rule 16 is impracticable and publish that notice on the Council's website.

## **19.0 Special Urgency**

- 19.1 Where the date by which a key decision must be made makes compliance with Rule 18 impracticable, the decision may only be made where the decision maker has obtained agreement from
- (a) the Chair of the Overview and Scrutiny Panel, or
  - (b) if there is no such person, or if the chair of the Overview and Scrutiny Panel, is unable to act, the chair of Council; or
  - (c) where there is no Chair of either the Overview and Scrutiny Panel, or Council, the Vice-Chair of Council that the making of the decision is urgent and cannot reasonably be deferred.
- 19.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 19.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at Thanet Gateway Plus, Cecil Street, Margate a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

## **19.3 Provision of urgent reports to Ward Members**

- 19.3.1 In cases where the content of the report on the urgent decision is not exempt within the meaning of Schedule 12A of the Local Government Act 2000, Ward Members will be notified of the decision as soon as the decision is taken;

19.3.2 In cases where the content of the report on the urgent decision is exempt within the meaning of Schedule 12A of the Local Government Act 2000 and that exemption does not relate to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been taken, but without disclosure of the exempt matters (for example, if the exemption relates to the identification of individual or personal matters, those details will not be disclosed until after the decision has been implemented);

19.3.3 In cases where the content of the report on the urgent decision is exempt within the meaning of Schedule 12A of the Local Government Act 2000 and that exemption relates to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been implemented.

## **20.0 Report to Council**

### **20.1 When the Overview & Scrutiny Panel can require a report**

Where an executive decision has been made and:

- (a) was not treated as being a key decision; and
- (b) the Overview & Scrutiny Panel are of the opinion that the decision should have been treated as a key decision, that Panel may require the executive which is responsible for the decision to submit a report to Council within such reasonable period as the Panel may specify.

The power to require a report rests with the Panel, but is also delegated to the proper officer, who shall require such a report on behalf of the Panel when so requested by the Chair or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview & Scrutiny Panel.

### **20.2 Cabinet's report to Council**

The Cabinet will prepare a report under Rule 20.1 for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 5 working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report must include details of:

- (a) the decision and reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

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

The Leader of the Council will submit to the Council quarterly reports containing details of each executive decision taken during the period since the last report was submitted to the

Council where the making of the decision was agreed as urgent in accordance with Rule 19 (special urgency).

## **21.0 Recording of executive decisions made at meetings**

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present at the meeting, the person presiding, must ensure that a written statement is produced and published on the council's website for every executive decision made which includes:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decisions; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service, following consultation with the Monitoring Officer.

## **22.0 Recording of executive decisions made by Individual Members of the Cabinet and Officers**

### **22.1 Recording of executive decisions made by Individual Members of the Cabinet**

As soon as reasonably practicable after an Individual Member has made an executive decision, that Member must produce or instruct the proper officer to produce and publish on the Council's website a written statement of that executive decision which includes:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service, following consultation with the Monitoring Officer.



The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **22.2 Recording of executive decisions made by Officers**

As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce and publish on the Council's website a written statement which must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by an Executive Member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service, following consultation with the Monitoring Officer.

## **23.0 Rights of access to documents for members of the Overview and Scrutiny Committees**

23.1 Subject to Rule 23.3 below, an Overview and Scrutiny Panel will be entitled to a copy of any document which is in the possession or under the control of the Cabinet or its Committees relevant to that Panels terms of reference and which contains material relating to

- (a) any business transacted at a meeting of the Cabinet or its Committees; or
- (b) any decision that has been made by an individual member of the Cabinet in accordance with executive arrangements; or
- (c) any decision that has been made by an officer of the Council in accordance with executive arrangements.

23.2 Subject to Rule 23.3 below, where a member of an Overview and Scrutiny Committee requests a document which falls within Rule 23.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

## **23.3 Limit on rights**

No member of the Overview and Scrutiny Committee is entitled to a copy:

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:
  - i) an action or decision that that member is reviewing or scrutinising
  - ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant

Where the Cabinet determines that a member of the Overview and Scrutiny Panel is not entitled to a copy of a document or part of any such document for a reason set out in Rule 22.1 or 22.3, the Cabinet Leader in conjunction with the Monitoring Officer will write to all Members of the Overview and Scrutiny Panel, setting out the reasons for that decision.

#### **23.4 Additional rights**

The rights described in Rule 23 and 24.1 shall apply also in relation to non-Executive functions dealt with by the Council and any regulatory or other Committees and Sub-Committees.

#### **24.0 Additional Rights of Access to documents for Members of the Council**

24.1 Subject to Rules 24.5 and 24.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to any business to be transacted at a public meeting, must be available for inspection by any Member of the Council.

24.2 Any document which is required by Rule 24.1 to be available for inspection by any Member of Council must be available for such inspection for at least five clear days before the meeting except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 24.1 in relation to that item, must be available for inspection when the item is added to the agenda.

24.3 Subject to Rules 24.5 and 24.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains any material relating to:
  - i.) any business transacted at a private meeting or part of a meeting held in private;

- ii.) any decision made by an individual member in accordance with executive arrangements; or
- iii.) any decision made by an officer in accordance with executive arrangements must be available for inspection by any Member of the Council when the meeting concludes or where an executive decision is made by an Individual Member or an Officer immediately after the decision has been made.

- 24.4 Any document which is required by Rule 24.3 to be available for inspection by any Member of Council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.
- 24.5 Rules 24.1 and 24.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (descriptions of exempt information: England).
- 24.6 Notwithstanding Rule 24.5, Rules 24.1 and 24.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:
- (a) paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
  - (b) paragraph 6 of Schedule 12A to the Local Government Act 1972.
- 24.7 Where it appears to the proper officer that compliance with Rules 24.1 or 24.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that paragraph will not apply to that document or part.
- 24.8 The rights conferred by Rules 24.1 and 24.3 are in addition to any other rights that a member of a local authority may have.

#### **24.9 Agendas and Reports**

All members of the Council entitled, on request, to copies of all agenda and reports when published whether relating to Executive or non-Executive functions.

# Budget and Policy Framework Procedure Rules

## 1.0 The Framework for Executive Decisions

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

## 2.0 Process for Developing the Framework

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

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. Once drawn up the proper officer will serve copies of them on the Chair of the Overview and Scrutiny Panel together with dates when the Cabinet will consider them further, which shall be at least 6 weeks after service of the notice on the Chair (unless the Overview and Scrutiny Panel concludes its consideration of the matter in a shorter time in which case the following shall apply:-
  - (i) if there are no scrutiny representations the matter shall be deemed to be a recommendation of the Cabinet and shall be referred direct to Council, unless the Leader or relevant portfolio holder requests that the matter be returned to Cabinet first; or
  - (ii) if there are any scrutiny representations the Cabinet may consider them at its next meeting.
- (b) The Overview and Scrutiny Panel will be generally convened within 7 working days to consider whether to respond to the Cabinet's initial proposals and whether any consultation by it is appropriate, unless the Committee Services Manager, in consultation with the Overview and Scrutiny Panel Chair, agrees to put the matter on the agenda for the next scheduled meeting. If so the Overview and Scrutiny Panel will conduct a consultation exercise and will reflect any representations made to it in its response to the Cabinet within the timescale set for decision by the Cabinet.
- (c) The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Panel. The report to Council will show the Cabinet's response to those comments.
- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposal without amendment) or (if the Cabinet's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the

publication of the notice of decision, unless the Leader formally objects in that period.

- (f) If the Leader objects to the decision of the Council, they shall give written notice to the proper officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### **3.0 Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4.0 Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, area Committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget

approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chair of a relevant Overview and Scrutiny Panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Overview and Scrutiny Panel the consent of the Chair of the Council, and in the absence of both the Vice-Chair, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5.0 Virement**

- (a) The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.
- (b) Key controls for the scheme of virement are:
  - (i) it is administered by the Section 151 Officer within guidelines set by the Full Council who must approve any variation from this scheme.
  - (ii) the overall budget is proposed by the Cabinet for approval by the Full Council. Chief Officers and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget as amended by any virement agreed under the Financial Procedure Rules which set out the relevant limits.
  - (iii) virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. In particular, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets.
- (c) No virement relating to a specific financial year should be made after 31<sup>st</sup> March of that year.
- (d) Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
  - (i) the amount is used in accordance with the purposes for which it has been established.

- (ii) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

## **6.0 Call-In of Decisions Outside the Budget or Policy Framework**

- (a) Where the relevant Overview and Scrutiny Panel is of the opinion that a decision of the Cabinet is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Overview and Scrutiny Panel if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Overview and Scrutiny Panel. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
  - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

# Cabinet Procedure Rules

## 1.0 How Does the Cabinet Operate?

### 1.1 Who may make Executive decisions?

The Leader may provide for Executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Committee of the Cabinet ;
- (iii) an individual member of the Cabinet ;
- (iv) an officer;
- (v) an area Committee;
- (vi) joint arrangements; or
- (vii) another local authority.

### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by them for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any portfolio, including any authority delegated to portfolio holders individually, with details of any limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to area Committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint Committee for the coming year; and
- (vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

In the event of such a document not being so presented, those matters within (ii) to (vi) previously in place shall continue in effect, and appointments under (i) shall be made accordingly, until any changes are made subsequently in accordance with these Rules and reported to a meeting of the Council.

### 1.3 Sub-delegation of Executive functions

- (a) Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive function, they may delegate further to an area Committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.



- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The Council's scheme of delegation and Executive functions**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader is able to decide whether to delegate Executive functions, and they may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when they have served it on the person Chairing that Committee.

#### **1.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.6 Cabinet meetings – when and where?**

The Cabinet will meet at least 12 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

#### **1.7 Public or private meetings of the Cabinet?**

Meetings of the Cabinet shall be public except as permitted under Rule 11 of the Access to Information Procedure Rules.

#### **1.8 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one half of the total number of members.

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

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **2.0 How are Cabinet Meetings Conducted?**

### **2.1 Who presides?**

The Leader will preside at any meeting of the Cabinet or its Committees at which they are present, or may appoint another person to do so and if the Leader does not appoint another person to preside, then the Deputy Leader will preside. If they are also absent, then a person appointed to do so by those present shall preside.

### **2.2 What business?**

At each meeting of the Cabinet the Leader (or the person acting in their absence) will decide the order of business to be conducted.

### **2.3 Consultation**

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

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

The Leader, or Cabinet member nominated by the Leader, will decide upon the schedule for the meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter that they wish, whether or not authority has been delegated to the Cabinet, a Committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.

Any member of the Council may ask the Leader, in writing, to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer

to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **2.5 Presentation of petitions at Cabinet meetings**

Under the Council's Petitions Scheme, it is possible for Council to refer to Cabinet without debate a petition containing 1,000 or more signatures if that petition relates to an issue for which the executive has responsibility.

The person who presented the petition at the meeting of Council prior to it being referred to Cabinet will be able to re-present the petition at the meeting of Cabinet at which the petition is considered, and will have up to five minutes to do so.

[See further:-

For election of Leader, see Article 7.

For role of Deputy Leader, see Article 7.

For Overview and Scrutiny Committees, see Article 6.]

# Overview and Scrutiny Procedure Rules

## 1.0 What will be the Number of and Arrangements for Overview and Scrutiny Panels?

- (a) Unless the Council decides otherwise under Article 6, the Council will always have at least one Overview and Scrutiny Panel, which will perform all Overview and Scrutiny functions on behalf of the Council.

(NB. Scrutiny arrangements effective from 12<sup>th</sup> July 2018 are detailed in Article 6.)

- (b) Unless otherwise provided in Article 6, the terms of reference of the Overview and Scrutiny Panel will be:
- (i) to perform all Overview and Scrutiny functions on behalf of the Council;
  - (ii) to appoint such Sub-Committees and working parties as it considers appropriate to fulfil and assist with Overview and Scrutiny functions;
  - (iii) to receive any reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;
  - (iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Panel's and Sub-Committee's time is effectively and efficiently utilised;
  - (v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
  - (vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (vii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to prioritise referrals made.

(NB. Current scrutiny arrangements are detailed in Article 6.)

- (c) The Overview and Scrutiny Panel may discontinue any Sub-Committee and/or appoint alternative or additional Sub-Committees. The Panel may also amend the terms of reference of any Sub-Committee as appropriate.
- (d) Where the Panel seeks to discontinue or appoint Sub-Committees, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chair of the Overview and Scrutiny Panel, so that the Constitution may be amended accordingly.

## 2.0 Who May Sit on Overview and Scrutiny Panels?

- (a) All Councillors except members of the Cabinet and the Chair and Vice Chair of Council are eligible to be members of an Overview and Scrutiny Panel.
- (b) Any Overview and Scrutiny Panel shall be entitled to appoint up to two people who are not Members of the Council as non-voting co-optees. If these

co-optees are subject to a circumstance that would disqualify them from being a Councillor (such as being bankrupt, they would be ineligible to become a co-optee. However a co-optee would not need to fulfil the same qualification criteria as a Councillor of TDC in order to be a co-optee.(i.e. that they lived or worked in the district)

- (c) The Panel shall also be entitled to appoint up to two additional Members of the Council from among those members who are eligible to assist with their work where those additional members are considered to have particular skills, knowledge or experience relevant to the matter under consideration. Such additional Members shall not be entitled to vote.

### **3.0 Scrutiny Requirements**

- (a) No member, co-optee or additional member may be involved in scrutinising a decision that they have made..
- (b) Co-optees shall be required to declare any interest, pecuniary or otherwise, as if they were a Member of the Council.
- (c) Co-optees shall comply with the Council's Rules.

### **4.0 Meetings of the Overview and Scrutiny Panel**

There shall be at least 6 ordinary meetings of the Overview and Scrutiny Panel in each year and the total number of meetings shall be determined by the Chair of that Panel, in conjunction with Officers. In addition, extraordinary meetings may be called from time to time as and when appropriate. The Panel meeting may be called by the Chair of the relevant Scrutiny Panel, by any 4 members of the Panel or by the proper officer if they consider it necessary or appropriate.

### **5.0 Quorum**

The quorum for an Overview and Scrutiny Panel shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

### **6.0 Who Chairs Overview and Scrutiny Panel Meetings?**

The Overview and Scrutiny Panel will be chaired by a Councillor in accordance with the Council Procedure Rules.

### **7.0 Work Programme**

The Overview and Scrutiny Panel will be responsible for setting their own work programme and in doing so they shall take into account wishes of all members on that Panel including members who are not from the largest political group on the Council.

### **8.0 Agenda Items**

- (a) Any member of an Overview and Scrutiny Panel shall be entitled to give notice to the Committee Services Manager that they wish an item relevant to the functions of the Panel to be included on the agenda for the next available meeting of the Panel.

- (b) In addition, any member of the Council shall be entitled to give notice to the Committee Services Manager that they wish a local government matter to be included on the agenda for the next available meeting of the Panel provided such notice complies with the requirements of any protocol from time to time adopted by the Council regulating the exercise of such right.
- (c) On receipt of such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject (or in the case of a local government matter briefly stating the steps that have already been taken to try to resolve the matter in question and why such steps have been unsuccessful) the Committee Services Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chair of the Panel for information.

## **9.0 Policy Review and Development**

- (a) The role of the Overview and Scrutiny Panel in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework the relevant Overview and Scrutiny Panel may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Panel may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, as determined by the Chair of the Overview and Scrutiny Panel in consultation with the Monitoring Officer.

## **10.0 Reports from Overview and Scrutiny Panels**

- (a) Once it has formed recommendations on proposals the Overview and Scrutiny Panel will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) The Council or Cabinet shall consider the report of the Overview and Scrutiny Panel within 6 weeks of it being submitted to the proper officer.

## **11.0 Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet**

- 11.1 Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 6 weeks from the date the report was adopted by the Overview and Scrutiny Panel. In such cases, the report of an Overview and Scrutiny Panel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet. The Cabinet should provide their response to such a report from the Overview and Scrutiny Panel in writing.
- 11.2 Where an Overview and Scrutiny Panel prepares a report for consideration by the Cabinet in relation to a matter where an individual member of the Cabinet has delegated decision making power, then that Overview and Scrutiny Panel will submit a copy of their report to that individual for consideration.
- 11.2.1 At the time of doing so the relevant Overview and Scrutiny Panel shall serve a copy the report on the proper officer and the Leader (unless it is the Leader who has the delegated decision making power). If the member with delegated decision making power does not accept the recommendations of that Overview and Scrutiny Panel then they must refer the matter to the next available meeting of the Cabinet for debate before exercising their decision making power and responding to the report in writing to that Overview and Scrutiny Panel.
- 11.2.2 The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Panel within 6 weeks of receiving it. A copy of their written response to it shall be sent to the proper officer and they may attend a future meeting to respond.
- 11.3 Not more than 6 reports in any three-month period may be submitted by the Overview and Scrutiny Panel to the Cabinet.
- 11.4 The Overview and Scrutiny Panel will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Panel following a consideration of possible policy/service developments, the Panel will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## **12.0 Rights of Overview and Scrutiny Panel Members to Documents**

In addition to their rights as Councillors, members of the Overview and Scrutiny Panel have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Panel as appropriate depending on the particular matter under consideration.

### **13.0 Members and Officers Giving Account**

- (a) Any Overview and Scrutiny Panel or a Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions relevant to their terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, the panel may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

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

- (b) Where any member or officer is required to attend the Panel meeting under this provision, the Chair will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances (as determined by the Chair of the Overview and Scrutiny Panel), the member or officer is unable to attend on the required date, then the Chair of the Panel shall in consultation with the member or officer arrange an alternative date for attendance.

### **14.0 Attendance by Others**

- (a) The Overview and Scrutiny Panel may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.
- (b) Working parties may invite attendance by those mentioned in 13 and 14 (a) above.

### **15.0 Call-In**

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the Overview & Scrutiny Panel have evidence which suggests that the



Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (b) When a decision is made by the Cabinet, an individual member of the Cabinet or a Panel of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area Panel or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. The Chair of the Overview & Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the Overview & Scrutiny Panel objects to it and calls it in.
- (d) During that period, the proper officer shall call-in a decision for scrutiny by the Panel if so requested in writing (including e-mail) specifying the decision in question with a brief statement of reasons for the call-in by the Chair or any four members of the Panel (who shall not all be from the same political group), and shall then notify the decision-taker in writing of the call-in.
- (e) If a decision is called-in then a meeting of the Overview & Scrutiny Panel must be called within 15 calendar days of the decision to call in, unless the Leader of the Council (or the Deputy Leader in the Leaders absence) and the Chair of the Overview & Scrutiny Panel have agreed that the call-in may take place at the next scheduled meeting of the Overview & Scrutiny Panel.
- (f) The Overview & Scrutiny Panel may instead of exercising the function of call-in itself, arrange for the function to be exercised by full Council.
- (g) The decision notice and the report underpinning the decision will be made available to the Panel but no witnesses (other than persons who reported directly to the decision maker) will be called in respect of the call-in.
- (h) If, having considered the decision, the Panel is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred to the decision maker they shall then reconsider within a further 15 working days from the date of the meeting, amending the decision or not, before adopting a final decision.
- (i) If it has not been agreed to consider the objection at the next scheduled meeting of the Overview & Scrutiny Panel, but the Panel does not hold a valid meeting within the 15 calendar day period (as set out in (e) above), or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the expiration of that period or the date of the Overview & Scrutiny Panel meeting, whichever is the earlier.
- (j) If it has been agreed to consider the objection at the next scheduled meeting of the Overview & Scrutiny Panel (as set out in (e) above), but the Panel does not meet, or does meet but does not refer the matter back to the decision making person or body,

the decision shall take effect on the date of the scheduled Panel meeting at which it was due to be considered.

- (k) If the Call-In function is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective on the date of the Council Meeting.
- (l) However, if the Council does object to a decision which has been made, it has no power to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- (m) Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council meeting. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.
- (n) If the Council does not meet within 15 working days of the day on which the matter was referred to the Full Council the decision will become effective on the expiry of that period.
- (o) Where a Cabinet decision has been taken by an area Committee then the right of call-in shall extend to any other area Committee which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny Panel for consideration in accordance with these provisions. An area Committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of the Overview & Scrutiny Panel.

#### **Call-in and urgency**

- (p) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
- (q) The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (r) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **16.0 The Party Whip**

When considering any matter in respect of which a member of the Overview & Scrutiny Panel is subject to a party whip, the member must declare the existence of the whip, and the nature of it before the commencement of the Panel deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **17.0 Procedure at Overview and Scrutiny Panel Meetings**

- (a) The Overview and Scrutiny Panel shall consider the following business:
- (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the Panel for a decision in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Panel; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview & Scrutiny Panel conducts investigations (eg, with a view to policy development), the Panel may also ask people to attend to give evidence at Panel meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Panel by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless involving confidential or exempt information.

## **18.0 Confidential and Exempt Information**

Until reported to the Overview and Scrutiny Panel, the work of any Scrutiny Review dealt with when the public have been excluded from the meeting shall be treated as being subject to a requirement not to disclose the same in any way to any third party, unless there is a legal requirement to disclose such information. [For the purposes of

this rule a “third party” shall not include any Member or officer of the Council nor any person co-opted as a member of a Sub-Committee or Working Party.]

# Councillor Call for Action (CCFA)

## Protocol

### Contents

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- A) CCfA Request Form
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- C) CCfA Flowchart

## Councillor Call for Action Protocol - CCfA

### 1.0 Introduction

Councillor Call for Action (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act) and came into force on 1 April 2009. The statutory requirement to implement CCfA applies to all Councils in England (with the exception of Parish / Town Councils) regardless of their executive arrangements.

The Act enables any Member of the Council to refer to the Overview and Scrutiny Panel any local government matter or any crime and disorder matter which affects their ward.

### 1.1 Limitations

It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

It is the responsibility of the Ward Councillor to provide evidence of the actions that have been taken so far to identify possible solutions to the issue(s).

### 1.2 Issues excluded from referral as a CCfA

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- Individual complaints concerning personal grievances or commercial issues;
- Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
  - Planning and licensing applications and appeals
  - Council Tax / Housing Benefits complaints and queries
  - Issues currently under dispute in a court of law
- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Executive, Policy & Community Safety.

A referral, provided it is not an excluded matter (see above); will ensure that the matter is included on the agenda of the Overview and Scrutiny Panel. It is then up to the Members of the Panel to decide whether or not to take the matter further.

A referral made to the Overview and Scrutiny Panel is seen as being at the end of the CCfA process (the last resort) and not the first step.

### 1.3 Steps to be taken, prior to making a Councillor Call for Action referral

Prior to a Councillor referring a matter as a CCfA to the Panel, a Councillor must have tried to resolve the issue / problem themselves using all mechanisms and resources available to them at Ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue;
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve the issue, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local Members of Parliament (MPs) and Councillors in other authorities etc;
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and / or members, questions at committees etc;
- Ensure that this is not an issue that is currently being or should be pursued via the Council's Corporate Complaints Procedure ;
- Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Kent County Council.

## 2.0 How to make a Councillor Call for Action referral

If the issue / problem is still not resolved the Councillor can refer it to the Overview and Scrutiny Panel as a Councillor Call for Action. To do this the Councillor should:

- Complete a CCfA Request Form by hand or electronically, outlining what the issue is and what steps have been taken to seek a resolution. The request for a CCfA should include:
  - The name of the Councillor and Ward they represent
  - Description of the topic
  - Why the topic is being raised
  - Who it affects
  - What solutions have already been tried
  - What outcomes or solutions required
  - Evidence to support the CCfA
  - Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?
  - Are there any deadlines associated with the CCfA of which the Executive, Policy & Community Safety Scrutiny Panel needs to be aware?
- The Committee Services Manager will receive the referral form either by post or electronically, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to the Overview and Scrutiny. In accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Committee Services Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting;
- The Committee Services Manager will inform the Chair of the Overview and Scrutiny Panel and the item will be included on the next available Committee agenda. The Councillor will be informed whether or not their referral has been successful.

## 2.1 Decision of the Overview and Scrutiny Panel whether to take the matter further

In deciding whether or not to take the matter further the Panel will consider:

- Anything that the Councillor has done in relation to this matter; and

- Representations made by the Councillor as to why the Panel should take the matter up.

The criteria the Committee will use to decide whether or not to take the matter further will include:

- Is the Panel satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- Has the Panel considered a similar issue recently – if yes have the circumstances or evidence changed?
- Is there a similar or related issue, which is the subject of a review on the current scrutiny work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account;
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- Is it relating to a 'quasi-judicial' matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community);
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Kent County Council?
- And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's ward?

If the Panel decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Panel decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA;
- Setting up a working party to undertake a more in-depth review

At formal hearing:

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant Committee/partner organisation.

In considering the CCfA, the Overview and Scrutiny Panel may invite the relevant Cabinet Portfolio holder, Chief Executive, Corporate Director, Service Director/Manager or external organisation to discuss the issue with the Overview & Scrutiny Panel and answer any questions, if the Committee considers this relevant.

### 3.0 **Potential outcomes**

Following a formal hearing, there are a number of potential outcomes from the Panel meeting:



- The Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the Ward Councillor notified in writing;
- The Panel could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Panel could write a report and make recommendations on the CCfA to the Cabinet or relevant partner(s).

Once the Panel has completed its work on the CCfA referral, the Member who made the CCfA referral will receive a copy of any report or recommendations made. The Committee Services Manager will also publish the report on Modern Gov and d on the Council's website <http://www.thanet.gov.uk> unless there are reasons why the Panel considers the matter is an exempt item and as a result the report cannot be made public.

### **3.1 Timescales**

Once a CCfA has been assessed as not being a matter that is excluded from referring to the Executive, Policy & Community Safety, the item will be included on the next available Committee agenda. (Remember- in accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Committee Services Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting).

If the Panel agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

Should a CCfA hearing result in recommendations to the Cabinet, Cabinet must respond to the recommendations, setting out any action it intends to take at its next scheduled meeting.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so. Any response received will be reported back to the Cabinet and the Overview and Scrutiny Panel.

Appendix A

## THANET DISTRICT COUNCIL

### Councillor Call for Action (CCfA) Request Form

This form is for District Councillors to raise topics of concern to Thanet District Council to enable investigation by the Overview and Scrutiny Panel, or other method as appropriate. To ensure that Scrutiny's work is most effective, Members must provide evidence of what they have previously done to try to resolve the issue. When deciding which topics to scrutinise, the primary aim is adding value to the work of the Council, focusing on the things that matter most and which make a real difference to the local community.

For this reason, Scrutiny does not get involved with individual cases or minor matters, which should be addressed through other channels, including the appropriate service area or Ward Councillor. Scrutiny does not deal with individual complaints, which should be directed through the Councils' Complaints Procedure.

<p><b>Your contact details:</b></p> <p>Name (print);</p>
<p><b>Address:</b></p>
<p><b>Contact number:</b></p>
<p><b>Email address:</b></p>

<p><b>The Ward you represent:</b></p>
---------------------------------------

<p>Description of the topic</p> <p>Please describe as fully as possible what the issue is with specific examples where possible.</p>
--

**Why are you raising the topic?**

Please explain what has prompted you to raise the topic, e.g. concerns by residents, etc.

**Who does it affect?**

Please describe if any other wards / parishes are affected, or if it is local to your ward, how many residents are affected?

**What solutions have already been tried?**

Please describe what avenues to solve the issue have already been tried and the outcomes.

**What outcomes are required?**

Although a specific solution may not be possible, it will assist the Committee if you describe what outcomes or solutions you would prefer.

**What evidence do you have in support of your CCfA?**

Letters	<input type="checkbox"/>
Emails	<input type="checkbox"/>
Agendas/Minutes of meetings	<input type="checkbox"/>
Photographs	<input type="checkbox"/>
Film	<input type="checkbox"/>

Other (please specify)

**Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?**

**What (if any) are the critical deadlines?**

Please make clear if there are specific deadlines for this topic.

**Would you like the opportunity to speak to the Overview and Scrutiny Panel?**

Yes

No

**Have you approached the Overview and Scrutiny Panel on the same issue in the past six months?**

Yes

No

**Would you like your response by:**

Email

Letter

**Signature:**

**Date of submission:**

Please complete and return the form to:

Nick Hughes  
 Committee Services Manager  
 Thanet District Council  
 Council Offices  
 Cecil Street  
 Margate  
 Kent CT9 1XZ

**Appendix B****Overview and Scrutiny Panel Councillor Call for Action (CCfA) Guidance**

The following questions are intended to assist Overview and Scrutiny Panel Members in deciding whether to take up or reject a matter referred as a Councillor Call for Action (CCfA). Positive answers indicate that the matter referred should be taken up and negative answers that they should not be taken up.

Question	Ye s	No
1. Does the matter referred relate to a local government function?		
2. Does the matter referred affect all or part of the Member's ward, or anyone living or working in it?		
3. Is it confirmed that the issue referred is not an excluded matter, e.g. planning, licensing or legal procedure?		
4. Is it confirmed that no other relevant body / partner organisation is taking up the matter referred to the Overview and Scrutiny Panel as a Councillor Call for Action?		
5. Does the matter referred have the potential for Overview and Scrutiny Members to produce recommendations, which could realistically be implemented, and lead to improvements for anyone living or working in the referring Member's ward?		
6. Has the referring Councillor provided evidence of the steps s/he has taken to try to resolve the issue?		
7. Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?		

## Explanatory Notes

### 1. **Definition of a Local Government matter and a local Crime and Disorder matter**

#### Local Government matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- Relates to the discharge of any function of the authority;
- Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- Is not an excluded matter

#### Local Crime and Disorder matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- a) Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- b) The misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area

### 2. **Definitions of ‘vexatious’, ‘persistent’, discriminatory’ and ‘not reasonable’**

Statutory regulations deal with matters that can be excluded from CCfA, stating that ‘any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Panel is to be excluded’.

#### Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved. Similarly, a request, which some Members may regard as vexatious, may actually be entirely reasonable.

CCfA’s need to be looked at on their merits, rather than on the basis of who is bringing them, or whether someone thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor's requirements.

#### Discriminatory

A modern interpretation of the word 'discrimination' is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of (B) or of any other person except (A), treats (B) less favourably than they treat others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

#### Not reasonable

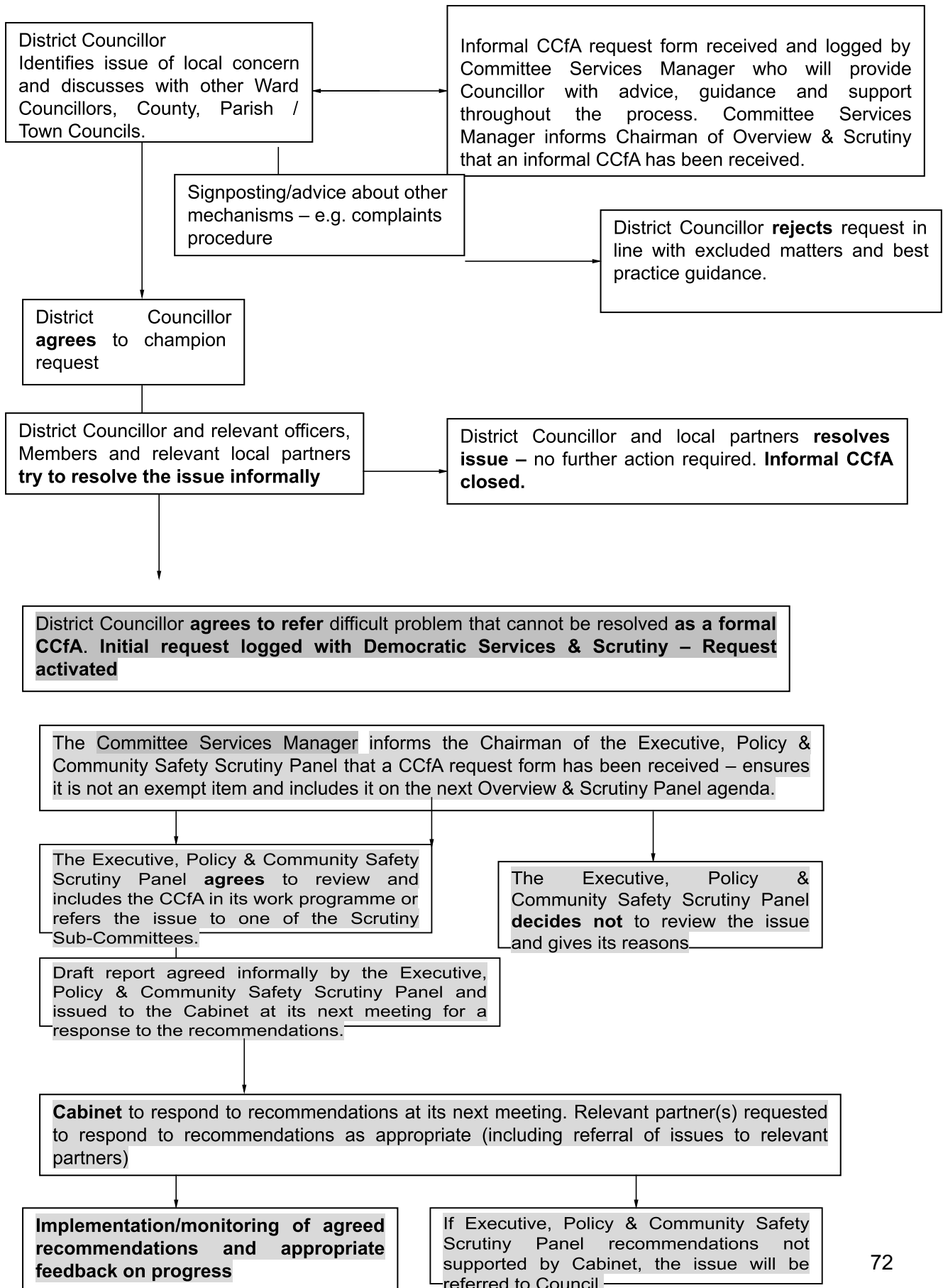
It is suggested that, in the interests of transparency, authorities do not interpret 'not reasonable' as being the same as the legal word 'unreasonable'. It is best to consider it as a qualifier to the word 'vexatious', as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

### 3. **Structure of the CCfA hearing**

The Chair of the Overview and Scrutiny Panel will determine the most appropriate arrangements for considering the CCfA matter.

Appendix 3

**Flow Chart of CCfA Mechanism**





# Financial Procedure Rules

## The Status of the Financial Procedure Rules

### 1.0 What are Financial Procedure Rules?

- 1.1 Financial Procedure Rules (the Rules) are a set of regulations which provide the framework for managing the Council's affairs. They identify the financial responsibilities of Full Council, the Cabinet, the Section 151 Officer, Services Directors and other employees.

### 2.0 Who do the Rules apply to?

- 2.1 They apply to every Member and officer of the Council, and anyone acting on the Council's behalf.

### 3.0 What are the general responsibilities under the Rules?

- 3.1 Financial management covers all financial accountabilities in relation to the running of the Council including the policy framework and budget. It is not possible to draft regulations or rules that cover every eventuality or circumstance. Consequently, the principles of sound financial management, proper exercise of responsibility, and accountability, as set out in the Rules, should be applied in all circumstances, even where any particular circumstance is not specifically referred to.
- 3.2 All Members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 3.3 Cabinet Members and Services Directors must maintain a written record where decision making has been delegated to others, including any seconded staff. Where decisions have been delegated or devolved to any other person, references to the Service Director in the Rules should be read as referring to them.
- 3.4 The Section 151 Officer is responsible for reviewing the Rules and for submitting any additions or changes necessary to Full Council for approval. The Section 151 Officer is also responsible for reporting, where they think appropriate, breaches of the Rules to the Council and/or to the Cabinet.
- 3.5 The Section 151 Officer is responsible for issuing procedure notes, advice and guidance to underpin the Rules that Members, officers and others acting on behalf of the Council are required to follow.
- 3.6 Services Directors are responsible for ensuring that all staff in their departments are aware of the existence of, and, in consultation with the Section 151 Officer, trained in the use and content of the Rules and other internal regulatory documents and that they are complied with at all times. They must also ensure that an adequate number of copies are available for reference within their departments.

- 3.7 If a Member or officer is unclear about any aspect of these rules they should seek advice before acting. Normally they should seek guidance from their line manager, but are also free to approach their Service Director, Section 151 Officer, Director of Finance or the Finance Manager direct.
- 3.8 The Rules also place specific responsibilities on :
- Line Managers, for the day to day financial operation of their section;
  - The Resources service, for promoting high financial standards;
  - Services Directors, for monitoring the overall financial state of their business group and advising the appropriate Cabinet Member on proposals that have a financial impact.
- 3.9 All Members and officers have a duty to act if they believe there is a possibility of fraud, corruption or poor value for money taking place or if the Rules are being broken. In such cases they must inform their line manager (unless that person is suspected of being involved) and the Monitoring Officer and the Section 151 Officer.

#### **4.0 What happens if the Rules are broken?**

- 4.1. The Section 151 Officer's approach is that all Members and officers must exhibit the highest standards of probity when they deal with the Council's finances. These Rules present the processes that should be followed, and individuals are expected to exercise their common sense and judgement, particularly in any unusual or urgent situation. Breaches may however be serious enough to warrant disciplinary action.
- 4.2. Services Directors must report any breaches to the Section 151 Officer.
- 4.3. The Section 151 Officer has a responsibility to report breaches of the Rules where they think appropriate to the Council or the Cabinet.

#### **5.0 What happens in an emergency situation?**

- 5.1. On rare occasions, officers are faced with an emergency and may need to act swiftly. It is recognised that in these circumstances officers need to use their best judgement, balancing the need of the service, severity of the emergency and the financial consequences of their actions. Detailed notes of actions taken must be kept and wherever possible officers should seek clearance from their Head of Service or the Section 151 Officer before proceeding.
- 5.2. Officers must seek retrospective approval for their actions. They must contact their Service Director who will be responsible for co-ordinating such information, and report the matter to the Section 151 Officer.

## **Regulation A: Financial Management**

### **Introduction**

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

### **Full Council**

- A.2 Full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in the Constitution. Full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3 Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees, details of which are set out in the Constitution.

### **The Cabinet**

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

### **Committees of the Council**

#### **Overview and Scrutiny Committees (see Article 6 of Constitution)**

- A.7 The Overview and Scrutiny Committees are responsible for scrutinising executive (both Member and officer) decisions before or after they have been implemented and for holding the Cabinet to account. These committees are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.
- A.8. The Finance, Best Value and Performance Review Panel is responsible for scrutinising the Budget and financial management arrangements of the Council.

#### **Standards Committee (see Article 9 of Constitution)**

- A.9 The Standards Committee is established by Full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct and for monitoring the operation of the Code.

#### **Regulatory and other Committees (see Article 8 of the Constitution)**

- A.10 The Governance and Audit Committee is a sub Committee of Full Council and is responsible for:
- Receiving and approving the annual Internal Audit Plan.
  - Receiving regular reports on progress against the Plan.
  - Receiving reports on "unsatisfactory" audits.

- Approving the Council's Financial Statements.

## **The Statutory Officers**

### **The Head of Paid Service (Chief Executive)**

A.11 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. They must report to and provide information for the Cabinet, Full Council, the Overview and Scrutiny committees and the other committees. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all Council's decisions.

### **The Monitoring Officer**

A.12 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.

A.13 The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. They must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers under delegated authority.

A.14 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 them to fulfil their statutory duties.

A.15 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.

A.16 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:

- Initiating a new policy.
- Committing expenditure in both the current and future years to above the budget level.
- Incurring transfers above the virement limits.

A.17 The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### **The Section 151 Officer**

- A.18 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Local Government Act 2003
  - The Accounts and Audit Regulations 2003
  - The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003
- A.19 The Section 151 Officer is responsible for:
- The proper administration of the Council's financial affairs
  - Setting and monitoring compliance with financial management standards
  - Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - Providing financial information
  - Preparing the revenue budget and capital programme.
- A.20 Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to Full Council, Cabinet and the Council's external auditor if the Council or one of its officers:
- Has made, or is about to make, a decision which involves incurring unlawful expenditure
  - Has taken, or is about to take, an unlawful action which has resulted, or would result in a loss or deficiency to the Council
  - Is about to make an unlawful entry in the Council's accounts.
- Section 114 of the 1988 Act also requires:
- The Section 151 Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under Section 114 personally.
  - The Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114. 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 them to fulfil their statutory duties.

## **Directors of Services**

- A.21 Directors of Services are responsible for:
- Ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer
  - Signing contracts on behalf of the Council.
  - Controlling and monitoring income and expenditure within the approved budget.
- A.22 It is the responsibility of Directors of Services to consult with the Corporate Director (Resources) and seek approval on any matter liable to affect the Council's finances materially, before any commitments are made.

## Other Financial Accountabilities

### Virement

A.23 Full Council is responsible for agreeing procedures for virement of expenditure between budget heads. The approved scheme is:

Budget Holders can (subject to the conditions outlined in the Budget Holders Handbook) vire up to £10,000 within a budget heading.

Directors of Services can (subject to the conditions outlined in the Budget Holders Handbook) vire funds within a budget heading without the requirement to seek Cabinet approval. Where the virement transfers money between different services under their control, there is a limit of £20,000.

Section 151 Officer in consultation with the Corporate Management Team can (subject to the conditions outlined in the Budget Holders Handbook) authorise any transfer between budget headings of between £20,000 and £50,000.

Cabinet approval should be sought for all virements between budget headings which are in excess of £50,000.

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 reserves, building maintenance budgets or central recharges.

### Treatment of year-end balances on budgets

A.24 The Section 151 Officer is responsible for agreeing any procedures for carrying forward under and overspendings on budget heads.

### Accounting Policies

A.25 The Section 151 Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### Accounting Records and Returns

A.26 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council

### The Annual Statement of Accounts

A.27 The Section 151 Officer is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with *the 'Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice'*

(CIPFA/LASAAC) and the '*Best Value Accounting Code of Practice*' (BVACOP), which constitute proper practices as set out in the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

- A.28 The Governance and Audit Committee, a sub-committee of Full Council, is responsible for approving the annual Statement of Accounts.

### **Procedure Note**

- A.29 A Procedure Note in relation to Regulation A is attached as Appendix A and forms part of the Rules.

## **Regulation B: Financial Planning**

### **Introduction**

- B.1 Full Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- The Community Plan.
  - The Corporate Plan.
  - The Medium Term Financial Strategy and Capital Investment Strategy.
  - The General Fund and Housing Revenue Account (HRA) Budget and the Capital Programme.

### **Policy Framework**

- B.2 Full Council is responsible for approving the policy framework and budget. The policy framework comprises those plans and strategies set out in Article 4 of the Constitution.
- B.3 Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- B.4 Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

### **Preparation of the Community and Corporate Plans**

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

## **Preparation of the Best Value Performance Plan (BVPP)**

- B.6 The Head of Improvement and Performance is responsible for proposing the BVPP to the Cabinet for consideration before its submission to Full Council for approval.

## **Budgeting**

### **Budget Format**

- B.7 The general format of the budget will be approved by Full Council and proposed by the Cabinet on the advice of the Section 151 Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

### **Budget Preparation**

- B.8 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to Full Council. Full Council may amend the budget or ask the Cabinet to reconsider it before approving it. The Section 151 Officer also has a responsibility under Section 25 of the Local Government Act 2003 to comment on:

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

- B.9 The Section 151 Officer is responsible for issuing guidance on the general content of the budget as soon as possible following approval by Full Council.

- B.10 It is the responsibility of Corporate Management Team to ensure that the budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

### **Budget Monitoring and Control**

- B.11 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must arrange for expenditure and income to be controlled and monitored against budget allocations and report to the Cabinet on such a regular basis as it may determine.

- B.12 It is the responsibility of Directors of Services to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Section 151 Officer. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer of any problems, or potential problems, at the earliest opportunity

### **Resource Allocation**

- B.13 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of Full Council's policy framework.



## Preparation of the Capital Programme

- B.14 The Section 151 Officer is responsible for ensuring that a rolling 5 year Capital Programme is prepared on an annual basis for consideration by the Cabinet before submission to Full Council. Full Council may amend the Capital Programme or ask the Cabinet to reconsider it before approving it.

## Budget guidelines

- B.15 Guidelines on budget preparation are issued to Members and Directors of Services by the Cabinet following agreement with the Section 151 Officer. The guidelines will take account of:
- Legal requirements
  - Medium-term planning prospects
  - The Corporate Plan
  - Available resources
  - Spending pressures
  - Best value and other relevant Government guidelines
  - Other internal policy documents
  - Relevant cross-cutting issues.

## Maintenance of Reserves

- B.16 It is the responsibility of the Section 151 Officer to advise Full Council on prudent levels of reserves for the Council in accordance with Section 25 of the Local Government Act 2003.

## Procedure Note

- B.17 A procedure note in relation to Regulation B is attached as Appendix B and forms part of the Rules.

## Regulation C: Risk Management and Control of Resources

### Introduction

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- C.2 Regulation 4 of the Accounts and Audit Regulations 2003 requires the Council to be responsible for ensuring that its financial management is adequate and that it has a sound system of internal control which facilitates the effective exercise of its functions including arrangements for the management of risk.

### Risk Management

- C.3 The Cabinet is responsible for approving the Council's Risk Management Policy and Strategy, reviewing it on an annual basis and for reviewing the effectiveness of risk

management. The Cabinet is also responsible for designating a Member to act as a 'risk management champion' to support the integration of risk management into the culture of the Council.

- C.4 The Cabinet is also responsible for ensuring that proper insurance exists, where appropriate, to mitigate any risks identified.
- C.5 The Section 151 Officer is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

### **Internal Control**

- C.6 Internal Control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.7 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.8 It is the responsibility of Directors of Services to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **Audit Requirements**

- C.9 The Accounts and Audit Regulations 2003 require every local authority to maintain an adequate and effective internal audit.
- C.10 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C.11 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise, the Inland Revenue and Government offices or personnel working on their behalf, who have statutory rights of access.

### **Preventing Fraud and Corruption**

- C.12 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

### **Assets**

- C.13 Directors of Services must ensure that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service in the event of a disaster or system failure are in place.

### **Treasury Management**

- C.14 The Council has adopted CIPFA's 'Code of Practice for Treasury Management in Local Authorities' (the Code).
- C.15 Full Council is responsible for approving the Treasury Management Policy Statement, recommended by Cabinet, setting out the matters detailed in paragraph 15 of the Code. The Section 151 Officer has delegated responsibility for implementing and monitoring the Statement.
- C.16 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972.
- C.17 All executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with the Code.
- C.18 The Section 151 Officer is responsible for submitting a report to the Cabinet on the proposed treasury management strategy for the coming financial year at, or before, the start of each financial year and, at least once in each financial year, on the activities of the treasury management operation and the exercise of their delegated treasury management powers.

### **Staffing**

- C.19 Full Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.
- C.20 The Chief Executive as Head of Paid Service is responsible for providing overall management to staff, and for ensuring compliance with the Council's employment policies.
- C.21 Directors of Services are responsible for controlling total staff numbers by:
  - Advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - The proper use of appointment procedures.

### **Procedure Note**

- C.22 A Procedure Note in relation to Regulation C is attached as Appendix C and forms part of the Rules.

## **Regulation D: Systems and Procedures**

## **Introduction**

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

## **General**

- D.2 The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors of Services to the existing financial systems or the establishment of new systems must be approved in advance by the Section 151 Officer. Directors of Services however are responsible for the proper operation of financial processes in their individual departments.
- D.3 Any changes to agreed procedures by Directors of Services to meet their own specific service needs must be agreed in advance with the Section 151 Officer.
- D.4 Directors of Services must ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer.
- D.5 Directors of Services must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors of Services must also ensure that their staff are aware of their responsibilities under Data Protection and Freedom of Information legislation.

## **Income and Expenditure**

- D.6 It is the responsibility of Directors of Services to ensure that a proper scheme of delegation has been established within their department and that it is operating effectively. The scheme of delegation must identify staff authorised to act on the Directors of Services' behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority.

It is the responsibility of the Section 151 Officer to develop, administer and keep under review procedures for writing off debts and to seek approval of these by full Council as part of the overall control framework of accountability and control.

It is the responsibility of the Section 151 Officer to report all aged debts over £150,000 to the next available ordinary Council meeting, the timelines for reporting being as follows:

- a) 60 days for those debts with standard payment terms of 0 or 30 days
- b) 90 days for those debts with payment terms of 60 days

regardless of whether or not the debt had been paid in full or in part between the expiry of the 60 or 90 day period (whatever the case may be) and the date of the next available ordinary Council meeting.

## **Payments to Employees and Members**

- D.7 The Section 151 Officer is responsible for making all payments of salaries, wages and allowances to all staff, and for making payments of allowances to Members.

## **Taxation**

- D.8 The Section 151 Officer is responsible for advising Directors of Services, in the light of guidance issued by appropriate bodies and relevant legislation, on all taxation issues that affect the Council.
- D.9 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving any tax credits and submitting tax returns by their due date.

## **Trading Accounts/Business Units**

- D.10 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of any trading accounts and business units within the Council.

## **Procedure Note**

- D.11 A Procedure Note in relation to Regulation D is attached as Appendix D and forms part of the Rules.

## **Regulation E: External Arrangements**

### **Introduction**

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

### **Partnerships**

- E.2 The Cabinet is responsible for approving delegations, including frameworks for partnerships, which the Council is involved in. The Cabinet is the focus for forming partnerships with other public, private, voluntary and community sector organisations to address local needs.
- E.3 The Cabinet can delegate functions – including those relating to partnerships – to officers. Those that exist are set out in the Scheme of Delegation within Part 3 of the Council's Constitution. Where functions are delegated, the Cabinet remains accountable for them to Full Council.
- E.4 Representation of the Council on partnerships and external bodies will be decided in accordance with the Scheme of Delegation.
- E.5 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- E.6 The Section 151 Officer must ensure that the accounting arrangements to be adopted in relation to partnerships and joint ventures are satisfactory. The Chief Executive in consultation with the Section 151 Officer must also consider the overall

corporate governance arrangements and legal issues when arranging contracts with external bodies. The Section 151 Officer in consultation with the relevant Head of Service must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

- E.7 Directors of Services are responsible for ensuring that the Section 151 Officer is consulted on the progress of negotiations and that the appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External Funding**

- E.8 The Cabinet is responsible for approving all applications for external funding unless otherwise provided for within the Council's external funding strategy.
- E.9 The Section 151 Officer is responsible for the preparation of an external funding protocol which shall be submitted to the Cabinet for approval.
- E.10 The Section 151 Officer has overall responsibility for external funding and is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- E.11 The Section 151 Officer also has overall responsibility for ensuring that appropriate records and supporting documentation in relation to any output measures are kept to enable them to submit funding claim forms at the relevant times.

### **Work for Third Parties**

- E.12 The Cabinet is responsible for approving the contractual arrangements for any work undertaken for third parties or external bodies unless this is delegated to officers in accordance with the Scheme of Delegation.

### **Procedure Note**

- E.13 A Procedure Note in relation to Regulation E is attached at Appendix E and forms part of the Rules.

## Appendix A: Financial Procedure Note – Financial Management

### 1.0 Financial Management Standards

#### 1.1 General

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

#### 1.2 Responsibilities of Section 151 Officer:

To ensure the proper administration of the Council's financial affairs.

To set the financial management standards and to monitor compliance with them.

To ensure that proper professional practices are adhered to and to act as the head of profession in relation to the standards, performance and development of finance staff throughout the Council.

To advise on the key strategic controls necessary to secure sound financial management.

To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.

To advise upon financial considerations before any agreement is entered into on behalf of the Council.

#### 1.3 Responsibilities of Directors of Services:

To promote the financial management standards set by the Section 151 Officer in their services and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer.

To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

To submit monthly forecasts in line with the Council's budget monitoring arrangements.

To ensure budgetary provision exists for all expenditure incurred.

To seek advice upon financial considerations before any agreement is entered into on behalf of the Council.

### 2.0 Managing Expenditure

#### 2.1 Scheme of virement

Virement is the switching of resources between approved estimates or heads of expenditure. The scheme is intended to enable the Cabinet, Directors of Services and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by Full Council, and therefore to optimise the use of resources. For the purposes of the scheme a budget head is considered to be a line

in the approved estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.

### **2.1.2 Responsibilities of Section 151 Officer:**

To administer the scheme of virement within the guidelines set by Full Council.  
To notify Directors of Services of changes to the scheme of virement.

### **2.1.3 Responsibilities of Directors of Services:**

Directors of Services are expected to exercise their discretion in managing their budgets responsibly and prudently. For example they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full year effects of decisions made part way through a year, for which they have not identified future resources. Directors of Services must plan to fund such commitments from within their own budgets.

A Director of Services may exercise virement on budgets under their control for amounts up to a limit that is notified to them from time to time by the Section 151 Officer.

## **2.2 Treatment of year-end balances**

The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carry forward. 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.

### **2.2.1 Responsibilities of Section 151 Officer:**

- To administer any scheme of carry forward.

### **2.2.2 Responsibilities of Directors of Services:**

To notify the Section 151 Officer of any actual or potential over or underspending on their service estimates immediately they become evident.

## **3.0 Accounting Policies**

### **3.1 General**

The Section 151 Officer is responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices as set out in the '*Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice*' and the '*Best Value Accounting Code of Practice*' for each financial year ending 31 March.

### **3.2 Responsibilities of Section 151 Officer:**

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year.

### **3.3 Responsibilities of Directors of Services:**



To adhere to the accounting policies and guidelines approved by the Section 151 Officer.

## **4.0 Accounting Records and Returns**

### **4.1 General**

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

### **4.2 Responsibilities of Section 151 Officer:**

To determine the accounting procedures and records for the Council.

To arrange for the compilation of all accounts and accounting records under their direction.

To comply with the following principles when allocating accounting duties (these are known as "separation of duties"):

- (a) Separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting and disbursing them;
- (b) Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2003.

To ensure that all claims for funds, including grants are made by the due date.

To prepare the accounts, have them approved by Full Council and publish the audited accounts in accordance with statutory timetables.

To administer the Council's arrangements for under- and overspendings.

To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

### **4.3 Responsibilities of Directors of Services:**

To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.

To comply with the principles of "separation of duties" as set out in 4.2.

To maintain adequate records to provide a clear audit trail leading from the source of income or expenditure through to the accounting statements.

To supply information required to enable the statement of accounts to be completed in accordance with any guidelines issued by the Section 151 Officer.

## **5.0 The Annual Statement of Accounts**

**5.1 General**

The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Governance and Audit Committee is responsible for approving the accounts as a sub-committee of Full Council.

**5.2 Responsibilities of Section 151 Officer:**

To select suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the SORP and the BVACOP.

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

To draw up a timetable each year for the preparation of the accounts and advise staff and external auditors accordingly.

**5.3 Responsibilities of Directors of Services:**

To comply with accounting guidance provided by the Section 151 Officer and to supply them with information when required.

## Appendix B: Financial Procedure Note- Financial Planning

### 1.0 Performance Plans

#### 1.1 General

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

#### 1.2 Responsibilities of the Section 151 Officer:

- To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- To contribute to the development of corporate and service targets and objectives and performance information.

#### 1.3 Responsibilities of the Director of Finance and Corporate Services:

- To produce and publish the Best Value Performance Plan which summarises its performance and position in relation to best value.

#### 1.4 Responsibilities of Directors of Services:

- To contribute to the development of performance plans in line with statutory requirements.
- To contribute to the development of corporate and service targets and objectives and performance information.
- To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

### 2.0 Budgeting

#### 2.1 Format of the budget

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

## **2.2 Responsibilities of the Section 151 Officer:**

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

## **2.3 Responsibilities of Directors of Services:**

- To comply with accounting guidance provided by the Section 151 Officer.

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

### **3.1 General**

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

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

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

### **3.2 Responsibilities of the Section 151 Officer:**

- To establish an appropriate framework of budgetary management and control that ensures that:
  - (a) budget management is exercised within annual cash limit unless Full Council agrees otherwise;
  - (b) each Director of Service has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - (c) expenditure is committed only against an approved budget head;
  - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations;
  - (e) each cost centre has a single named manager, determined by the relevant Director of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure;
  - (f) significant variances from approved budgets are investigated and reported to Members by budget managers regularly.
- To administer the Council's scheme of virement.
- To submit reports to the Cabinet and to Full Council, in consultation with the relevant Director of Service, where a Director of Service is unable to balance expenditure and resources within existing approved budgets under their control.

- To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

### **3.3 Responsibilities of Director of Service:**

- To maintain budgetary control within their departments, in accordance with the Financial Procedure Rules, and to ensure that all income and expenditure are properly recorded and accounted for.
- To ensure that an accountable budget holder is identified for each item of income and expenditure under the control of the Director of Service (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the portfolio-holder.
- To ensure prior approval by Full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
  - (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies or cease existing policies
  - (c) materially extend or reduce the Council's services.
- To ensure compliance with the scheme of virement.
- To agree with the relevant Director of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director of Service's level of service activity.

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

### **4.1 General**

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 carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

A report on new proposals should explain the full financial implications, following consultation with the Section 151 Officer. The Cabinet will decide whether additional revenue funding is made available for any new proposal, subject to Full Council approval or from within virement rules.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of Full Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a local authority to budget for a deficit.

Medium-term planning (5 year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be

added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

#### **4.2 Responsibilities of the Section 151 Officer:**

- To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by Full Council, and after consultation with the Cabinet and Directors of Services.
- To prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- To advise on the medium-term implications of spending decisions.
- To encourage the best use of resources and value for money by working with Directors of Services to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- To advise Full Council on Cabinet proposals in accordance with their responsibilities under section 151 of the Local Government Act 1972.
- To prepare and maintain a Medium-Term Financial Strategy.
- To undertake the responsibilities contained in Section 25 of the Local Government Act 2003 regarding:
  - (a) the robustness of the annual estimates submitted to Council for approval, and
  - (b) the adequacy of the proposed financial reserves.

#### **4.3 Responsibilities of Directors of Services:**

- To prepare estimates of income and expenditure, in consultation with the Section 151 Officer, to be submitted to the Cabinet.
- To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Section 151 Officer in accordance with Full Council's general directions.
- To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- In consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Cabinet.
- When drawing up draft budget requirements, to have regard to:
  - (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements
  - (c) policy requirements as defined by Full Council in the approved policy framework
  - (d) initiatives already under way.

## **5.0 Resource Allocation**

## 5.1 General

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

## 5.2 Responsibilities of the Section 151 Officer:

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

## 5.3. Responsibilities of Directors of Services

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

## 6.0 Capital Programmes

### 6.1 General

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 for the future in the form of financing costs and revenue running costs.

The Government places strict controls on the financing capacity of a local authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

### 6.2 Responsibilities of the Section 151 Officer:

- To prepare 5-year rolling capital estimates jointly with Directors of Services and the Chief Executive and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to Full Council.
- To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques and the Capital Protocol. The definition of 'capital' will be determined by the Section 151 Officer, having regard to government regulations and accounting requirements.
- To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount.

- To calculate prudential indicators to be used in connection with the Capital Programme.

### **6.3 Responsibilities of Directors of Services:**

- To comply with guidance for example the Capital Protocol concerning capital schemes and controls issued by the Section 151 Officer.
- To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Section 151 Officer.
- To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer .
- To ensure that adequate records are maintained for all capital contracts.
- To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer, where required.
- To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, of any variation in contract costs greater than the approved limits.
- To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval, and if applicable, approval of the scheme through the capital programme.
- To consult with the Section 151 Officer and to seek Cabinet and where appropriate Full Council approval where the Director of Service proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.

## **7.0 Maintenance of Reserves**

### **7.1 General**

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

### **7.2 Responsibilities of the Section 151 Officer:**

- To advise the Cabinet and/or Full Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.
- To comment on the adequacy of the proposed financial reserves in accordance with Section 25 of the Local Government Act 2003.

### **7.3 Responsibilities of Directors of Services:**

- To ensure that resources are used only for the purposes for which they were intended



- To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.

## Appendix C: Financial Procedure Note: Risk Management and Control of Resources

### 1.0 Risk Management

#### 1.1 General

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

It is the overall responsibility of the Cabinet to approve the Council's Risk Management Policy and Strategy, review it on an annual basis and to promote a culture of risk management awareness throughout the Council. The Cabinet is also responsible for designating a Member to act as a 'risk management champion' to support the integration of risk management into the culture of the Council.

#### 1.2 Responsibilities of the Section 151 Officer:

- To prepare and promote the Council's risk management policy statement.
- To chair any officer working group which has responsibility for risk management.
- To develop risk management controls, including the maintenance of appropriate risk registers, in conjunction with other Directors of Services.
- In conjunction with Directors of Services, to ensure that all staff are given training and guidance as to how to manage risks in their areas of work.
- To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
- To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

#### 1.3 Responsibilities of Directors of Services:

- To ensure that risk is managed effectively in each service area under their control.
- To notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Council's insurers.
- To take responsibility for risk management, having regard to advice from the Section 151 Officer and other specialist officers (eg crime prevention, fire prevention, health and safety).
- To ensure that there are regular reviews of risk within their departments, and that all their staff are given training and guidance as to how to manage risk in their areas of work.
- To maintain operational risk registers for all service areas under their control.

- To notify the Corporate Governance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- To consult the Section 151 Officer and the Head of Legal Services on the terms of any indemnity that the Council is requested to give.
- To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **2.0 Internal Controls**

### **2.1. General**

The Council is a complex organisation which requires internal controls to manage and monitor progress towards strategic objectives. The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations. The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations
- reliable financial information and reporting
- compliance with laws and regulations
- risk management.

### **2.2 Responsibilities of the Section 151 Officer:**

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

### **2.3 Responsibilities of Directors of Services:**

- To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Section 151 Officer. This includes formally removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- To ensure staff have a clear understanding of the consequences of lack of control.

## **3.0 Audit Requirements**

### **3.1 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 1996 (SI 1996/590), regulation 5, more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.

Regulation 4 of the Accounts and Audit Regulations 2003 states that “the relevant body shall be responsible for ensuring that the financial management of the body is adequate and that the body has a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes arrangements for the management of risk.”

Accordingly, internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. In Thanet the internal audit function is currently provided under a partnership agreement with Dover and Shepway District Councils.

### **3.2 Responsibilities of the Section 151 Officer:**

- To ensure that internal auditors have the authority to:
  - (a) access the Council’s premises at reasonable times
  - (b) access all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration
  - (d) require any employee of the Council to account for cash, stores or any other Council asset under their control
  - (e) access records belonging to third parties, such as contractors, when required
  - (f) directly access the Chief Executive, the Cabinet and any committee which has responsibility for audit.
- To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **3.3 Responsibilities of Directors of Services:**

- To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- To consider and respond promptly to recommendations in audit reports.
- To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- To notify the Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council’s property or resources. Pending investigation and reporting, the Director of Service should

take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

- To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Section 151 Officer prior to implementation.

## **4.0 External Audit**

### **4.1 General**

The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:

- the financial aspects of the audited body's corporate governance arrangements
- the audited body's financial statements
- aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.

The Council's accounts are scrutinised by external auditors, who must be satisfied that the Statement of Accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

### **4.2 Responsibilities of the Section 151 Officer:**

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- To ensure there is effective liaison between external and internal audit.
- To work with the external auditor and advise Full Council, Cabinet and Directors of Services on their responsibilities in relation to external audit.

### **4.3 Responsibilities of Directors of Services:**

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- To ensure that all records and systems are up to date and available for inspection.

## **5.0 Preventing Fraud and Corruption**

### **5.1 General**

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and will take reasonable actions to prevent fraud and corruption.

## **5.2 Responsibilities of the Section 151 Officer:**

- To develop and maintain an anti-fraud and anti-corruption policy.
- To maintain adequate and effective internal control arrangements.
- To ensure that all confirmed irregularities are reported to the Head of Paid Service, the Cabinet and any committee with responsibility for audit.

## **5.3 Responsibilities of Directors of Services:**

- To ensure that all suspected irregularities are reported to the Section 151 Officer.
- To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- To ensure that where financial impropriety is discovered, the Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
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## **5.4 Responsibilities of Monitoring Officer:**

- To maintain a register of interests, gifts and hospitality.

## **6.0 Assets**

### **6.1 Security**

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

### **6.2 Responsibilities of the Section 151 Officer:**

- To ensure that an asset register is maintained in accordance with the SORP and other good practice for all fixed assets. The function of the asset register is to provide the Council with information about fixed assets so that they are:

- (a) safeguarded
  - (b) used efficiently and effectively
  - (c) adequately maintained.
- To receive the information required for accounting, costing and financial records from each Director of Service.
  - To ensure that assets are valued in accordance with the “Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice”(CIPFA/LASAAC).

### **6.3 Responsibilities of Directors of Services:**

- The Director of Regeneration Services shall maintain a property database in a form approved by the Section 151 Officer for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- The Director of Regeneration Services must arrange for this database to be physically checked on an annual basis to ensure that the records are up to date.
- To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Director of Regeneration Services in consultation with the Section 151 Officer, has been established as appropriate.
- To ensure the proper security of all buildings and other assets under their control.
- Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the Director of Service, incorporating the Section 151 Officer’s comments.
- To pass title deeds to the appropriate Director of Service who is responsible for custody of all title deeds.
- To ensure that no Council asset is subject to personal use by an employee without proper authority.
- To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Section 151 Officer.
- To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- To consult the Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- To ensure cash holdings on premises are kept to a minimum.
- To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.
- Assets should normally be disposed of by competitive tender or public auction, unless the agreement of the Section 151 Officer is obtained.
- To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer .
- To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in

manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

- To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £5,000 in value.
- To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.
- To make sure that property is only used in the course of the Council's business, unless the Director of Regeneration Services has given permission otherwise.
- To make arrangements for the care and custody of stocks and stores in the department.
- To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- To investigate and remove from the Council's records (ie write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of £5,000.

## **7.0 Intangible Assets**

### **7.1 General**

Intangible assets is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intangible assets.

### **7.2 Responsibilities of the Section 151 Officer:**

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

### **7.3 Responsibilities of Directors of Services:**

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

## **8.0 Asset Disposal**

### **8.1 General**



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

## **8.2 Responsibilities of the Section 151 Officer:**

- To issue guidance from time to time on the practice for the disposal of assets.
- To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

## **8.3 Responsibilities of Directors of Services:**

- To seek advice when appropriate from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- To ensure that income received for the disposal of an asset is properly banked and accounted for.
- To advise the Corporate Governance Officer so that the disposed asset can be deleted from the insurance schedule.

# **9.0 Treasury Management**

## **9.1 General**

Many millions of pounds pass through the Council's books each year. To ensure proper control the Codes of Practice aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's money. The Council has adopted the CIPFA "Code of Practice on Treasury Management".

## **9.2 Responsibilities of Section 151 Officer – Treasury Management and Banking:**

- To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA "Code of Practice on Treasury Management" and the Council's Treasury Management policy statement and strategy, CIPFA's Standard of Professional Practice on Treasury Management and the Council's agreed Treasury Management practices.
- To report to Council annually on treasury management policies, practices and activities, including, as a minimum:
  - (a) A report for the previous year,
  - (b) A strategy and plan for the forthcoming year, and
  - (c) A mid-year review.

To open, operate and close such bank accounts as are considered necessary.

## **9.3 Responsibilities of Directors of Services – Treasury Management and Banking:**

- To follow the instructions on banking issued by the Section 151 Officer .

## **9.4 Responsibilities of Section 151 Officer – Investments and Borrowing:**

- To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Full Council.

- To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Director of Services.
- To effect all borrowings in the name of the Council.
- To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

#### **9.5 Responsibilities of Directors of Services – Investments and Borrowing:**

- To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of Full Council, following consultation with the Section 151 Officer .

#### **9.6 Responsibilities of Directors of Services– Trust Funds and Funds Held for Third Parties:**

- To arrange for all Trust Funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Section 151 Officer unless the deed otherwise provides.
- To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer , and to maintain written records of all transactions.
- To ensure that Trust Funds are operated within any relevant legislation and the specific requirements for each trust.

#### **9.7 Responsibilities of the Section 151 Officer – Imprest Accounts:**

- To provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Expenditure should not exceed the prescribed amount.
- To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- To reimburse imprest holders as often as necessary to restore the imprests, but normally less than monthly.

#### **9.8 Responsibilities of Directors of Services – Imprest Accounts:**

- To ensure that employees operating an imprest account:
  - (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained.
  - (b) make adequate arrangements for the safe custody of the account.
  - (c) produce upon demand the cash and all vouchers to the total value of the imprest amount.
  - (d) record transactions promptly.
  - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder.
  - (f) provide the Section 151 Officer with a certificate of the value of the account held at 31 March each year.

- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.
- (h) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Section 151 Officer for the amount advanced to them.

## **10.0 Staffing**

### **10.1 General**

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level. The statutory posts of Head of Paid Service, Monitoring Officer and Section 151 Officer must be established within the Council.

#### **10.1 Responsibilities of the Chief Executive:**

- To provide overall management to staff.

#### **10.3 Responsibilities of the: Section 151 Officer:**

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

#### **10.4 Responsibilities of Directors of Services:**

- To produce an annual staffing budget.
- To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- To ensure that the Chief Executive and the Section 151 Officer are immediately informed if the staffing budget is likely to be materially over or underspent.
- To adhere to the Authority's approved Human Resources policies and practices.
- To ensure that all records relating to sums payable to employees as remuneration or allowances are authorised and to provide specimen signatures to the Section 151 Officer of all officers to whom this responsibility is delegated.

## Appendix D: Financial Procedure Note – Financial Systems and Procedures

### 1.0 Systems and Procedures

#### 1.1 General

Departments have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Section 151 Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

#### 1.2 Responsibilities of the Section 151 Officer:

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

#### 1.3 Responsibilities of Directors of Services:

- To ensure that accounting records are properly maintained and held securely.
- To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer .
- To ensure that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- To incorporate appropriate controls to ensure that, where relevant:
  - (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.

- To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- To ensure that systems are documented and staff trained in operations.
- To consult with the Section 151 Officer before changing any existing system or introducing new systems.
- To establish a scheme of delegation identifying officers authorised to act upon the Directors of Services' behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer, together with any subsequent variations.
- To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- To ensure that relevant standards and guidelines for computer systems issued by the Director of Service are observed.
- To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- To ensure that staff do not divulge their password and do not misuse any computer system. Officers who misuse computer systems may be judged guilty of gross misconduct and may be disciplined.
- To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
  - (a) only software legally acquired and installed by the Council is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## 2.0 **Income**

### 2.1 **General**

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

## 2.2 Responsibilities of the Section 151 Officer:

- To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy themselves regarding the arrangements for their control.
- To have the power to write off bad debts not exceeding £10,000, to write off bad debts between £10,001 and £20,000 in consultation with the Cabinet Portfolio Holder for Finance and Corporate Resources and to submit all bad debts exceeding £20,000 to the Cabinet for write off.
- To ensure that appropriate accounting adjustments are made following write-off action.

## 2.3 Responsibilities of Directors of Service:

- To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- Except where charges are set by statute, to seek Cabinet approval to any new external charges and revisions to existing ones in consultation with the Section 151 Officer.
- To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- To issue official receipts or to maintain other documentation for income collection.
- To ensure that there are secure and appropriate controls in place for opening post which may contain payments, so that all income due to the Council is collected and properly accounted for.
- To hold securely receipts, tickets and other records of income for the appropriate period.
- To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.

- To ensure income is not used to cash personal cheques or other payments.
- To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Section 151 Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Directors of Services should use established performance management systems to monitor recovery of income and flag up areas of concern to the Section 151 Officer. Directors of Services have a responsibility to assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf. Only up to approved levels of cash can be held on the premises.
- To keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.
- To recommend to the Section 151 Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- To notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer.

### 3.0 **Ordering and Paying for Work, Goods and Services**

#### 3.1 **General**

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Local authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Procurement Code of Practice on tenders and contracts.

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

Official orders must be in a form approved by the Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.

Apart from petty cash and other payments from advance accounts, the normal method of payment from the Council shall be by cheque or other instrument or approved method, drawn on the Council's bank accounts by the Section 151 Officer. The use of direct debit shall require the prior agreement of the Section 151 Officer.

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

### 3.2 **Responsibilities of the Section 151 Officer:**

- To ensure that all the Council's financial systems and procedures are sound and properly administered.
- To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- To approve the form of official orders and associated terms and conditions.
- To notify Directors of Services from time to time of any exemptions to the need for placing orders.
- To make payments from the Council's funds on the Director of Service's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- To make payments to contractors on the certificate of the appropriate Head of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- To provide advice and encouragement on making payments by the most economical means.
- To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

### 3.3 **Responsibilities of Directors of Services:**

- To adhere to the Council's Contract Standing Orders Standing Orders and the Procurement Code of Practice
- To ensure that unique pre-numbered official orders are used for all goods and services, other than for exceptions specified by the Section 151 Officer.
- To ensure that orders are only used for goods and services provided to the department. Individuals must not use official orders to obtain goods or services for their private use.
- To ensure that official orders are raised for goods and services supplied to the Council at the time of order and not issued retrospectively.
- To ensure that only those staff authorised by them sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that



there is adequate budgetary provision and that quotations or tenders have been obtained if necessary.

- To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
  - (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations or contracts and discounts have been taken where available
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that appropriate entries will be made in accounting records.
- To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer.
- To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of duplicate payments should be reported to the Section 151 Officer.
- To encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the Section 151 Officer.
- To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice principles and guidelines set out in the Council's Procurement Code of Practice.
- To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

- To notify the Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the Final Accounts timetable produced by the Section 151 Officer.
- With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Head of Financial Services the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- To notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Council's document retention policies.

#### **4.0 Payments to Employees and Members**

##### **4.1 General**

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

##### **4.2 Responsibilities of the Section 151 Officer:**

- To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by them, on the due date.
- To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- To publish details of allowances paid to Members in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003.

##### **4.3 Responsibilities of Directors of Services:**

- To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- To notify the Section 151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer.
- To ensure that adequate and effective systems and procedures are operated, so that:
  - payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- To send an up-to-date list of the names of officers authorised to sign records to the Section 151 Officer, together with specimen signatures. Any payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.
- To ensure that payroll transactions are processed only through the payroll system. Directors of Services should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Section 151 Officer.
- To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Section 151 Officer is informed where appropriate.
- To ensure that the Section 151 Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

#### 4.4 **Responsibilities of Members:**

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

#### 5.0 **Taxation**

#### 5.1 **General**

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 are severe. It is therefore very important for all officers to be aware of their role.

## 5.2 Responsibilities of the Section 151 Officer:

- To complete all Revenue and Customs returns regarding PAYE.
- To complete a monthly return of VAT inputs and outputs to Revenue and Customs.
- To provide details to Revenue and Customs regarding the Construction Industry Tax deduction scheme.
- To maintain up-to-date guidance for Council employees on taxation issues in the accounting manual and the tax manual.
- To review the Council's VAT partial exemption status on at least an annual basis.

## 5.3 Responsibilities of Directors of Services:

- To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with Revenue and Customs regulations.
- To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax deduction requirements.
- To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- To follow the guidance on taxation issued by the Section 151 Officer in the Council's accounting manual and VAT manual.

## 6.0 Trading Accounts and Business Units

### 6.1 General

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

### 6.2 Responsibilities of the Section 151 Officer:

- To advise on the establishment and operation of trading accounts and business units.

### 6.3 Responsibilities of Directors of Services:

- To consult with the Section 151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining

life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

- To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- To ensure that each business unit prepares an annual business plan.

## Appendix E: Financial Procedure Note – External Arrangements

### 1.0 Partnerships

#### 1.1 General

Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### **The main reasons for entering into a partnership are:**

- the desire to find new ways to share risk
- the ability to access new resources
- to provide new and better ways of delivering services
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- a body whose nature or status give it a right or obligation to support the project.

Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others
- acting as a project funder or part funder
- being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- to act in good faith at all times and in the best interests of the partnership's aims and objectives
- be open about any conflict of interests that might arise
- to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- to act wherever possible as ambassadors for the project.

#### **1.2 Responsibilities of the Section 151 Officer:**

- To advise on effective controls that will ensure that resources are not wasted.
- To advise on the key elements of funding a project. They include:
  - (a) a scheme appraisal for financial viability in both the current and future years

- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements.
- To ensure that the accounting arrangements are satisfactory.

### **1.3 Responsibilities of Directors of Services:**

- To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Section 151 Officer.
- To consult with the Section 151 Officer, as necessary, on a scheme's appraisal for financial viability in both the current and future years
- To maintain a register of all contracts and service level agreements entered into with external bodies in accordance with procedures specified by the Section 151 Officer.
- To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
- To ensure that all agreements and arrangements are properly documented.
- To provide appropriate information to the to enable a note to be entered into the Council's statement of accounts concerning material items.
- To ensure that Cabinet approval is sought for all external funding bids.
- To comply with the External Funding Protocol.

## **2.0 External Funding**

### **2.1 General**

External funding is potentially a very important source of income, but funding conditions need to be carefully considered and monitored to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the Single Regeneration Budget provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's Corporate Plan.

### **2.2 Responsibilities of the Section 151 Officer:**

- Maintain and review of the Council's External Funding Protocol.
- To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- Where they are specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
- To ensure that audit requirements are met.

### **2.3 Responsibilities of Directors of Services:**

- To consult with the Section 151 Officer on any application for external funding prior to its submission to Cabinet in accordance with the Council's external funding strategy.
- Where they are specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
- To ensure that the project progresses in accordance with the agreed project plan, conditions and project outcomes and that all expenditure is properly incurred and recorded.
- To maintain adequate supporting documentation to enable claims for funding to be fully evidenced and maximised.
- To comply with the External Funding Protocol.

## **3.0 Work for Third Parties**

### **3.1 General**

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is not ultra vires.

### **3.2 Responsibilities of Section 151 Officer:**

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

### **3.3 Responsibilities of Directors of Services:**

- To consult with the Section 151 Officer prior to obtaining the approval of the Cabinet before any negotiations are concluded in regard to third parties arrangements.
- To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Section 151 Officer .
- To ensure that appropriate insurance arrangements are made.
- To ensure that the Council is not put at risk from any bad debts.
- To ensure that no contract is subsidised by the Council without the approval of the Cabinet.
- To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- To ensure that the department/unit has the appropriate expertise to undertake the contract.
- To ensure that such contracts do not impact adversely upon the services provided for the Council.
- To ensure that all contracts are properly documented.
- To provide appropriate information to the Section 151 Officer to enable a note to be entered into the Statement of Accounts.



## 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 Furthers 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), services 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 Council's 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 @ <https://tom.thanet.gov.uk/corporate/policies/whistleblowing-policy> 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 Public Procurement 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.

- 2.2 In the event of conflict between the above, the Public Procurement 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 and (with the exception of purchases transacted on a Government Procurement Card) shall include the Council's Standard Clauses\* (Ref CSO 16)
- 4.2 All contracts of a value of £50,000 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 @ <https://sites.google.com/thanet.gov.uk/tom/financial-services/procurement-fl-exibility/quotation-and-tender-templates-toolkit>
  - 4.2.3 the Council's General Conditions of Contract\* available on intranet @ <https://sites.google.com/thanet.gov.uk/tom/financial-services/procurement-fl-exibility/quotation-and-tender-templates-toolkit>
  - 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 and budgetary commitment, as required under the Council's Financial Procedure Rules.

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

- 4.3 As a minimum, all contracts of a value of £50,000 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 Public Procurement 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.
- 4.5 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 £50,000 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 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 when value is 20% or more of the initial contract value by submission of a Contract Variation form available from Procurement.

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 @

<https://sites.google.com/thanet.gov.uk/tom/corporate/legal>

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

- 5.1 The Chief Executive, each Director and each Head of Service 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
- 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 £140,000 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 or exceeding £884,720.00 for supply (goods) or services contracts and £8,847,200.00 for works contracts. A Contract Report for this purpose is available on the intranet @ <https://tom.thanet.gov.uk/directorates/corporate-resources/financial-procurement-services/procurement/quotation-and-tender-templates-toolkit>
  - 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, 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).
- 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 Public Procurement Threshold levels outlined below.
- 6.3 Sourcing of all Contracts of £50,000 or over must be undertaken in conjunction with the Procurement Section using the Council's e-tendering system <sup>\*\*\*</sup>(unless agreed in advance as identified in table 6.6).
- 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 Find a Tender Service ("FTS") (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 (inclusive of VAT) estimated to be £30,000.00 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 FTS 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** regardless of value.
- 6.5.5 Provision is to be made to require contractors to pay the National Living Wage, see Standard Clause (Ref CSO16 [16.1.3]) being a legal requirement

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

Total value £	Type of contract	Procedure to be used
1,000 to 24,999.99	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.
25,000 to 49,999.99	Works, supplies and services	Local CSO rules apply - At least three quotes in advance – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
50,000 to 139,999.99	Works, supplies and services	Local CSO rules apply - At least three written quotes in advance using the Council's Invitation to Quote documents, sourced and receipted electronically using the Council's e-procurement system (***or an alternative electronic method agreed with Procurement in advance) – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
140,000 to 179,085.99** 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, sourced and receipted electronically using the Council's e-procurement system and advertisement by public notice
179,086.00** plus  <b>** PCR2015 Threshold for Supplies and Services</b>	Supplies and Services	PCR2015 & CSO apply – full competitive process using the Council's Invitation to Tender documents, sourced and receipted electronically using the Council's e-procurement system following advertisement in the FTS for supplies and Part A* services  For Light Touch * services reduced requirements apply under the Public Procurement Rules and the threshold is £663,540** including VAT. but there is a presumption in favour of advertising and a competitive process.
179,086 to 4,477,173.99 <b>**</b>	Works	Local CSO's rules apply - At least three written tenders in <b>advance</b> using the Council's Invitation to Tender documents, sourced and receipted electronically using the Council's e-procurement system and advertisement by public notice
4,477,174 plus ** <b>** PCR2015 Threshold for Works</b>	Works	PCR2015 & CSO apply – full competitive process using the Council's Invitation to Tender documents, sourced and receipted electronically

		using the Council's e-procurement system following FTS advertisement
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<b>Service/Works Concession Contracts:</b> The following spend thresholds are specific to Service and Works Concession Contracts - Officers should seek both Procurement and Legal guidance on Concession Contract arrangements.		
<b>Total Value £</b>	<b>Type of Contract</b>	<b>Procedure to be used</b>
1,000 to 24,999.99	Services and works concessions	Local CSO rules apply - At least one quote in advance – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
25,000 to 49,999.99	Services and works concessions	Local CSO rules apply - At least three quotes in advance – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
50,000 to 139,999.99	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
140,000 to 4,477,173.99*	Services and works concessions	Local CSO rules apply – At least three written tenders in advance, sourced and receipted electronically using the Council's e-procurement system and advertisement by public notice
4,477,174 Plus ** Plus <b>** CCR 2016 Threshold for Concessions</b>	Services and works concessions	Concession Contracts Regulations 2016 (CCR2016) apply – full competitive process using the Council's e-procurement system following FTS advertisement - <b>seek guidance from Legal Services /Procurement</b>

\* *For the purposes of the Public Procurement Rules services are divided into two types "A" & "Light Touch" and the Public Procurement 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 Public Procurement Rules to services contracts.*

**\*\* or relevant threshold in force at the time under the Public Procurement 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 Public Procurement Rules apply to them then there are five main types of Public Procurement 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 Public Procurement procedure should be sought from Legal Services and process progressed via the Procurement Section.

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

- 7.1 For contracts over the relevant Public Procurement 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 and Democratic Services (Deputy Monitoring Officer) & the 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 wellbeing of the District of Thanet, how the improvement can be secured and whether consultation is needed. Examples of added social value are contained with the Purchasing Guide, which can be found on the intranet @ <https://docs.google.com/document/d/154SLYUkdLLcXFoJcUtOjahvwi6jDaQg3ze0yG79dntA/preview>;
- 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 £50,000 and above, the responsible officer must ensure the Council's Procurement Initiation Form, which can be found on the intranet @ <https://tom.thanet.gov.uk/directorates/corporate-resources/financial-procurement-services/procurement/quotation-and-tender-templates-toolkit>; 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 Public Procurement Rules is incorporated into the final award process.
- 7.5 Any contracts valued at £140,000 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 £50,000 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 (or any amended regulations in force at the time) provided the sufficiency of security arrangements has been approved by the Senior ICT Manager.

## 8 Calculating the Contract Value

- 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 Public Procurement Rules and/or these Contract Standing Orders.
- 8.3 The Public Procurement Rules can cover contracts, which are below the stated Public Procurement 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 Public Procurement 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 £140,000 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 £140,000 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 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 Public Procurement Rules shall be evaluated in accordance with the Public Procurement 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 £25,000 or more may be waived in the following circumstances:
- 12.1.1 For contracts which are not subject to the Public Procurement 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 Part 2 of the Regs.); 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
  - 12.3.4 Subject to **approval in advance** by the 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 Public Procurement Rules, any waiver from the requirement for competition must meet without exception the conditions set out in the Public Procurement 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 Part 2 Public Contract Regulations 2015, , any extension or other variation must meet the conditions set out in these Regulations 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 Part 2 rules.
- 13.5 For all contracts which are not subject to Part 2 Public Contract Regulations 2015, 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 value by more than 20% of the initial contract value.
- 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.

## **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 Public Procurement 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 Public Procurement 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 Public Procurement 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 (with exception of purchases transacted on Government Procurement Cards) 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 Compliance with Statutes: Health and Safety, Equal Opportunities and National Minimum/Living Wage
- 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 Electronic Invoicing
- 16.1.13 Insurances
- 16.1.14 Liquidated Damages (where applicable)

These Standard Clauses are available on the intranet @ <https://sites.google.com/thanet.gov.uk/tom/financial-services/procurement-flexibility/quotation-and-tender-templates-toolkit>. Standard Clauses are maintained by Legal Services and are subject to amendment from time to time.

# Officer Employment Procedure Rules

*(see also Standing Orders relating to Staff)*

## 1.0 Recruitment and Appointment

- (a) Declarations
  - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
  - (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.
- (b) Seeking support for appointment.
  - (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) No Councillor will seek support for any person for any appointment with the Council.
  - (iii) Paragraphs (i) and (ii) above preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

## 2.0 Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

### 3.0 Appointment of Head of Paid Service

- (a) The full Council will appoint the Head of Paid Service.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

### 4.0 Appointment of Chief Officers and Deputy Chief Officers

- (a) A Committee or Sub-Committee of the Council will appoint chief officers and deputy chief officers. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

*A list of Chief Officers and Deputy Chief Officers is appended.*

### 5.0 Other Appointments

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### 6.0 Disciplinary Action

**(a) Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by the Investigation and Disciplinary Sub-Committee whilst an investigation takes place into alleged misconduct. Before deciding whether to suspend, the Committee shall invite the officer to make representations unless it is impracticable to do so. That suspension will be on full pay and last no longer than two months. The Sub-Committee shall review any continuing suspension every two months. In carrying out such review the Sub-Committee shall consider any representations made by the officer.

**(b) Immediate Suspension.** (currently under review)



(c) The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeal Sub-Committee against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal

(d) Councillors will not be involved in the disciplinary action (as defined by the Local Authorities (Standing Orders) (England) Regulations 2001) against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

## 7.0 Dismissal

- 7.1 Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 7.2 All Chief Officers and Deputy Chief Officers (with the exception of the Head of Paid Service, Monitoring Officer and Chief Finance Officer) have a right of appeal to the General Purposes Committee against dismissal.
- 7.3 The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeals Sub-Committee against any decisions of the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal.
- 7.4 Where a committee, sub committee or officer is, recommending on behalf of the authority, the dismissal of an officer designated as the Head of Paid Service, as the authority's Chief Finance Officer, or as the authority's Monitoring Officer, the Full Council must approve that recommendation to dismiss before notice is given to that person.

### List of Chief Officers and Deputy Chief Officers for the purposes of Officer Employment Procedure Rule 4

Chief Officers:

Chief Executive  
Deputy Chief Executive and Section 151 Officer  
Corporate Director - Communities  
Corporate Director - Governance

**Deputy Chief Officers:**

- Director of Finance
- Director of Housing & Planning
- Director of Regeneration
- Director of Neighbourhoods
- Director of Operations
- Director of Law & Democracy
- Director of Communications
- Director of Environment
- Director of Property

The above job titles or roles may be subject to change. So the legal definitions of 'chief officers' are also set out below:

Statutory Chief Officers:

- Head of Paid Service;
- Chief Finance Officer (section 151 Officer) and
- Monitoring Officer

Non-Statutory Chief Officers:

- A person for whom the Head of Paid Service is directly responsible;
- A person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the Head of Paid Service; and
- Any person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

Deputy Chief Officers:

- A person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer.

# Prescribed and Other Standing Orders

## Part I – Prescribed Standing Orders

### Introduction, Application and Interpretation

1. The following Standing Orders shall be known as ‘Prescribed Standing Orders’, and shall form part of the Council’s Standing Orders. The Council’s Standing Orders other than Prescribed Standing Orders shall be known as ‘Ordinary Standing Orders’.
2. In the event of any conflict or inconsistency between Ordinary Standing Orders and Prescribed Standing Orders the latter shall prevail.
3. Any word or phrase contained within Prescribed Standing Orders shall, if such word or phrase is given a meaning by The Local Authorities (Standing Orders) Regulations 1993, have that same meaning for the purposes of Prescribed Standing Orders.

### Appointment of Chief Officers

4. Where the authority propose to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing Officers, they shall:-
  - (a) draw up a statement specifying:-
    - (i) the duties of the Officer concerned, and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it: and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
5. (1) Where a post has been advertised as provided in standing order 4 (b) the authority shall:-
  - (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.

(2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 4 (b).

6. Every appointment of a Chief Officer shall be made by the authority unless made by any duly authorised Committee, Action/Sub-Committee, or a relevant Joint Committee.
7. The steps under Prescribed Standing Orders 4 and 5 above may be taken by any Committee, Action/Sub-Committee or Chief Officer of the authority if duly authorised in that behalf.
8. Where the duties of a Chief Officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972:-
  - (a) the steps under prescribed standing orders 4 and 5 above may be taken by any duly authorised joint committee of those authorities, sub committee of such a committee or a chief officer of any of the authorities concerned, and
  - (b) any chief officer may be appointed by such a duly authorised joint committee, sub committee of such a committee or a committee or sub committee of any of those authorities.
9. Excluded from the application of prescribed standing orders 4 to 6 shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

### **Disciplinary Action Against Head of Paid Service and Others**

- 10.1 A relevant officer may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 is complied with.

(Note: In this standing order 'relevant officer' means the chief finance officer, head of the authority's paid service or monitoring officer as the case may be.)

### **Recording of Votes at Meetings**

11. (1) Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast their vote for the question or against the question or whether they abstained from voting.
- (2) In this paragraph 'relevant body' means the authority, a committee or sub committee of the authority or a relevant joint committee or sub committee of such a committee.

### **Signing Minutes - Extraordinary Meetings**

12. Where in relation to any meeting of the authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41 (1) and (2) (signing of minutes) of that Schedule.

### **Variation and Revocation**

13. Otherwise than to incorporate options allowed by the Regulations these prescribed standing orders shall not be revoked or amended.

## Part II – Standing Orders relating to Staff

1. In this Part:

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“executive” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“member of staff” means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means the Human Resources Manager or their nominee.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by them.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:

(a) the officer designated as the head of the authority’s paid service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to that person.

(2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority’s paid service, as the authority’s chief finance officer, or as the authority’s monitoring officer, the authority must approve that dismissal before notice is given to that person.

- (3) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
5. (1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until:
- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the executive of the authority of:
- (i) the name of the person to whom the appointor wishes to make the offer;
- (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
- (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either:
- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointee that neither they nor any other member of the executive has any objection to the making of the offer;
- (ii) the proper officer has notified the appointor that no objection was received by them within that period from the executive leader; or
- (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or

another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every member of the executive of the authority of –
    - (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
  - (c) either:
    - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither they nor any other member of the executive has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by them within that period from the executive leader; or
    - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.



## Part III – Standing Orders relating to Executive Plans, Strategies and Estimates

1. In this Part:
 

“executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.
2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.
3. Before the authority:
  - (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,

it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to them instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may:
  - (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
  - (b) inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.
5. When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when:
  - (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the authority's objections and the executive's reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

- 6. Subject to paragraph 10, where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year:
  - (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;
  - (c) estimates of such a calculation; or
  - (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

- 7. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to them instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.
- 8. Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may:
  - (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or

(b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

(a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;

(b) the executive's reasons for those amendments;

(c) any disagreement that the executive has with any of the authority's objections; and

(d) the executive's reasons for that disagreement,

which the executive leader submitted to the authority, or informed the authority of, within the period specified.

10. Paragraphs 6 to 9 shall not apply in relation to:

(a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

(b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.