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| Key Decision Required: | NO | In the Forward Plan: | NO |
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CABINET

21 MARCH 2014

REPORT OF THE PLANNING AND CORPORATE SERVICES PORTFOLIO HOLDER

A.3 AMENDMENTS TO THE COUNCIL'S CONSTITUTION – PHASE 1: REVIEW OF THE COUNCIL'S PROCUREMENT RULES; PROPERTY DEALING PROCEDURE; EXECUTIVE PROCEDURE RULES AND DELEGATED POWERS AUTHORISING EMERGENCY PLANNING ENFORCEMENT TO OFFICERS

(Report prepared by Lisa Hastings, Colin Sweeney and Karen Neath)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks the Cabinet to recommend to Council, proposed changes which have been suggested by Members and Officers as Phase 1 of the Constitution Review.

The changes include proposed revised Procedure Rules concerning exercising Executive Functions relating to Procurement and the Property Dealing Procedure, together with amalgamating the Article and Rules of Procedure relating to Cabinet and its meetings. These changes also reflect the Leader's statement at full Council in February 2014 to include opposition Group Leaders. The report also provides the opportunity for Cabinet to endorse the changes to the delegated powers for authorising emergency planning enforcement to officers.

EXECUTIVE SUMMARY

The Council's Procurement Rules

The Council's Procurement Rules have been reviewed to ensure that they are as streamlined as possible, whilst allowing for local suppliers to compete fairly for business.

Brief Summary of Changes compared to current Procurement Rules

The overall aims are to:

- Include a flow chart to set out the sequential approach to the procurement decision, where the value of what is being purchased is not necessarily the first consideration.
- Introduce general exemption from procurement rules for low value items purchased via petty cash.
- Introduce the need to advertise on the Council's electronic 'procurement portal' where appropriate
- Reorder to put more important information at the beginning of the rules.
- Introduce considerations around using local suppliers
- Introduce requirements of the Public Services (Social Value) Act.
- Place the Finance and Procurement Service as more of a 'procurement hub' into

the rules as requested by Members.

- Move to electronic quotation and tender processes rather than hard copy.
- Simplify quotation rules now only under two headings – up to £10k and over £10k
- Quote rules respond to concerns around obtaining quotes for low value items by setting out the expectation that some sort of price comparison is made even if a formal quotation route is not followed.
- Accept quotes where the supplier was not the cheapest now subject to value for money considerations of Director or Head of Service rather than concurrence from relevant Portfolio Holder.
- Maximum number of tenders no longer specified (was 8) – the requirement for a minimum of 4 is retained but Departments can make their own decisions based on goods / services being procured.
- No time requirements in terms of advertising tenders is proposed (current requirement is minimum of 28 days) – this provides flexibility to services based on wider procurement decisions and reasonableness along with value for money considerations.

The Council's Property Dealing Policy

Brief Summary of Changes Compared to Current Property Dealing Policy

The overall aims are to:

- Introduce a scaled back, one decision process for minor transactions.
- Reduce the number of Cabinet reports by increasing delegation to the Portfolio Holder and Officers.
- Reduce the length of the provisions (only partly achieved because of the introduction of the minor transaction category.)
- Reference to a Property Office Procedure, which will set out how the delegated powers to Officers will be exercised and related operation matters.

Consideration by Audit Committee

The Audit Committee, at its meeting held on 20 February 2014 considered the review of the Council's Property Disposal Procedures. The Audit Committee's comments to Cabinet and response from the Leader of the Council are set out below:

| Audit Committee Comment | Leader of the Council's Response |
|---|--|
| 1. That the Property Dealing Policy allows for a measure of confidentiality to apply until a negotiation to purchase land or property is completed. | Agreed. The provision is set out in the proposed revised Constitution clauses. |
| 2. Any valuation or disposal reports received by the Council be reported confidentially to Members and be signed-off by the Portfolio Holder or Leader. | Agreed. The provision will be made in the procedure rules described in the revised Constitution clauses. |

| | |
|--|---|
| <p>3. For substantial disposals (over £50,000 was suggested), at least two valuations be sought as part of the process and that consideration also be given to a similar report on reallocations of use.</p> | <p>Not agreed. A general obligation to seek duplicate valuations would incur additional costs that are not compatible with the Council's financial position. The procedure rules described in the revised Constitution clauses will set out requirements for appointing appropriate valuer(s) to achieve best consideration taking account of the scale and nature of the proposed transaction at the time being.</p> |
| <p>4. The Committee accepts the proposal put forward by the Assets Manager for levels of delegation.</p> | <p>Agreed. The provision is set out in the proposed revised Constitution clauses.</p> |

The Executive Article (No. 7) and Procedure Rules

Brief Summary of Changes Compared to Current Executive Procedure Rules

The overall aims are to:

- Standardise all references from “Executive” to “Cabinet”, where these relate to meetings of that body. (Members of Cabinet will remain known as Portfolio Holders.
- Amalgamate the Procedure Rules with the Article to ensure all matters relating to Cabinet are contained within one section of the Constitution.
- Update when the office of Leader of the Council and Members of Cabinet are deemed to be vacant in accordance to legislative changes. Provide clarification (new paragraph 7.07 to Appendix C) as to the responsibility for Executive Functions.
- Delete the provisions under Paragraphs 1.1 to 1.5 to Cabinet Procedure Rules, as these are repeated in the Scheme of Delegation.
- Provide a single reference to Meetings of the Cabinet (as opposed to “Public” or “Private” meetings) where the normal access to information rules apply.
- Provide clarity as to the quorum of meetings of the Cabinet, to include the Leader, or in his absence, the Deputy Leader, and confirmation that at meetings of the Cabinet, the Chairmanship is to lie with the Leader, or in his absence, the Deputy Leader.
- Establish who may attend meetings of the Cabinet, as follows:
 - Any Councillor (subject to the Access to Information Rules and the provisions of the Members’ Code of Conduct), but they may not speak without the consent of the Chairman.
 - The Leader, or Deputy Leader, of the opposition groups may attend and participate fully in discussion on all agenda items, but cannot vote. If requested by the Leader, or Deputy Leader of an opposition group, their opposition to a decision, or part of a decision will be recorded in the minutes.
 - The Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and other relevant Corporate Directors in light of the items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.
 - The Chief Financial Officer and Monitoring Officer have the right to attend and present a report to discharge their statutory duties whenever necessary.
- Reaffirm that the Constitution includes no provision for substitute members at

meetings of the Cabinet.

- Amend that where any member uses their right to submit a written question to the Cabinet on any item on its agenda, that the question be submitted at least 24 hours (replacing 48 hours) before the Cabinet meeting.
- Insert that, under Consultation (New paragraph 1.9), prior to all Cabinet decisions, Ward Members must be consulted on specific ward-related matters and that the outcome of the consultation will be included within the body of the report.
- Advise on how matters that contain exempt or confidential information are to be dealt with in private.
- Advise on the process for appointing Members of Portfolio Holder Working Parties or Groups.

Planning Enforcement

The Council's Scheme of Delegation is being reviewed as Phase 3 of the Constitution Working Party however, it is necessary to consider an urgent change to the delegated powers for emergency planning enforcement.

The terms of reference of the Council's Planning Committee includes authorising an application for an injunction under Section 187B of the Town and Country Planning Act 1990 to prevent breach of planning control.

Under Part 3 of the Constitution certain enforcement powers have been delegated to the Head of Planning in consultation with the Chair or Vice-Chair of the Committee however, Part 3.86 provides some exceptions, including injunctions from this delegation.

It is considered appropriate in cases where emergency enforcement action is required for action to be taken swiftly so as to prevent apprehended breaches of planning control or ceasing breaches already occurred to reduce the impact. For operational purposes, all enforcement powers under any legislation relating to town and country planning and any associated matters should be delegated to Officers. Officers will make decisions based on the elements of the offence and/or apprehended breach and the evidence which is available. Officers in this area are professionally trained to make such judgements and will not be incurring costs to the Council, without taking full account of all the circumstances.

Therefore, it is proposed that paragraph 1 on Part 3.83 (under consultation with the Chair or Vice Chair) is moved to 'Delegated to Officers' and amended to include reference to in consultation with the Council's Legal Services Manager in the same part and on Part 3.86, paragraph 15 is removed.

RECOMMENDATION

It is recommended that Cabinet RECOMMENDS to Council:

- 1. The adoption of the proposed changes to the Council's Procurement Rules, Property Dealing Policy and Executive Procedure Rules, as detailed at Appendices A, B and C respectively;**
- 2. Service of any Stop Notice or Temporary Stop Notice or any application for an injunction under the Town and County Planning Act 1990 and the Planning (listed Buildings and Conservation Areas) Act 1990 and any associated matters is delegated to the Head of Planning in consultation with the Legal**

Services Manager; and

3. The Council's Constitution be amended accordingly to reflect the changes.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Agreeing the proposed changes will ensure that the Council operates efficiently in pursuit of its priorities.

FINANCE, OTHER RESOURCES AND RISK

Risk

With regard to the Council's Procurement Rules and Property Dealing Policy, the updating of both these sets of rules ensures they remain current and workable. Without clear procedures in place, there is a risk that transactions could be ill-thought through, costly to the Council or even illegal.

LEGAL

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority consider appropriate.

Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the power to make amendments to the standing orders and the Constitution rests with full Council.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by full Council after receiving a recommendation from the Executive following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

There are no other implications arising from this report.

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

A review of the Council's current Constitution is currently being undertaken. The review is being undertaken in three phases, as follows:

Phase 1

- Procurement Rules
- Property Dealing Policy
- Executive Procedure Rules

Phase 2

- Council Procedure Rules
- Overview and Scrutiny Rules
- Access to Information Rules

Phase 3

Part 2 – Articles

Part 3 - Scheme of Delegation (with the exception of a proposed urgent change to the delegated powers for emergency planning enforcement – as detailed above).

Part 5 - Rules of Procedure (Budget and Policy Framework and Officer Employment Procedure Rules

Part 6 – Codes and Protocols

Part 7 – Members' Allowances Scheme

Phase 2 of the review will include the Council Procedure Rules; Overview and Scrutiny Rules; and Access to Information Rules.

Once Phase 3 of the review is completed and approved, currently scheduled for November 2014, these sections will be produced in A5 hard copy for each Member, should they wish to receive a copy, and a complete Constitution will be maintained on the Council's website. Members will only receive hard copy updates of the Booklet, as and when these are agreed.

Members will be encouraged to, in the first instance, refer to the Council's website should they require access to any part of the Constitution not contained within the Booklet.

BACKGROUND PAPERS FOR THE DECISION

There are no background papers (as defined by the Local Government Act 2000) arising from this report.

APPENDICES

A.1 – Appendix A: Review of Procurement Rules

A.2 – Appendix B: Review of Assets Strategy

A.3 - Appendix C: Article 7 – The Cabinet (encompassing the Procedure Rules)

Constitution Review - Procurement Rules

Brief Summary of Changes Proposed

The proposed changes are set against the potential to review what should be included formally within the constitution and what could be included elsewhere such as associated procurement guidance.

Such an approach has its advantages and disadvantages but at this stage it is proposed on putting forward the more comprehensive approach of including a FULL set of rules within the Constitution as has historically been the case rather than risk potentially removing information etc. that falls between the two and gets missed.

Brief Summary of Changes compared to current Procurement Rules

- A flow chart is now included to set out the sequential approach to the procurement decision, where the value of what is being purchased is not necessarily the first consideration.
- Clarified / introduced general exemption from procurement rules for low value items purchased via petty cash.
- Introduces the need to advertise on the Council's electronic 'procurement portal' where appropriate
- Reordering to put more important information at the beginning of the rules.
- Introduced considerations around using local suppliers
- Introduced requirements of the Public Services (Social Value) Act.
- Placing the Finance and Procurement Service as more of a 'procurement hub' into the rules as requested by Members.
- Moving to electronic quotation and tender processes rather than hard copy.
- Simplified quotation rules now only under two headings – up to £10k and over £10k
- Quote rules respond to concerns around obtaining quotes for low value items by setting out the expectation that some sort of price comparison is made even if a formal quotation route is not followed.
- Accepting of quotes where the supplier was not the cheapest now subject to value for money considerations of Director or Head of Service rather than concurrence from relevant Portfolio Holder.
- Maximum number of tenders no longer specified (was 8) – the requirement for a minimum of 4 is retained but Departments can make their own decisions based on goods / services being procured.
- No time requirements in terms of advertising tenders is proposed (current requirements is minimum of 28 days) – this provides flexibility to services based on wider procurement decisions and reasonableness along with value for money considerations.

PROCUREMENT PROCEDURE RULES

SECTION 1 – SECTION SUMMARY

1.0 Procurement rules are set out across the following sections:

- SECTION 1 – General Requirements
- SECTION 2 – Exemptions from Procurement Rules
- SECTION 3 – The Procurement Framework and Central Purchasing
- SECTION 4 – Quotation and Tenders
 - 4.1 General Requirements
 - 4.2 Quotations (*Procurement up to £50,000*)
 - 4.3 Tenders (*Procurement over £50,000*)
 - 4.3.1 Selecting Suppliers
 - 4.3.2 Open Competitive Tenders
 - 4.3.3 Selective Tenders
 - 4.3.4 The number of suppliers invited to tender
 - 4.3.5 Going out to Tender
 - 4.3.6 Receipt of Tenders
 - 4.3.7 Opening of Tenders
 - 4.3.8 Acceptance of Tenders
 - 4.3.9 Tender Evaluation Panel
- SECTION 5 – Other Procurement Rules
- SECTION 6 – Official Order Rules

SECTION 1 – GENERAL REQUIREMENTS

- 1.1 Before undertaking any procurement, Departments should satisfy themselves that
- The works, goods or services are required and a need can be demonstrated.
 - There are no reasonable alternatives e.g. sharing or utilising spare capacity / inventories etc elsewhere within the Council.
 - Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded / evidenced the outcomes against the associated requirements:-
 - ❖ *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area.*
 - ❖ *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

Procurement Procedure Rules apply to the procurement of ALL goods, works or services. The Council's approved computerised ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

Procurement can only take place where budgetary provision is available to fund the goods, works or services required (See Financial Procedure Rules).

Where the Council contracts with a third party (who is not an officer of this Council) to supervise a contract on its behalf, the Corporate Director / Head of Department entering into that contract will be required to ensure that the third party complies with the requirements of these Procurement Procedure Rules.

Where the Council enters into or administers a contract either as an agent, or on behalf of another public body the Council's Procurement Procedure Rules will apply unless written instructions have been received by the Council to the contrary.

These Procurement Procedure Rules will not apply where statute or subordinate legislation prescribes otherwise.

Delegation relating to the engagement of consultancy services is set out separately within the 'Common to All Portfolio Holders' section of the constitution. However for completeness, Corporate Directors / Heads of Department only have delegated authority for the engagement of Consultancy services or Specialist Professional advice up to the value of £15,000 and procurement rules must be followed. For schemes where fees are expected to exceed £15,000 consultation with the Portfolio Holder or Committee Chairman is required.

Procurement within the Council is coordinated by Finance and Procurement Services and in all cases where catalogues or other pre-negotiated approaches are not used, then consultation with the Finance and Procurement Service should be undertaken to identify potential alternative options or additional procurement opportunities.

Where building works form part of the procurement, then it is expected that Departments will discuss their requirements with the internal surveyor as appropriate.

1.2 Use of Local Suppliers

All Procurement should be in line with the Council's Procurement Strategy which includes **the recognition of the use of local suppliers and providing a fair basis for them to compete for the provision of goods, works and service required by the Council.**

SECTION 2 – EXEMPTION FROM PROCUREMENT RULES

2.1 Corporate Directors / Heads of Department shall be exempt from the need to obtain competitive quotations / prices where any of the following circumstances apply: -

- (a) The goods or services are procured from an in-house service.
- (b) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price.
- (c) The matter is one of urgency as determined by the appropriate Corporate Director / Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.
- (d) The contractor or supplier is specified for works to this Council for which an external client is making payment.
- (d) Where the work is of a specialist nature and the Corporate Director / Head of Department can demonstrate that it is not possible to obtain more than one quotation or tender.
- (e) For the engagement of Counsel by the Legal Services Manager.
- (f) Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within or related to the documented scope of that partnership arrangement. In such cases the Corporate Director / Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply, or extension of existing arrangements). The documentation to be issued will take the form of a contract variation as determined in the partnership contract and/or via the Official Ordering rules or if appropriate the documentation to be issued will be as required by Procurement Procedure Rules for the value of the procurement. *(EU Limits must be observed to ensure no thresholds are exceeded)*

(g) For purchases made from petty cash.

In all cases where an exemption is applied the Corporate Director / Head of Department shall maintain a record to evidence this.

2.2 Further exemption from Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances.

(b) Where no specific exemption is provided above:

- Where the value of the contract or procurement is estimated to be less than £50,000 exemption may be granted by the Chief Financial Officer in consultation with the Finance and Transformation Portfolio Holder.
- Where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Finance and Transformation Portfolio Holder may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a formal Portfolio Holder decision must be made.
- Where the total contract, or procurement, is estimated to exceed £250,000, the Cabinet, or a Committee may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a record of the exemption must be made in the minutes of the Cabinet, or Committee.

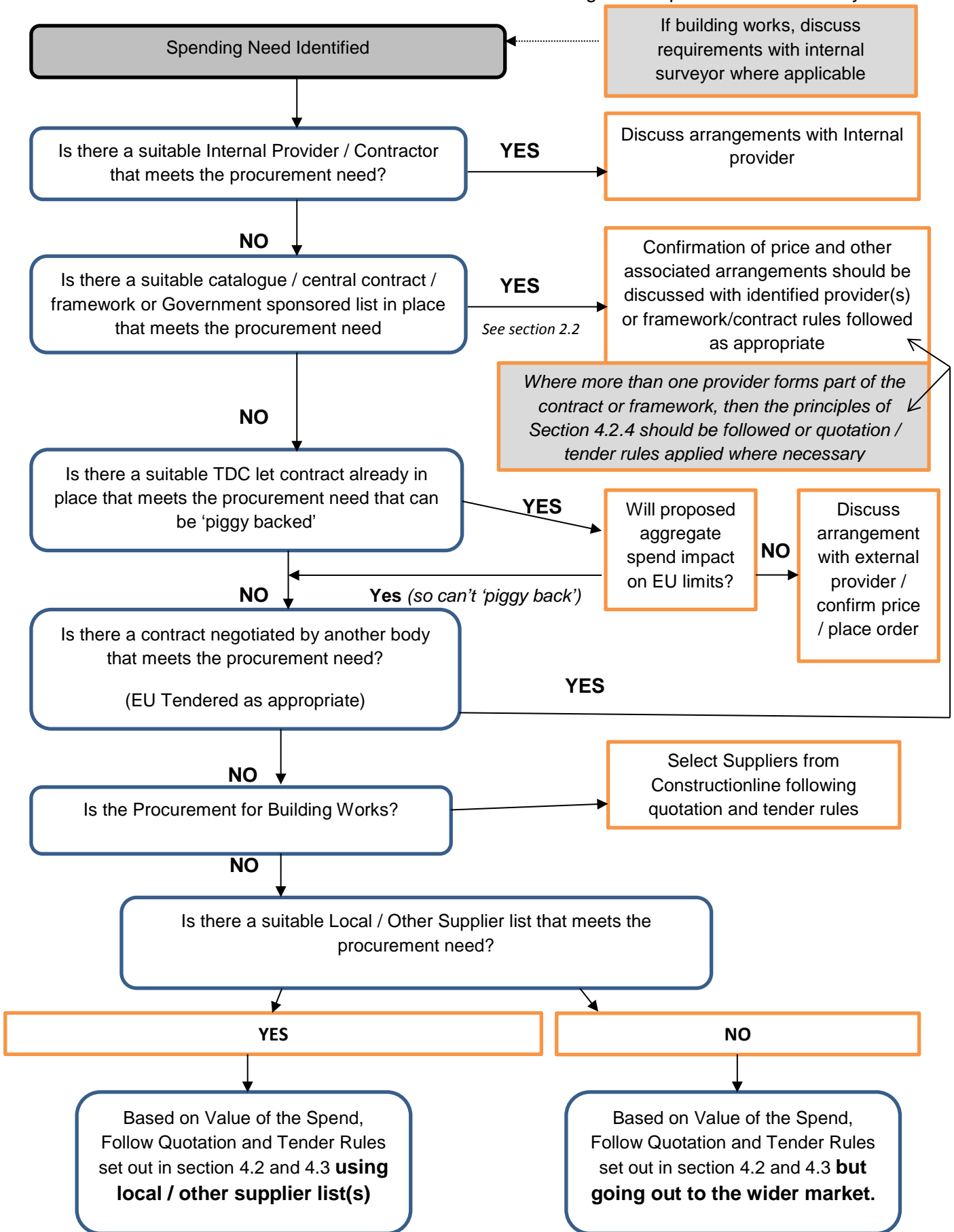
2.3 Alternative / Indirect Service Delivery

Where the Council seeks to implement alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements may not necessarily be able to be undertaken within Procurement Procedure Rules given the number and combination of different procurement routes and processes that may be applicable, but must: -

- (i) Comply with all relevant statutory provisions including European Procurement Directives
- (ii) Follow a documented process determined by the responsible Corporate Director / Head of Department, the Chief Financial Officer and the Legal Services Manager, and agreed by Management Team and the Cabinet, in advance of the process. The process must demonstrate compliance with the principals of openness and accountability.
- (iii) Be capable of providing clear probity trails, particularly in respect of the opening and evaluation of any associated bids or tenders.
- (iv) Comply with any Procurement Procedure Rules that remain applicable, or offer alternatives that meet the requirements of the Chief Financial Officer and the Legal Services Manager.

SECTION 3 – THE PROCUREMENT FRAMEWORK

3.1 All procurement is expected to follow the following process / framework taking each step in sequence noting that the overall value of procurement is not the initial consideration. Finance and Procurement Services should be consulted at the relevant stage of the process as necessary.



3.2 Central Purchasing

This includes:

- Central Contracts – Where the Council has taken advantage of negotiating with an external provider for the supply of goods, works or services.
- Partnership Agreements – Where the Council has decided to enter into partnership agreements either directly with other public bodies, or as part of a consortium of public bodies, for the procurement of goods, works or services.

Procurement Procedure Rules will be followed to select the supplier / contractor to be used for central contracts or if this Council is undertaking the tendering process to select the supplier / contractor under a partnership approach.

- Specialist call-off contracts – Where contracts have been tendered / negotiated by other public bodies and include the option for other Public Bodies to participate.

If the use of any such contract is not considered to offer Value for Money, then the relevant Corporate Director / Head of Department should consult with Finance and Procurement Services in order to identify the most appropriate / advantageous procurement route.

SECTION 4 – QUOTATIONS AND TENDERS

4.1 General Requirements

- (a) Disaggregation of any procurement, in order to apply a lower level to each of the parts is not permitted.
- (b) Where any procurement spans a number of periods, or years, the total estimated cost will be the cumulative total of all periods, or years covered.
- (c) The use of electronic 'portals' or other electronic means must be used to widely advertise goods, works or services required by the Council where appropriate, to ensure equal opportunity between local and non local suppliers.
- (d) Procurement **up to £50,000** (excluding VAT) – **Quotation Rules Apply (Section 4.2).**
- (e) Procurement **over £50,000** (excluding VAT) – **Tender Rules Apply (Section 4.3).**

4.2 **QUOTATIONS** (Procurement up to £50,000 excluding VAT)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.2.1 Procurement up to £10,000 (excluding VAT)

Where procurement is less than £2,500 then value for money should be demonstrated by obtaining two prices where possible.

Where procurement is in excess of £2,500, the seeking of two prices would be expected, with evidence retained by the department.

4.2.2 Procurement over £10,000, but not expected to exceed £50,000 (excluding VAT)

A minimum of three quotations shall be sought by the department in addition to the production of a documented specification to include:

- (i) Identification of the procurement of goods, works or services required.
- (ii) Identification of any periods over which the goods, works, or services are to be provided. In appropriate cases, provide for the payment of liquidated damages by a

contractor where there is a failure to complete the contract within the period(s) specified.

- (iii) Provision for the retention of stated sums / percentages and the retention period to be applied where appropriate.
- (iv) Provision for the contractor to provide a performance bond, or parent company guarantee where appropriate.
- (v) Identification of any other terms and conditions the relevant department considers necessary including a deadline for receipt of quotations.
- (vi) All contractors or suppliers asked to provide a quotation must be advised that the quotations must be sent to a specified e-mail address, and that quotations e-mailed to any other Council e-mail address will be disqualified.

4.2.3 All quotations shall be sought electronically:

The responsible Corporate Director / Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Where the lowest quotation received exceeds £50,000 (excluding VAT), Tender Rules shall be followed from that stage as if tenders had been sought.

If the value of the lowest quotation received exceeds the limit of the quotation category applied, then the Corporate Director / Head of Department must seek sufficient further quotations applicable to the level of the value of that lowest quotation.

- 4.2.4** The Corporate Director / Head of Department is under no obligation to accept any of the quotations. However where they are prepared to accept a quotation, the most financially advantageous quotation should be accepted unless other factors such as quality, local supply, performance and deliverability are also considered as part of the selection process. Evidence is expected to be retained to support such decisions where procurement exceeds £10,000.

- 4.3** **TENDERS** (*Procurement greater than £50,000 excluding VAT*)
After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.3.1 Selection of Suppliers

Tenders Over European Procurement Regulation Thresholds

(a) Where the total estimated value of a proposed contract over its term is expected to exceed the appropriate current European Procurement regulation thresholds, such regulations will take precedence over these tender procedures.

Tenders Under European Procurement Regulation Thresholds

The appropriate Corporate Director / Head of Department will determine whether to use **Open Competitive Tendering** or **Selective Tendering** as set out separately below

4.3.2 Open Competitive Tenders

A notice inviting tenders shall be prepared which should:-

- (i) Set out the nature and purpose of the contract and specify that expressions of interest are sought and set out details of where further information / tender

documents can be obtained

(ii) Be advertised via the Council's electronic 'portal' that is open to all potential suppliers or alternatively in at least one newspaper or journal circulating among suppliers / contractors who undertake such contracts. The notice period to be allowed for potential suppliers to request additional tender documentation should be determined by the Corporate Director / Head of Department.

Following the expiry of the notice period, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5**.

4.3.3 Selective Tendering

Where the Council can access a central / framework arrangement, government sponsored list or a contract negotiated by another public body as set out in **SECTION 3.2** above, more than one supplier may be eligible under such arrangements. If this is the case tender documentation should be sent to the relevant parties in accordance with **SECTION 4.3.5**. In all other cases the following process should be undertaken:

A public notice shall be prepared and advertised via the Council's electronic 'portal' that is open to all potential suppliers or alternatively placed in at least one newspaper or journal circulating among suppliers / contractors who undertake such contracts.

The notice shall: -

- 1 Specify details of the goods, works or services to be tendered.
- 2 Specify a time limit determined by the Corporate Director / Head of Department during which time potential suppliers can request that they be considered for inclusion in the associated tender process.
- 3 After expiry of the period specified in the public notice, the responsible Corporate Director / Head of Department will undertake an evaluation of the suppliers. This evaluation may be subject to Tender Evaluation Panel review.
- 4 The responsible Corporate Director / Head of Department, and where appropriate the Tender Evaluation Panel, will in consultation with the appropriate Portfolio Holder or Chairman of the relevant Committee select those contractors suitable and capable to tender for the proposed contract.

Following the conclusion of the evaluation process, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5** below:

4.3.4 The Number of Suppliers Invited to Tender

Invitations to tender shall ensure fair competition and where possible include a mix of local and non-local suppliers and shall be sent to: -

Not less than 4 contractors, with the maximum number as determined by the relevant Corporate Director / Head of Department. (Where less than 4 suitable contractors have been identified from the selection process, then all shall be invited to tender).

4.3.5 Going out to Tender

General Rules

Tenders must:

- (i) Specify the goods, works or services to be supplied, contract value, any discounts or other deductions that may apply, the period(s) during which the contract is to be performed and any other relevant terms and conditions that the responsible Corporate Director / Head of Department considers necessary.

- (ii) In appropriate cases, provide for the retention of stated sums / percentages and the retention period to be applied.
- (iii) In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
- (iv) In appropriate cases, and at the discretion of the responsible Corporate Director / Head of Department, make provision requiring the contractor to provide a performance bond and / or a parent company guarantee.
- (v) Identify the basis on which the submitted tenders will be evaluated. (Where the evaluation is other than a straightforward financial evaluation based upon lowest submitted price, the proposed evaluation process must be submitted to the Tender Evaluation Panel for agreement before tenders are sought).
- (vi) Tenders are required to be submitted on a form of tender prepared by, or agreed by, the Council which shall include a statement that the Council will not be bound to consider or accept any tender.
- (vii) Specify the closing date and time by which tenders must be received.
- (viii) Where a Corporate Director / Head of Department considers that the Council may benefit from the use of post tender negotiation, that officer shall ensure that such intention is included in the documentation submitted to tenderers and before seeking tenders agree a suitable procedure with the Tender Evaluation Panel.
- (ix) Specify social value considerations as appropriate.
- (x) Any other requirements that may be specified by the Legal Services Manager.

4.3.6 Receipt of Tenders

Unless determined otherwise by the responsible Corporate Director / Head of Department in consultation with Finance and Procurement Service, all tenders should be requested to be returned electronically by e-mail. However whatever form of tender response is implemented, all tenders must be submitted in the same manner.

The responsible Corporate Director / Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Tender documentation sent to potential providers must state that tenders must only be sent to the specified e-mail address and that tenders e-mailed to any other Council e-mail address or after the closing date and time will be disqualified.

As soon as practical after the closing date and time, tenders must be submitted to the Corporate Director (Corporate Services) or their designated Officer who will arrange for the formal recording of the tenders.

In exceptional circumstances where hard copy tenders are requested, then the email requirement above is replaced by the tender returns being addressed to the Head of Corporate Services or their designated Officer. Prospective tenderers must be instructed to clearly mark envelopes with the fact that it is a tender submission and that it is not to be opened until after the relevant closing date and time.

4.3.7 Opening of Tenders

The following rules apply to both electronic and hard copy submission of tenders:

(a) All tenders shall be opened at the same time in the presence of: -

(i) One of the Chairman or Vice-Chairman of the Council, the Leader, (or failing him the Deputy Leader) the relevant Portfolio Holder or Committee Chairman or Vice-Chairman or other Member(s) of the Council who shall have been authorised by the Council for the purpose

(ii) The Corporate Director (Corporate Services) or other officer to whom they has delegated responsibility

(iii) The responsible Corporate Director / Head of Department or other officer to whom they have delegated responsibility

(iv) The Chief Financial Officer, or other officer to whom they have delegated responsibility.

(b) The Corporate Director (Corporate Services), or other officer to whom they have delegated responsibility, shall prepare and maintain a register of tenders received and shall record in that register the following particulars: -

(i) The closing date and time for receipt of tenders

(ii) The date upon which the tender was received

(iii) Where a tender is received after the closing time on the closing date and is considered or accepted, the reason(s) why it was considered or accepted

(iv) The name of the tenderer and the amount of the tender

(v) The date upon which the tenders received were opened

(vi) The Member present at the opening of the tenders shall immediately sign against the relevant particulars in the register as evidence of having been present when the tenders were opened.

(vii) All officers present at the opening of tenders shall immediately sign against the relevant particulars in the register as evidence of such tenders having been opened in their presence

(viii) The signature of the officer to whom the tenders were handed after opening

(c) Any tender received after the closing time and date shall, unless Procurement Procedure Rule 4.3.7 (b)(iii) applies thereto, be returned by the Corporate Director (Corporate Services) promptly to the tenderer. The tender may be opened to ascertain the name and address of the tenderer, but no details of the tender shall be disclosed.

4.3.8 Acceptance of Tenders

(a) Unless the requirements of Procurement Procedure Rule 4.3.5 (v) have been applied, the most financially advantageous tender to the Council shall be accepted by the Corporate Director / Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).

(b) Where Procurement Procedure Rule 4.3.5 (v) applies, the tenders must be evaluated in accordance with the agreed evaluation process / criteria, and evidence retained to demonstrate this. The tender identified as most advantageous to the Council shall be accepted by the Corporate Director / Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).

4.3.9 Tender Evaluation Panel

The Council will maintain a Tender Evaluation Panel chaired by Corporate Director (Corporate Services) or their designated officer and will comprise officers determined by them along with a senior officer from the department letting the contract.

Corporate Directors / Heads of Department are required to notify the chairman of the Tender Evaluation Panel of all tenders, estimated at over £50,000 (excluding VAT), being sought. This should include, where appropriate, any proposed method of evaluation of expressions of interest

from prospective contractors. The chairman of the Tender Evaluation Panel will determine which tenders will be reviewed by the panel and at what stages.

The Chairman of the Tender Evaluation Panel shall also have the right to call on technical assistance / expertise from other departments as he considers necessary.

Reports made to Management Team / Members in respect of those tenders subject to review by the panel should include reference to the views / comments of the panel.

SECTION 5 – OTHER PROCUREMENT RULES

5.1 Contract Clauses

Every contract entered into as a result of these Procurement Procedure Rules shall include clauses regarding: -

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|-----|---|
| (a) | British Standards, and British Standard Codes of Practice as issued by the British Standards Institution, or any European standard or equivalent current at the time of tender. |
| (b) | Bribery and corruption, empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation. |
| (c) | Freedom of Information |
| (d) | Professional indemnity insurance where consultancy services or specialist professional services are to be procured. Evidence of the proof of such insurance shall be required to be provided. |
| (e) | Equality and diversity |
| (f) | Priority being given to the use of local sub-contractors if required. |
| (g) | Any other standard clauses, amendments or exclusions that are deemed necessary, from time to time, by the Legal Services Manager. |

5.2 Authorised Officers

(a) Each Corporate Director / Head of Department is responsible for advising the Chief Financial Officer, in writing, of those officers who are empowered to enter into contracts, or procurement, on behalf of the Council, and any maximum limits on the values concerned.

(b) Each Corporate Director / Head of Department shall advise the Chief Financial Officer, in writing, immediately of any changes to those officers so empowered, or their limits.

(c) Only officers so empowered will be provided with a level of access to any computerised procurement system operated by, or on behalf of, the Council, that enables them to authorise official orders within the limits set.

5.3 Nominated Sub-Contractors and Suppliers

(a) Competitive quotations / tenders shall be sought for the execution of works or for the supply of goods or materials by a nominated subcontractor in accordance with these Procurement Procedure Rules, unless it is considered impractical to do so

(b) Where the estimated value of the subcontract does not exceed £50,000 the responsible Corporate Director / Head of Department shall determine whether it is practical to obtain quotations.

(c) Where the estimated value of the subcontract exceeds £50,000 and the responsible Corporate Director / Head of Department considers the obtaining of tenders to be impractical the approval of the Leader of the Council, relevant Portfolio Holder or Committee Chairman for the proposed course of action shall be sought.

(d) The invitation to a subcontractor to quote / tender shall include an undertaking that, if selected, the subcontractor will enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in respect of goods, works or services included in the subcontract.

SECTION 6 – OFFICIAL ORDER RULES

6.1 General Requirements

ALL goods, works or services must be subject to an official order unless an exemption is provided in Section 6.2 below.

- (a) All orders shall be placed using the Council's approved ordering computer system, unless exempted elsewhere in these Procurement Procedure Rules.
- (b) The format of the Council's approved standard official purchase orders (either hard copy or electronic) and any standard terms and conditions to be applied to each order shall be determined by the Corporate Director (Corporate Services).
- (c) In the event of the need to issue a variation to an order, this will be by issue of a further order and must clearly identify the order number of the order to be varied.

(e) All orders must: -

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| (i) Bear the name and logo of Tendring District Council. |
| (ii) Clearly identify goods, works, or services to be procured, and all other detail as is mandatory on the Council's approved ordering computer system. |
| (iii) Contain any other detail, terms and conditions that are applicable to that order. For the engagement of consultancy services or specialist professional advice this must include a condition relating to professional indemnity insurance. |
| (iv) Have a value or an accurate estimate of the value of the goods, works, or services entered onto the Council's electronic ordering system. |
| (v) Must be authorised by an officer duly authorised by the responsible Corporate Director / Head of Department. |

6.2 Exemptions from Official Order Rules

Verbal orders, orders that are not accompanied by an official order or not exempt as set out below should only be made in special / exceptional circumstances and only after consultation with the Corporate Director (Corporate Services) or their designated officer. In the case of emergencies where an officer needs to take appropriate action to protect the Council's position or its assets then a verbal order can be made but the Corporate Director (Corporate Services) must be informed as soon as practical thereafter.

Where verbal orders are made they should be followed up by entering the necessary details on the Council's ordering system in accordance with 6.1 above as soon as possible.

A Corporate Director / Head of Department shall be exempt from the need to raise an official order in the following circumstances: -

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|---|
| (a) For cash purchases using the Council's Petty Cash system, where ordering using the approved computer system is considered not to be practical. A maximum limit of £50 (excluding VAT) is applicable to each procurement made using the Council's Petty Cash system. |
| (b) For the periodic payment of rent and National Non Domestic Rates. |
| (c) For the periodic payment of former public utility supplies. |
| (d) Where the nature of the goods, works or service requires an appropriate standard form of written contract. |
| (e) For contract variations where a written contract requires a form of written contract variation, that is not in the format of the Council's standard official |

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|---|
| order. |
| (f) For HRA assets where orders for goods, works or services are required to be raised through the Council's authorised Housing Management computer system. |
| (g) For the engagement of Counsel by the Legal Services Manager. |
| (h) Where the Chief Financial Officer has agreed the use of purchase cards or where one of the Council's credit cards is used. |
| (i) Any other circumstances as agreed, in advance of the procurement, by the Corporate Director (Corporate Services). |
| (j) Where goods or services are procured in-house. |

A.3 – Appendix B

Part 5 - RULES OF PROCEDURE DD MONTH 2014

PROPERTY DEALING PROCEDURE

1. Negotiation of Property Deals

1.1 Members must not engage in negotiations of any kind relating to any Property Deal or proposed Property Deal. In this context, Property Deal means the acquisition or disposal by the Council of any interest in land, including freehold, leasehold, by way of tenancy, any rent review, lease variation, lease renewal or any other dealing or proposed dealing with an interest in land or licence to use land.

1.2 Every Property Deal shall be conducted in accordance with the Property Dealing Procedure, excluding:

- 1.2.1** the sale of dwellings under right-to-buy requirements
- 1.2.2** the granting of licences or tenancies at will for one year or less,
- 1.2.3** enforcement, surrender or other termination of existing leases
- 1.2.4** rent reviews

1.3 Any Property Deal that does not fall within the Property Dealing Procedure will be dealt with by appropriate officers in accordance with Property Office Procedures to be agreed from time to time by the Assets Manager with the Council's Section 151 and Monitoring Officers. The Property Office Procedures set out the practice to be followed by any Officer acting under delegated powers.

1.4 Every request to the Council from any party for a deal within this procedure shall be referred to the Assets Manager, or, by the Chief Executive, to any Head of Department or Corporate Director.

2. Property Dealing Procedure

2.1 "Property Dealing Procedure" means all applicable steps of this Procedure leading up to a final decision on disposal.

2.2 Where this Procedure applies the Assets Manager or Head of Department/Corporate Director will carry out a basic feasibility appraisal and decide whether it is appropriate to submit a brief written report to the relevant Portfolio Holder for Assets seeking authority to proceed with steps towards the Property Deal including any or all of the steps in the Property Office Procedure.

2.3 In the case of any property acquisition where the Section 151 and Monitoring Officers consider that the Council's interests would be compromised by the making of a formal decision in advance of negotiations the Chief Executive may authorise the completion of negotiations without the formal decision of the relevant Portfolio Holder for Assets.

2.4 Where the relevant Portfolio Holder for Assets or Chief Executive grants authority in accordance with paragraph 2.2 or 2.3 above, the Assets Manager or Head of Department/Corporate Director will then undertake all investigations and appropriate steps to negotiate, bid or otherwise agree terms for the potential deal in accordance with Property Office Procedures. Such agreement will not be binding upon the Council and will to be subject to contract and to Member decision.

2.5 The Assets Manager or Head of Department/Corporate Director will prepare a report as required containing the relevant information and seek a formal decision if required in accordance with the delegations set out in Appendix A on whether to complete the deal on the terms reached.

**APPENDIX A
Levels of Decision Making**

| Right or interest to be granted/acquired | Head of Department or Corporate Director | Corporate Director: Corporate Services | Relevant Portfolio Holder for Assets | Cabinet |
|--|--|--|--|---------|
| Reporting | Formal Record of Executive Decision to be completed and published (legislative requirement). | | Property Dealing Procedure applies. Formal Report and Decision required. | |
| 1. A licence or access agreement for 12 months or less | | | | |
| 2. A licence or access agreement for more than 12 months or any tenancy at will | | | | |
| 3. Tenancies for less than seven years excluding security of tenure | | | | |
| 4. Renewal, assignment or surrender of tenancies as 3 above | | | | |
| 5. Tenancies for seven years or more or tenancies not excluding security of tenure | | | | |
| 6. Renewal, assignment or surrender of tenancies as 5 above | | | | |
| 7. Rights of way, Easements or other permanent rights | | | | |
| 8. Freehold property interest less than £50,000 | | | | |
| 9. Freehold property interest more than £50,000, or; any disposal where objections have been received after advertisement in accordance with 123 of the Local Government Act 1972, or; any disposal at less than the Best Consideration Reasonably Obtainable. | | | | |

Shaded box indicates the appropriate level of decision making.

A.3 – Appendix C

ARTICLE 7 – THE CABINET (ALSO REFERRED TO AS THE EXECUTIVE)

7.01 Role and Responsibilities

The Cabinet will carry out all of the local authority's functions, known as Executive Functions, that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 Form and Composition

The Cabinet will consist of the Leader of the Council together with other councillors appointed to the Cabinet by the Leader. The Leader will determine the number of councillors who may be appointed to the Cabinet subject to the statutory minimum requirement of two councillors appointed to the Cabinet by the Leader and the statutory maximum number of 10 members of the Cabinet.

7.03 Leader of the Council

The Leader of the Council will be a councillor elected to the position by the full Council. The election of the Leader will normally be carried out at the Annual Meeting of the Council following the District Council Elections. The Leader will hold office until the annual meeting of the Council following the next District Council elections or until:-

- (a) They resign from the office; or
- (b) They cease to be a councillor; or
- (c) The Council passes a resolution removing the Leader from office at an earlier date. If the Council so passes a resolution to remove the Leader, a new Leader is to be elected at the meeting at which the Leader is removed from office or at a subsequent meeting.

Upon expiry of the fixed term the Leader will be eligible for re-election for subsequent fixed terms.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council. The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next ordinary meeting of the Council, the Deputy Leader will act as Leader on an interim basis.

7.04 Deputy Leader of the Council

The Leader of the Council will appoint one of the members of the Cabinet to be his deputy. The Deputy Leader of the Council, unless he resigns as Deputy Leader or ceases to be a member of the authority, will hold office until the end of the term of office of the Leader of the Council. However, the Leader may, if he thinks fit, remove the Deputy Leader from office.

Where a vacancy occurs in the office of Deputy Leader the Leader will appoint another person in his place.

If for any reason the Leader is permanently unable to act or the office of Leader is vacant, the Deputy Leader will act temporarily in his place until the next formal ordinary meeting of the Council when a new Leader will be elected.

If the Deputy Leader is also unable to act or the office is vacant the Cabinet will act in the Leader's place or will arrange for a member of the Cabinet to act in his place.

7.05 Other Cabinet Members (also known as Portfolio Holders)

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out below at 7.08.

7.07 Responsibility for Executive Functions

The arrangements for the discharge of Executive Functions are contained within Part 3 of the Constitution.

The Executive functions may be discharged by:

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

Part 3 of the Constitution will be maintained and kept up to date with the agreement of Leader of the Council, setting out which Members of Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Executive Functions.

7.08 CABINET PROCEDURE RULES

1. MEETINGS

1.1 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader.

1.2 Meetings of the Cabinet

Meetings of the Cabinet when key decisions are to be made will be held in public except where confidential or exempt information is to be discussed.

1.3 Quorum

The quorum for a meeting of the Cabinet shall be three including the Leader or in his absence the Deputy Leader.

1.4 Chairmanship

The Leader (or in his absence the Deputy Leader) will preside at any meeting of the Cabinet at which he is present.

1.5 Who May Attend?

- (i) Subject to the Access to Information Rules and the provisions of the Members' Code of Conduct, any Councillor may attend meetings of the Cabinet. They may not speak without the consent of the Leader of Cabinet, or in any case vote.

- (ii) The Leader or Deputy Leader of the opposition groups may, as of right, attend meetings of the Cabinet and participate fully in discussion on all agenda items, but cannot vote. If requested by the Leader or Deputy Leader of an opposition group to do so, the minutes of the meeting of Cabinet on a particular matter will record their Groups opposition to all or part of a decision.
- (iii) Meetings of the Cabinet shall have in attendance the Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and other relevant Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.
- (iv) The Chief Financial Officer and Monitoring Officer has the right to attend and present a report to discharge their statutory duties whenever necessary.
- (v) The Constitution includes no provision for substitute members at meetings of the Executive.

2. Agenda

2.1 Members' Written Questions

Any Member has the right to submit a written question to the Cabinet on any item on their agenda and to attend to present it a written at the meeting of the Cabinet when the item is to be considered. Such question shall be submitted at least 24 hours before this Cabinet meeting. The Member may withdraw their question at any time.

2.2 Order of Business

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

- (a) Consideration of the minutes of the last meeting;
- (b) Declarations of interest, if any;
- (c) Matters referred to the Cabinet (by the Overview and Scrutiny Committees or the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution;
- (d) Any matter where the Overview and Scrutiny Commission or Council have resolved that an item be considered by the Cabinet. The Chief Executive will ensure that an item is placed on the agenda of the next available meeting;

- (e) Consideration of reports from the Overview and Scrutiny Committees;
- (f) Matters set out in the agenda for the meeting and which shall indicate which are key decisions, and which are not, in accordance with the Access to Information Procedure Rules set out in Part 5 of this Constitution.
- (g) Key decisions, as indicated on the agenda for the meeting, in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.
- (h) Any matter relating to an executive function that the Leader of the Council wishes to be included, 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.
- (i) Any matter relating to an executive function requested by a member of the Cabinet. The Chief Executive will be required to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration, subject to the issue in question not having been considered in the last 6 months.
- (j) Any matter relating to an executive function requested by a Member of the Council, subject to the agreement of the Leader of the Council. A Member may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, subject to the issue in question not having been considered in the last 6 months. 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 who will also be invited to attend the meeting. There may only be up to 2 such items per Cabinet meeting.
- (k) Any matter included on the agenda by the Monitoring Officer and/or the Chief Financial Officer for consideration. They may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a matter 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.
- (l) The Chief Executive or any member of Management Team may place an item on the agenda of any meeting of the Executive.

3. Consultation

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the Budget and the Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Prior to all Cabinet Decisions, Ward Members must be consulted on specific ward related matters; the outcome of the consultation will be included within the body of the Report.

All reports to the Executive will include details of all appropriate officer advice in respect of the matter under consideration, in particular advice from the Chief Executive, Chief Financial Officer and the Monitoring Officer.

4. Conduct

(a) Disturbance by Public - Removal of Member of the Public

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he continues to interrupt, the Leader will order his removal from the meeting room.

(b) Clearance of part of meeting room

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

5. Procedures for Private Meetings of Cabinet

The rules concerning private meetings of Cabinet are set out in the Access to Information Rules in Part 5, this does not apply to Portfolio Holder Working Parties or Groups, who meet for specific subjects with across party representation.

The process for appointing members of the Portfolio Holder Working Parties or Groups will require a letter to be sent to the Leader of each political group inviting them to identify members of their group who are interested in serving on the group.

6. DECISIONS

6.1 Overlap or Interests

- (a) In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader of the Council shall advise of the relevant Portfolio Holder to make the decision
- (b) Where any or all members of the Cabinet has an interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in Part 5 of this Constitution.

6.2 How are Decisions to be taken by the Cabinet?

Cabinet decisions which have been retained to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules, as applicable in Part 5 of the Constitution.

After any meeting of the Cabinet, whether held in public or private, or with regards to decisions taken by individual members of the Cabinet, within their delegated powers, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting or by individual members of the Cabinet. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The record of decisions made at meetings will take the form of the minutes of the meeting.

Records of all decisions will be published as soon as practicable after they have been taken and made publicly available. In accordance with the Overview and Scrutiny Procedure Rules, decisions of the Cabinet, subject to certain exceptions, may not be implemented until the expiry of the call-in period.

(Cream)

(Amended page – September 2011) 5.8