

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

10 NOVEMBER 2017

JOINT REPORT OF THE LEADER OF THE COUNCIL AND FINANCE & CORPORATE RESOURCES PORTFOLIO HOLDER

A.10 AMENDMENTS TO THE COUNCIL'S CONSTITUTION – FINANCIAL & PROCUREMENT MATTERS

(Report prepared by Lisa Hastings, Monitoring Officer)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve a delegation to the Portfolio Holder for Finance and Corporate Resources and recommend to Council, proposed changes which have been suggested by the Monitoring and Section 151 Officers as part of an annual review of the Constitution.

The main proposals cover a number of miscellaneous amendments to Financial and Procurement matters to reflect changes required to comply with legislation and to ensure the Constitution is both effective and efficient at an operational level.

The key changes to each of these documents are highlighted within the body of this Report.

EXECUTIVE SUMMARY

Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date, this function takes into account legislative requirements and best practice.

The previous Constitution Working Party undertook a substantial review of the Constitution in 2014 however; the Monitoring Officer is under a continuing obligation to review the content and can make minor amendments under Article 15, as agreed by Council in June 2014. If the Monitoring Officer considers that any additional changes are required these proposals are reported to Cabinet, who in turn make recommendations to Council.

A summary of the changes compared to the existing Parts are provided under each heading in the Current Position section of this report and in each case, the content has been revised to provide greater clarity, ensure effectiveness and efficient work practices and checked to ensure it is in accordance with legislation, where necessary.

The main proposed changes relate to the Financial and Procurement Procedure Rules and a delegation to the Portfolio Holder for Finance and Corporate Resources in consultation with the Chief Finance Officer to agree the outturn position each year, providing the necessary flexibility to enable the production and publication of the Council's Statement of Accounts, which must now be prepared and published one month earlier from next year. This delegation does not interfere with the statutory requirement to produce the final

accounts to the Audit Committee.

RECOMMENDATION

That Cabinet:

- (a) Agrees the Portfolio Holder for Finance and Corporate Resources be authorised, in consultation with the Chief Finance Officer, to agree the outturn position / report each year to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts;**
- (b) approves that the Scheme of Delegation – Schedule 3 - Responsibility for Executive Functions Part 3.41 of the Constitution be amended to include the specific delegation; and**
- (c) recommends to Council that the Council's Constitution be amended to reflect the proposed changes to the Financial and Procurement Procedure Rules as set out in this report.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

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

FINANCE, OTHER RESOURCES AND RISK

Risk

Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's governance arrangements.

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, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

The Leader of the Council is responsible for approving the delegation of executive functions (Constitution Reference: Article 7 – Part 2.14 and Part 3.32 – Schedule 3 Responsibility of Executive Functions).

Local Audit and Accountability Act 2014 and the Account and Audit Regulations 2015 bring forward the timetable for preparation and approval of accounts. For 2017/18, the deadline for the Section 151 Officer to prepare and sign draft financial statements (i.e. closedown the Council's accounts) is moving to 31 May (currently 30 June). The deadline for the approval and publication of financial statements with an audit opinion is moving to 31 July (currently 30 September).

These amendments to the timetable do not affect the statutory requirement for the approval of the final statement of accounts, which must be undertaken by the Council's Audit Committee, albeit the meeting will have to re-arranged for July in 2018.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by full Council after receiving a recommendation from Cabinet 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) Outturn Reporting

Each year the outturn report is presented to Cabinet in June for approval along with associated adjustments such as transfers to reserves, carry forwards and the funding of the capital programme.

However from 2018/19 the Statement of Accounts, which are 'built' on the approved outturn position have to be published, prior to audit, by the end of May, a full month earlier than has previously been the case. However, when reflecting on the time required to actually closedown the accounts and prepare the associated outturn report, it is unlikely that this will be possible within the usual Cabinet meeting cycle. Therefore a pragmatic / alternative solution is required to provide the necessary flexibility around which the necessary work can be completed.

It is therefore proposed to delegate approval of the outturn position each year to the Finance and Corporate Resources Portfolio Holder. The item will remain in the forward plan and subject to call-in, as would ordinarily be the case, but it would enable a more timely decision making process to support the new Statement of Accounts timetable.

Any further decisions that may be required following the outturn process, such as allocating money brought forward from the prior year will be reported to Cabinet at a subsequent meeting, so in effect the outturn report delegated to the Finance and Resources Portfolio Holder will primarily only place available funding that needs further allocation in reserves until such time as a formal / separate decision is presented to Cabinet.

Part 5.41 Para 8 of the Constitution will also need to be amended to reflect this change.

(b) Part 5 – Financial Procedure Rules

The Chief Financial Officer has suggested the following amendments for the reasons set out:

i. Rule 6.3.4 – the conditions for a virement are:

Part 5.38 Table (c) **General Fund Revenue and HRA (excluding employees)** – suggested amendment is to remove the text “*excluding employees*” from the heading, because employee costs do form part of these funds and should not be treated differently under any of the other circumstances.

Part 5.39 Table (f) **Between Capital and Revenue** – suggested amendment is to remove text under virement value so that it reads “*(i) Increase in an approved Capital budget*”. In the opinion of the Chief Finance Officer, the additional wording “*which is to be financed by a virement, from an existing revenue budget*” is not relevant and should be deleted. The approval section of the table sets out the two circumstances ‘when’ this increase can occur and the approval process.

ii. Rule 10.7 – the authority to write off debts is delegated by the Council as follows:

Part 5.48 First table - “*Debt due to the Council where the amount owing is a Council Tax or NNDR debt*”, should be extended to include “*Housing Benefit and Rents*” so that these debts are treated consistently. Reference to ‘*housing benefit*’ should be deleted from paragraph 3. The Authority to Write Off should remain delegated to a Corporate Director, but reflect that the recovery of debts is split across different services and therefore, the text should state “*the relevant Corporate Director*”.

Part 5.48 Second Table – amend the reference from “*Specific Debts*” to “*Specific Debtors*”. In criteria (b) replace “*Bailiffs*” with “*Recovery Enforcement Agents*” and insert at the end “*insufficient assets to satisfy the debt*”. Currently bailiffs have to seek enforcement from the same debtor multiple times for different debts, at an additional cost to the Council whereby it is evident from the first or second visit, they had insufficient funds.

Part 5.49 Second Table – increase the level so that the Chief Financial Officer can authorise the write off of individual debts not exceeding £5,000 (current level is £2,500). The actions are still recorded as Officer Decisions.

iii. Rule 13 – Banking Arrangements:

Part 5.53 - Remove Rule 13.2.3 as the Council no longer draws cheques.

iv. Rule 16 – Funding Arrangements:

Part 5.55 - Amend Rule 16.3, so that applications for external funding are approved by Management Team following consultation with the Chief Financial Officer, this is to reflect that approval should be sought to ensure external funding applied for is in accordance with the Council’s priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.

(c) Part 5 – Procurement Procedure Rules:

- i. Section 4.2.2 – Procurement over £10,000, but not expected to exceed £50,000:
Part 5.67 – replace the current wording at (v) with *“unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council Standard Contract for Services must be used when seeking quotations. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought”*. This is to ensure that there is a consistency of terms and conditions being entered into across the Council, providing value for money and fairness.
- ii. Section 4.3.5 – Going out to Tender – General Rules:
Part 5.69 - replace the current wording at (x) with *“unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council’s Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought”*. This is to ensure that the Council fulfils its requirements under the Public Contract Regulations 2015; there is a consistency of terms and conditions being entered into across the Council; achieving value for money and fairness.
- iii. Section 4.3.7 – Opening of Tenders:
Part 5.70 – remove the requirement for an elected member to be present at the time tenders are opened. Since the Council has been using electronic tendering, the system has a number of security measures in place with access to the electronic tender box only being supplied upon the deadline being reached after being supplied with a passcode. The process, undertaken by either the Committee Services Manager or Officer in connection with IT, is witnessed by a Procurement Officer and representative of the service area. It is suggested that it is not an effective use of the Portfolio Holders time to require their attendance to view an email and this could be delegated to the Corporate Director or Head of Service.
- iv. Section 4.3.9 - Tender Evaluation Panel:
Part 5.71 & 5.72 – amend reference from a *“Panel”* to *“Consultation”*, as it is not always necessary and convenient to convene a Panel, when consultation can be undertaken electronically between the relevant officers. The relevant Corporate Director will nominate the Head of Service to lead on the consultation and record the decision to award as a formal Officers Decision. The decision will take into account those matters identified by the consultees.
- v. Section 5.1 – Contract clauses:
Part 5.72 – it is suggested that this section is replaced with reference to the contractual guidance issued by the Monitoring Officer, the Council’s standard draft contract being used unless an exemption has been sought and enforcing the legislative requirement to send draft contracts with the tender documentation. This will ensure that the guidance and draft documentation is kept up to date and is amended to reflect legislation changes, best practice and operational matters.

BACKGROUND PAPERS

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

from this report.

APPENDICES

A.1 – Appendix A: Part 5 – tracked changes to Financial and Procurement Procedure Rules

FINANCIAL PROCEDURE RULES

1. INTRODUCTION

- 1.1 Subject to meeting any requirements contained in the Key Decision Rules and the Decision Making Rules, the Council will conduct its financial affairs based upon its Budget and Policy Framework Procedure Rules, together with these Financial Procedure Rules and the Procurement Procedure Rules. These Financial Procedure rules set out the responsibilities and management arrangements that will be followed to ensure that the Council, Members and its officers exercise due probity and accountability for the public monies for which they have responsibility. These rules and the Procurement Procedure Rules apply to all financial transactions of the Council either for itself or where it is acting as the Accountable Body or Agent.
- 1.2 The Chief Financial Officer shall keep under review these Financial Procedure Rules and the Procurement Procedure Rules and ensure that they are appropriate to the running of the Council. Any proposed changes must be recommended by the Cabinet and subsequently agreed by the Council.

The Financial Procedure rules are set out as follows.

SECTION	TOPIC COVERED
2.	Definitions
3.	Responsibilities
4.	Financial Planning and Budget approval
5.	Authority to Incur Expenditure
6.	Changes to budgets after approval by Council
7.	Financial management of budgets during the year
8.	Final accounts, out-turn and Statement of Accounts
9.	Financial administration
10.	Write-Offs of Sums due to the Council
11.	Insurances
12.	Inventories stocks and stores
13.	Banking Arrangements
14.	Investments, Loans and Borrowing
15.	Land and Property transactions
16.	External Funding
17.	Proceeds of Crime Act 2002 (anti-money laundering)
18.	State Aid

2. DEFINITIONS

For the purpose of these regulations the following definitions will apply:

TERM	DEFINITION
Head of Department	The term Head of Department refers to the officer to whom responsibility for a department, function or action has been delegated in accordance with the Council's Scheme of Delegation.
Service	Service shall be those services as set out in the Council's published budget book or where subsequent amendments have been approved.
Estimate	Each line of budget included within each service, or each project line included in the Capital Programme, in the Council's published budget book or where subsequent approval has been given.
Forecast	An estimate of the likely budget for the years following the financial year for which an estimate has been approved.
Expenditure	All direct expenditure as detailed in the Council's published budget book or where subsequent approval has been given.
Income	All direct income as detailed in the Council's published budget book or where subsequent approval has been given.
Virement	A virement is the transfer of a sum from one estimate to another and may include an increase in expenditure provided it is financed by additional income not already provided in the approved budgets.
Supplementary Estimate	This is an increase in the budget approved by Council and can be in respect of either capital or revenue. A transfer from reserves would finance the additional expenditure.
Negative Supplementary estimate	A Negative Supplementary Estimate is the reverse of a Supplementary Estimate and has the effect of reducing an otherwise available budget with the specific purpose of reducing the Council's net expenditure. A transfer to reserves would arise as a result of reducing expenditure.
Section 106 agreement	Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

3. RESPONSIBILITIES

- 3.1 The Leader, each Portfolio Holder and Head of Department shall consult with the Chief Financial Officer, in advance, in respect of any report/proposal which seeks provisional or final approval to any proposed revenue or capital expenditure or service investment or income which is not included in the Council's approved budgets (without reservation). The Chief Financial Officer will bring all such matters to the immediate attention of Management Team.

(Cream)

- 3.2 The Chief Financial Officer shall be responsible, under the general direction of the Cabinet and Management Team for the financial administration of the Council's activities.
- 3.3 The Chief Financial Officer is responsible for ensuring that the Finance and Revenues and Benefits Portfolio Holder is informed of and consulted on all significant financial issues.
- 3.4 The Chief Financial Officer shall inform and advise Management Team about the Council's finances and financial performance of its activities, who will in conjunction with the Finance and Revenues and Benefits Portfolio Holder ensure that the Leader, each Portfolio Holder, Committees and Council are advised appropriately.
- 3.5 The Chief Financial Officer shall ensure that adequate and prudent financial planning, including annual budgets and longer-term forecasting, is undertaken by the Council to protect its finances.
- 3.6 Any requirement in these Financial Procedure Rules and the Council's other procedures to obtain approval for or to report to the Council, Committee, Cabinet or Portfolio Holder, on any action shall include the requirement to consult with the Chief Financial Officer where Council finances are concerned.
- 3.7 The Chief Financial Officer has a duty to ensure that the financial implications of decisions made by Heads of Department in respect of services are not to the detriment of the Council as a whole.
- 3.8 The Chief Financial Officer, their Deputy or Chief Executive is authorised to deal with any General Fund Revenue or HRA virement on exceptional grounds of urgency, such as civil emergencies. If this exemption is relied upon, the relevant Officer must provide a report to the responsible decision maker as soon as practicably possible.

4. FINANCIAL PLANNING AND BUDGET APPROVAL

- 4.1 In accordance with the timetable and format determined by the Chief Financial Officer, Heads of Department will prepare:
 - 4.1.1 Detailed revised estimates of income and expenditure of revenue accounts for the current financial year
 - 4.1.2 Detailed revised estimates of expenditure on capital projects for the current financial year
 - 4.1.3 Detailed forecasts of expenditure on capital projects for the forthcoming financial years, the number of which is to be determined by Cabinet.
 - 4.1.4 Detailed forecasts of income and expenditure of revenue budgets for the forthcoming financial years, the number of which to be determined by Cabinet.

- 4.2** The information prepared by the Heads of Department will be collated and checked by the Chief Financial Officer.
- 4.3** Each financial year, and in accordance with the agreed Financial Strategy / Forecast determined in accordance with the Budget and Policy Framework Procedure Rule 3, the Chief Financial Officer will submit to Management Team for their consideration:
- 4.3.1** A forecast of net revenue expenditure for the forthcoming year(s);
 - 4.3.2** A forecast of capital expenditure for the forthcoming year(s) together with known and anticipated funding streams. All such schemes must be in accordance with the Council's approved Capital Strategy and will have been subjected to an investment appraisal in accordance with the Prudential Code and will only be included if it can be demonstrated that the investment is prudent and within affordable and sustainable levels;
 - 4.3.3** The forecast position of the Council's Reserves over the period of the forecast;
 - 4.3.4** The Council Tax rate for the forthcoming financial year(s) resulting from the proposals;
 - 4.3.5** Initial draft revised prudential indicators for the current year and the following 3 years based on the draft capital programme.
 - 4.3.6** Any other information required in accordance with the Financial Strategy / Forecast agreed for the year in question.
- 4.4** Management Team will then, in the light of the Chief Financial Officer submission in 4.3 above, and in accordance with the Budget and Policy Framework Procedure Rule 3, make recommendations to the Cabinet setting out proposed draft budgets.
- 4.5** The Cabinet will, in accordance with the Budget and Policy Framework Procedure Rule 3, draw up firm proposals for consideration by the Council.
- 4.6** In submitting the budget to the Council the Cabinet may attach a reservation to any item and, subject to the approval of the Council, no avoidable expenditure shall be incurred in respect of any such item until the Council has withdrawn the reservation.

5. AUTHORITY TO INCUR EXPENDITURE

In relation to all expenditure both revenue and capital, however funded, and in accordance with delegated powers part 3.19 no. 13 and part 3.75 no. 6 an approved scheme is one where there is:-

- (a) Provision of a service consistent with an historic nature and level that is, and has in prior years, been specifically allocated and defined within the ongoing base Budget;

(Cream)

- (b) Any change to a service set out in 1 above where the appropriate authority to the change has been obtained in accordance with delegated powers;
- (c) Otherwise, a scheme that has the necessary approval from Council, Cabinet, Portfolio Holder or Officer in accordance with delegated powers.

For any expenditure to be incurred the necessary budget must also be in place. Where the necessary budget is not in place then amendments to the budget agreed by Council can only be made in accordance with section 6 below.

6. CHANGES TO BUDGETS AFTER APPROVAL BY COUNCIL

6.1 Supplementary estimates

- 6.1.1 A supplementary estimate will increase the Council's net expenditure and will, if it relates to revenue expenditure, result in a reduction in the Council's reserves. If it relates to capital expenditure it will either increase the Council's use of capital receipts, increase the amount needed to be borrowed or, as in the case of revenue expenditure, reduce the Council's reserves. Therefore a supplementary estimate is needed in all cases of increased overall net expenditure, whether capital or revenue.
- 6.1.2 A supplementary estimate should not normally be considered unless the matter is essential and unavoidable and all other options for applying a virement have been considered.
- 6.1.3 Once the Council Tax for any financial year is set any subsequent increase in items (a) to (d) for that same year will require a supplementary estimate. This does not have to be approved before a commitment is made, if in the opinion of the Chief Financial Officer, the matter is urgent. The Chief Financial Officer shall report any increase in the Council's overall net expenditure to the Cabinet at the earliest opportunity and recommend to Cabinet whether the increased expenditure should be financed by virement or supplementary estimate. If the supplementary estimate is outside the scope of the Cabinet's authority as set out in 5.4.5 below appropriate recommendations will be made to Council.
 - (a) Salaries, wages and pensions increases arising from nationally negotiated decisions, and variations in contributions under the National Insurance and Superannuation Acts;
 - (b) Price increases in connection with continuing contracts for revenue services where, in the opinion of the Chief Financial Officer, such increases are reasonable;
 - (c) Reductions in the amount of income from government, local or public authority sources;
 - (d) Interest rates or other similar financing factors;

6.1.4 No specific supplementary estimate approval is required at any time for the following:

- (a) Expenditure which is being funded entirely by income received under section 106 agreements and held in the section 106 receipts in advance holding account where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) Debt written off for which specific provision was made in the Council's bad debt provision at the end of the previous financial year.
- (c) Expenditure on a specific activity that has previously been approved in accordance with the Council's constitution and for which the funding of that expenditure in future years has been placed in a dedicated earmarked reserve, and the expenditure is to be financed by the use of that reserve. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (d) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years.

6.1.5 A supplementary estimate can be approved as follows:

- (a) **Finance and Revenues and Benefits Portfolio Holder** may approve a supplementary estimate of any single item (revenue or capital) up to £50,000 subject to a maximum aggregate value of £150,000 for such single items in any one financial year and providing any single supplementary estimate does not cause the total of supplementary estimates approved by the Finance and Revenues and Benefits Portfolio Holder and Cabinet to exceed £1,000,000 for General Fund Services (capital or revenue) (or £1,000,000 in respect of the Housing Revenue Account (capital or revenue) for the financial year concerned.
- (b) **Cabinet** may approve a supplementary estimate of any single item (revenue or capital) up to £500,000 subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and Finance and Revenues and Benefits Portfolio Holder to exceed £1,000,000 for General Fund Services (capital or revenue) (or £1,000,000 in respect of the Housing Revenue Account (capital or revenue)-for the financial year concerned.
- (c) **Council** may approve a supplementary estimate up to any amount for General Fund or Housing Revenue Account. However Council must be advised if any decision is likely to result in the Council's agreed minimum working balance not being maintained for the current financial year and the length of the Council's approved financial strategy. In the case of the Housing Revenue Account, Council must be advised if any decision is

likely to result in the Revenue Account balance being in deficit over the same period.

- 6.1.6** Where a Head of Department wishes to apply for a supplementary estimate a report shall be made, following consultation with the Chief Financial Officer, to Management Team. Management Team will then make a recommendation where appropriate to the Finance and Revenues and Benefits Portfolio Holder or Cabinet. Cabinet must recommend any request for a supplementary estimate that requires the approval of Council to Council.

6.2 Negative Supplementary Estimates

A negative supplementary estimate (having the effect of reducing an otherwise available budget) with the specific purpose of reducing the Council's net expenditure may be approved based on the same limits set out in 6.1.5 above.

6.3 Virements

- 6.3.1** A virement, unlike a supplementary estimate, will not increase the Council's overall net expenditure. However to ensure that the budget, functions and service levels approved by council are not compromised virements can only be undertaken under the following conditions.

- 6.3.2** Virement rules do not need to be followed in the following circumstances but a scheme will still need to be approved including agreement of what is to be delivered:-

- (a) Where expenditure is being funded entirely by income received under section 106 agreements and that income has been received and accounted for in the current financial year and where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years. In these circumstances the Chief Financial Officer must agree the expenditure and the financing.

If there are additional costs to the Council then that expenditure must be financed in accordance with these Financial Procedure Rules

- (c) Subject to the agreement of the Chief Financial Officer:
 - (i) Where a decision requires an amendment to the budgetary analysis within the Council's financial information system in order that the

Council's accounts can properly reflect the financial transactions of that decision.

- (ii) Where the budgetary analysis within the Council's financial information system needs to be amended in order to comply with required accounting standards or to properly reflect the costs of an activity or function.

6.3.3 Virement rules are required to be followed in the following circumstances:

- (a) The transfer of a sum from one estimate to another, which can be within or between services
- (b) Where an expenditure estimate is to be increased and offset by a known increase in an income estimate including fees and charges.
- (c) Where reduced income is to be offset by a sustainable reduction in expenditure.

6.3.4 The conditions for a virement are:

All virements must be made within the terms and limits prescribed in these Financial Procedure Rules (see 6.3.5):

- (a) Subject to (b) to (h) below a Head of Department can apply a virement provided that the department is able to ensure that:
 - (i) Overall, the minimum agreed level of service would still be provided
 - (ii) The net service cost will be contained within the overall approved budget and the Council's overall costs will not be increased
 - (iii) There are no additional budgetary implications in future years
 - (iv) The service being provided is within the Council's approved policy
- (b) All virements between **revenue and capital budgets** must be as set out
- (c) A virement cannot be made where the proposed expenditure or reduction in income relates to an item which has **previously been considered** and been rejected by the Council, the Cabinet or responsible portfolio holder.
- (d) Where a virement is proposed and the expenditure is in respect of an item not provided for within an approved budgeted service level, but can be met by fortuitous savings (such as from a tendering process or against growth items identified in the Financial Strategy / Forecast), such expenditure if in excess of £15,000, shall be referred to Cabinet for

approval. This excludes savings from minor restructuring. In respect of savings against Financial Strategy \ Forecast Growth Items, the limit will apply to the aggregated value of all requested virements from such budgets.

- (e) Cabinet must approve all virements, which are likely to result in a further and/or additional burden on future years' Council tax and revenues.
 - (f) Where significant virements are necessary, it is NOT acceptable to disaggregate the total sum into a number of smaller virements so that these smaller sums fall within the rules/limits of these Financial Procedure Rules. The limits will apply to the aggregated value of the transfer to or from any one estimate.
- (a) **From employee costs to temporary agency staff estimates**

Virement Value	Approval Required
Not more than £15,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	Chief Financial Officer
Over £15,000 but not more than £30,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	The Chief Financial Officer with the approval of the Management Team and Finance and Revenues and Benefits Portfolio Holder.
Over £30,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	The Chief Financial Officer with the approval of the Management Team, Finance and Revenues and Benefits Portfolio Holder and Cabinet.

(b) **Transfers within an approved estimate**

Virement Value	Approval Required
No limit	The Head of Department providing the expenditure does not impose an ongoing commitment on the Council, which has not already been approved and budgeted for.

(c) **General Fund Revenue and HRA (excluding Employees)**

Virement Value	Approval Required
Not more than £15,000	The Head of Department.
Over £15,000 but not more than £30,000	The Head of Department, with the approval of the Management Team together with the Portfolio Holder(s) and/or Committee(s)
Over £30,000 but not more than £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and the Finance and Revenues and Benefits Portfolio Holder
Over £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and Cabinet

(d) **General Fund Capital schemes**

Virement Value	Approval Required
Not more than £15,000	The Head of Department.
Over £15,000 but not more than £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and the Finance and Revenues and Benefits Portfolio Holder.
Over £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and Cabinet.

(e) **Housing Revenue Account Capital Schemes**

Virement Value	Approval Required
Not more than £100,000	Corporate Director (Operational Services), provided that the total Capital Scheme allocation as approved is not exceeded and provided the Chief Financial Officer advises that no increase to Housing Revenue Account costs results.

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Over £100,000	Housing Portfolio Holder provided the total HIP allocation as approved is not exceeded and provided the Head of Finance, Revenues and Benefits Services advises that no increase to Housing Revenue Account and General Fund revenue costs results.
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(f) **Between Capital and Revenue**

Virement Value	Approval
(i). Increase in an approved Capital budget. which is to be financed by a virement from an existing revenue budget.	<p>a) When the increase in the cost of the project is a supplementary estimate and must be agreed in accordance with these Financial Procedure Rules.</p> <p>b) When the financing from an existing revenue budget is a virement between the revenue financing of capital expenditure budget and the revenue budget which is being reduced and normal virement rules as set out in these Financial Procedure Rules are to apply. In these circumstances the Head of Finance, Revenues and Benefits Services must agree the expenditure and the financing.</p>

Virement Value	Approval
(ii). Increase in an approved capital budget which is to be financed by an increase in borrowing or use of capital receipts	This is a supplementary estimate, which must be agreed in accordance with these Financial Procedure Rules
(iii). Increase in an approved revenue budget, which is to be financed by a reduction in an approved capital budget which results in a reduction in the revenue financing of capital expenditure sufficient to meet the entire increase in the revenue budget.	This is a virement between the revenue financing of capital expenditure budget and the revenue budget, which is being increased, and normal virement rules as set out in these Financial Procedure Rules are to apply. In these circumstances the Head of Finance, Revenues and Benefits Services must agree the expenditure and the financing.
If none of the above circumstances set out in (i), (ii) and (iii) above apply.	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.

Irrespective of the above in all cases where there is a increase to the General Fund revenue costs	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.
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- 6.4 The Chief Financial Officer shall ensure that all virements comply with these Financial Procedure Rules and will amend the Council's financial information systems as appropriate.
- 6.5 The Chief Financial Officer will maintain an up-to-date record of all virements and supplementary estimates that have been actioned to date and make this available to the Finance and Revenues and Benefits Portfolio Holder on request.

7. FINANCIAL MANAGEMENT OF BUDGETS DURING THE YEAR

- 7.1 Once the Council has approved the budget, officers to whom authority has been delegated, may incur expenditure within the amount provided under each head of estimate as varied by any supplementary estimate or virement approved under these Financial Procedure Rules provided that:
 - (a) The matter is not one to which the Cabinet has attached a reservation
 - (b) Where appropriate any necessary external consent has been obtained.
 - (c) Procurement Procedure Rules have been complied with
- 7.2 Responsibility for the control of capital and revenue expenditure (including the award of grants) and income for a service or function shall rest with the appropriate Head of Department. Each Head of Department shall notify the Chief Financial Officer of any actual or prospective overspending of expenditure or shortfall in income in excess of the budget which cannot be met by virement as set out in these Financial Procedure Rules.
- 7.3 The Chief Financial Officer has a duty under Section 28 of the Local Government Act 2003 to monitor budgets and the underlying assumptions formulating the budget throughout the year. Where an approved expenditure budget is likely to be overspent or there is likely to be a shortfall in an income budget the Chief Financial Officer shall ensure that corrective action is taken. In exercising this duty the Chief Financial Officer may, irrespective of section 6.2, above examine all budgets and seek explanations from Heads of Department as necessary. The Head of Department shall provide the Chief Financial Officer with any information and explanation requested
- 7.4 The Chief Financial Officer shall provide Heads of Department with adequate and timely accounting information and reports, in appropriate detail, to enable those Heads of Department to carry out budgetary control of their budgets.

- 7.5 The Chief Financial Officer shall determine the level and detail at which budgets and financial management reports are maintained for use by officers and for reporting to Members.
- 7.6 The Chief Financial Officer shall in conjunction with the Management Team ensure that Portfolio Holders, Cabinet and the Council are fully informed of the Council's financial position.

8. FINAL ACCOUNTS, OUT-TURN REPORT AND STATEMENT OF ACCOUNTS

- 8.1 An Outturn Report for the previous financial year will be prepared by the Chief Financial Officer, in respect of revenue and capital items (including Housing), in accordance with the timetable necessary to produce the Statement of Accounts by the statutory deadline. The outturn report will seek Cabinet approval for
 - 8.1.1 Any transfers to and from reserves.
 - 8.1.2 The funding treatment of capital expenditure and the treatment of capital receipts.
 - 8.1.3 The carrying forward of capital slippage and revenue commitment sums (and the consequential amendments to budgets) in respect of any unspent monies in one year to a later year or to reserves.
 - 8.1.4 The carrying forward of overspent sums in respect of Capital projects and revenue budgets that will be financed by a reduction in the following years budget (and the consequential amendments to budgets) in respect of any overspent monies in one year to a later year or to be financed from reserves.
- 8.2 The Chief Financial Officer will prepare the Council's Statement of Accounts in accordance with statutory requirements and will incorporate all decisions approved by the Cabinet in 7.1 above.
- 8.3 All Heads of Department shall supply the Chief Financial Officer with accurate and timely information as may be required for the compilation of the final and other accounts and matters incidental thereto to enable the above requirements to be achieved. That information shall be supplied in a format specified by the Chief Financial Officer.

9. FINANCIAL ADMINISTRATION

9.1 Internal Audit

- 9.1.1 The designated Head of Internal Audit is the Council's officer for the purposes of compliance with statutory Section 151 responsibilities in respect of Internal Audit along with any other relevant regulations or standards.

- 9.1.2 The designated Head of Internal Audit shall ensure that independent internal audit staff examine and audit the expenditure, income and property and other assets of the Council and its officers. To enable the designated Head of Internal Audit to achieve this, Internal Audit shall have the right of entry to all establishments and the right to examine all records, cash, stores and other properties belonging to or appertaining to the finances of the Council and to carry out such checks and require and receive such explanations as considered necessary.
- 9.1.3 Following completion of each audit a written report shall be submitted to the Head of Department, who must determine and notify the designated Head of Internal Audit of the action they propose to take.
- 9.1.4 In planning the conduct of these audits the designated Head of Internal Audit shall arrange, as far as possible, for the views of the Head of Department to be taken into account.
- 9.1.5 Heads of Department **must** report **any financial irregularity or suspected irregularity**, including those affecting cash, stores or property to the designated Head of Internal Audit **immediately the irregularity or suspected irregularity becomes known**.

9.2 Accounting Arrangements

- 9.2.1 The Chief Financial Officer shall determine, provide, and manage the Council's Financial Information System.
- 9.2.2 All financial returns to Government, the Council's Statement of Accounts and all budget monitoring reports will be prepared from the information in the Council's Financial Information System or such other system that the Chief Financial Officer has agreed can be used to provide the information.
- 9.2.3 Each Head of Department is required to obtain the approval of the Chief Financial Officer for all accounting procedures and records that are proposed. This shall include any computer-based systems that store, utilise or process any financial information and must be capable of interfacing and/or integrating with the Council's Financial Information System.
- 9.2.4 All Heads of Department shall ensure that their approved accounting procedures and records are reconciled to the Council's Financial Information System and that adequate records are maintained to demonstrate this.
- 9.2.5 In this respect each Head of Department shall provide the Chief Financial Officer with details of all authorised officers within their department, setting out matters that those officers are authorised to deal with and, where appropriate, the financial limits and shall notify the Chief Financial Officer of those officers' appointment or departure.

- 9.2.6 Any officer having in their charge money, equipment, stores or other property for which they are accountable to the Council shall take all reasonable precautions for its safe custody and proper use.

9.3 Responsibilities for Computer System Legislation

- 9.3.1 All Heads of Department whose services utilise computer installations and software shall be responsible for the security and privacy of all data held in those installations, and for ensuring compliance with all relevant legislation in respect of the licensing and use of that software. This includes taking all necessary action to safeguard against computer viruses or other form of data corruption.
- 9.3.2 Heads of Department shall also ensure that all necessary registrations are made under the Data Protection Act and that those registrations are regularly monitored and updated where necessary. Staff shall also be reminded of their individual responsibilities under this Act and the Freedom of Information Act.
- 9.3.3 Similarly, each Head of Department shall ensure that all other relevant computer system legislation is complied with, in particular copyright and patents acts concerning the use of software, scanners and other electronic storage means, for which the appropriate (licence) fee has not been paid, and the Computer Misuse Act.

9.4 Orders for Work, Goods and Services

- 9.4.1 All official orders and associated documents shall bear the name and logo of Tendring District Council and shall be in an agreed standard format and produced by the approved ordering system. They shall be issued only by Heads of Department and their authorised staff and be in accordance with these Financial Procedure Rules and the Procurement Procedure Rules.

9.5 Certification and Payment of Invoices

- 9.5.1 Invoices for payment by the Council shall not be made out by any officer of the Council, other than in circumstances agreed in advance with the Chief Financial Officer, nor shall an officer add any item to an invoice rendered by a supplier.
- 9.5.2 The reasons for any amendment to an invoice shall be recorded and retained in a safe and secure manner in accordance with the directions issued by the Chief Financial Officer.
- 9.5.3 Any Head of Department who issues an order shall be responsible for ensuring the examination, verification and certification of the relative invoice(s), except in circumstances as determined by the Chief Financial Officer, and for correctly and promptly recording on the Council's approved ordering system the receipt of goods, works, or services.

- 9.5.4** Before certifying an invoice the certifying officer must be satisfied, within the tolerances specified by the Chief Financial Officer, that:
- (a) The invoice conforms with the official order
 - (b) That the goods have been received, examined and approved for quality and quantity and that any services have been rendered or any work done satisfactorily and receipted on the approved order system.
 - (c) That the prices charged are correct
 - (d) That the expenditure is, to the best of the certifying officer's belief, lawful and has been duly authorised
 - (e) That no invoice for the same goods, service or work has previously been passed for payment
 - (f) The invoice is arithmetically correct
 - (g) That the expenditure has been properly analysed to the appropriate accounting code(s)
 - (h) That the allocation of VAT has been correctly made
 - (i) That the expenditure can be financed from within the appropriate approved estimate

Where a grant has been approved, the above should be followed by the certifying officer where appropriate.

- 9.5.5** It is the responsibility of a Head of Department receiving goods or materials to ensure that appropriate entries are made in inventories, stores or other records.
- 9.5.6** Wherever practicable the respective duties of ordering, receiving and certifying the relevant invoices for payment of goods, services or work shall not be performed by one and the same officer, and in no case shall an invoice be finally certified for payment by an officer assuming personal control over the goods, works or services to which the invoice relates.
- 9.5.7** The Chief Financial Officer shall examine, so far as he/she considers necessary, invoices passed for payment and shall make all such enquiries and receive all such information and explanations, as shall be required.
- 9.5.8** All Heads of Department shall ensure that the Council's prompt payment of invoice are met.

9.6 Income

- 9.6.1** All arrangements for the collection of monies due to the Council and the issuing of debtor invoices shall be as directed by the Chief Financial Officer.
- 9.6.2** All monies received shall, without delay, either be paid in as instructed by the Chief Financial Officer be banked in the Council's name to the bank accounts designated by the Chief Financial Officer.
- 9.6.3** Heads of Department must ensure that where an invoice is to be issued for sums due to the Council, that the invoice is issued immediately the sum due is known. Where a large sum is likely to be due, interim invoices are to be issued.
- 9.6.4** Where an invoice is to be issued the Head of Department issuing the invoice must ensure that the invoice is correct and the sum demanded is properly due to the Council and meets all legal obligations especially those required to enforce non-payment if such circumstances arise.
- 9.6.5** Each officer who banks money to the credit of the Council's bank account shall enter on the paying-in slip, and on the duplicate thereof, particulars of the payment. In the case of each cheque paid in he/she shall record:-
- (a) The amount of the cheque
 - (b) A reference which shall connect the cheque with the debt or debts in respect of which it was received
- 9.6.6** Where monies are due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements entered into which involve the receipt of money by the Council, the Head of Department shall provide the Chief Financial Officer with all relevant particulars, as soon as possible.
- 9.6.7** Each Head of Department who, under arrangements approved by the Chief Financial Officer, is responsible for the collection or recovery of sums due to the Council shall take prompt action to expedite collection. This action shall comply with the Council's debt recovery procedures as determined and directed by the Chief Financial Officer.
- 9.6.8** Official receipt forms, receipt books, tickets and other documents of a similar nature used to collect revenue due to the Council shall be in a format approved by the Chief Financial Officer.
- 9.6.9** Heads of Department stocking such stationery shall ensure that appropriate security is maintained at all times.
- 9.6.10** Each officer authorised to receive monies on behalf of the Council shall do so only on official receipt forms, tickets or other documents of a similar nature as approved by the Chief Financial Officer, except in respect of payments by

cheque or drafts where no receipt is requested, or for payments received by the Head of Governance and Legal Services for which he/she is satisfied it is appropriate to give a receipt otherwise than in the official form.

9.6.11 Money received shall not be used to cash personal or any other cheques whatsoever except where, due to exceptional circumstances, the Chief Financial Officer has given prior approval.

9.6.12 Where payment is made to the Council by debit or credit card the Head of Department accepting payment must ensure that all sums due to the Council by the Credit Card or Debit Card Company is received in full by the Council and reconciled.

9.7 Remuneration, Gratuities and Allowances

9.7.1 Heads of Department shall provide the Chief Financial Officer with all appropriate details to enable the payment of all salaries, wages, compensation, gratuities and other emoluments in respect of employees or former employees.

(a) The Head of People, Performance & Projects must notify the Chief Financial Officer immediately of all appointments, dismissals, resignations, suspensions, transfers and changes in the rate of remuneration of employees (other than normal increments).

(b) Heads of Department shall notify the Chief Financial Officer of all overtime or additional hours worked for which payment is to be made and all absences through sickness or other absences affecting the payment due to employees.

(c) Claims for travelling and Subsistence allowances shall be assessed monthly by Heads of Department who, within four working days of the end of each month shall notify the Chief Financial Officer of amounts due to be paid.

(d) Each Head of Department shall notify the Chief Financial Officer of the names and specimen signatures of those officers who are authorised to certify salaries, wages and allowances documents.

9.7.2 The Chief Financial Officer shall examine, so far as he/she considers necessary, all claims for payment of salaries, wages or allowances and subject to that examination, shall make all such payments which are certified by the appropriate Head of Department or other officer authorised by them in writing or in an electronic format approved by the Chief Financial Officer.

9.8 Petty Cash and Other Imprest Accounts

9.8.1 The Chief Financial Officer shall make imprest advances to Heads of Department, where appropriate, for the purpose of defraying petty expenses.

The use of any alternative means of meeting expenses shall be agreed, in advance, with the Chief Financial Officer.

- 9.8.2** The amount of each advance and the system of operation shall be determined in consultation between the Head of Department and the Chief Financial Officer.
- 9.8.3** Whenever an Officer leaves the employment of the Council or ceases to be entitled to hold an imprest advance he/she shall account to the Chief Financial Officer for the unexpended balance of their advance.
- 9.8.4** All procurements made using a petty cash imprest shall be in accordance with the Procurement Procedure Rules. All procurements must be evidenced by the production, and retention with the petty cash imprest records, of a valid receipt. Where VAT is to be accounted for a valid VAT receipt shall be obtained.

10. WRITE-OFFS OF SUMS DUE TO THE COUNCIL

- 10.1** The Council has a duty to collect all sums due to it. However there are occasions when it is not possible or cost effective to proceed with recovery of the debt. In these cases the debt needs to be written off and the following conditions, delegations, and limits apply. The Head of Department must be reasonably satisfied that recovery action / options have been 'exhausted' before proceeding to seek a write off of any debt.
- 10.2** Where a debt has been raised in error or is incorrectly calculated then the debt should be either reduced or cancelled by the issue of a credit note or similar reversal of the original charge. Such reversal must be authorised by a responsible officer other than the one who raised the original debt.
- 10.3** All write-offs of debt must be set against the budget to which the original income was credited or an appropriate provision if one has been made.
- 10.4** If the write-off will result in that income budget not being achieved the Head of Department must advise the Chief Financial Officer immediately.
- 10.5** That part of any debt written off, for which provision has been made in the Council's bad debt provision at the end of the previous financial year can be written off without further action as set out in 5.4.4 (b) of these financial procedure rules
- 10.6** If the Chief Financial Officer advises that the whole or part of the debt was not included in the Council's bad debt provision at the end of the previous financial year then the Head of Department must apply a virement or seek a supplementary estimate in accordance with section 5 of these Financial Procedure Rules to finance that part of the debt not provided for within that provision.

10.7 The authority to write off debts is delegated by the Council as follows:

Item For Potential Write Off	Authority To Write Off Delegated To
<p>Debt due to the Council where the amount owing is a Council Tax, or NNDR, <u>Housing Benefit or Rent</u> debt which is either:-</p> <ol style="list-style-type: none"> 1. A ceased account and the debt is equal to the amount charged as summons costs making the debt uneconomical to collect, or 2. Not a ceased account but the amount owing is less than the cost of second class postage 3. The debt due to the Council is Housing Benefit and the amount owing is less than £10 <p><i>In respect of 1. and 3. above, there should be no other 'live' Council Tax or NNDR account in the name of the specific debtor.</i></p>	<p><u>Relevant</u> Corporate Director (Operational Services)</p>

Item For Potential Write Off	Authority To Write Off Delegated To
<p>Specific <u>Debtors</u> where :-</p> <ol style="list-style-type: none"> (a) There is a personal bankruptcy, company insolvency, Individual/ Company Voluntary Arrangement or a Debt Relief Order. (b) The <u>Recovery Enforcement Agent</u> Bailiff has been unable to obtain payment and has returned the debt as "nulla bona" <u>and insufficient assets to satisfy the debt.</u> (c) The company has been struck off by Companies House. (d) The death of a debtor who dies insolvent and the claim against the estate has been made. (e) Death of a debtor who has died with 	<p>The Chief Financial Officer on receipt of a written report from the appropriate Head(s) of Department.</p> <p>Where joint / several liability applies to any of the criteria listed, the criteria applied must be applicable to all parties.</p>

<p>no executor with whom to register a claim.</p> <p>(f) Council Tax Debts – Removal outside the jurisdiction of the Magistrates Courts of the debtor.</p> <p>(g) All other debts – Removal outside the UK of the debtor.</p> <p>(h) The remission of debts by the Magistrates or other court.</p> <p>(i) The committal to prison of the debtor in respect of the non-payment of the debt or associated debt.</p> <p>(j) The abscondment of a debtor where a tracing or other appropriate agency has failed to make a trace.</p>	
<p>ANY OTHER DEBTS</p>	
<p>Individual debts not exceeding £2,000 <u>£5,000</u></p>	<p>The Chief Financial Officer on receipt of a written report from the appropriate Head(s) of Department which should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council.</p>
<p>Individual debts exceeding £2,000 <u>£5,000</u> but below £25,000</p>	<p>The Finance and Revenues and Benefits Portfolio Holder on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Head of Governance and Legal Services which should include a recommendation as to how the write-off will be financed and should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council.</p>
<p>Individual Debts of £25,000 and above</p>	<p>The Cabinet on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Head of Governance and Legal Services which should include a recommendation as to how the write-off will</p>

	be financed and should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council.
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11. INSURANCE

- 11.1 The Chief Financial Officer shall be responsible for the provision of the Council's insurances. This shall include authority to accept annual renewal terms from the appointed insurer subject to such terms being within the terms of the original contract and the approved budget available. Heads of Department shall be responsible for providing the Chief Financial Officer with all necessary information to do this in the most effective manner.
- 11.2 Each Head of Department shall give prompt notification to the Chief Financial Officer of all new risks, properties or vehicles which require to be insured, and of any alterations affecting existing insurances, indicating the amount or variation in cover required.
- 11.3 Each Head of Department shall also notify the Chief Financial Officer of any other risk which in their opinion should be included within the Council's insurance cover arrangements.
- 11.4 Heads of Department shall, as soon as they become aware of such circumstances, notify the Chief Financial Officer in writing of any claim or likely claim. Heads of Department shall not admit any liability or take any action that may commit the Council or its insurers in respect of any potential or actual claim.
- 11.5 Each Head of Department shall consult the Head of Governance and Legal Services regarding the terms of any indemnity which the Council has been requested to give before authority is sought for the giving of the indemnity.
- 11.6 Each Head of Department shall consult the Chief Financial Officer in any case where, in their opinion, the nature or situation of any equipment, stores or other property for which they are accountable to the Council requires the provision of special security arrangements.
- 11.7 The Chief Financial Officer shall, periodically, provide Heads of Department with full details of the risks insured by the Council so that they may check and review the items for which they are responsible.

12. INVENTORIES STOCKS AND STORES

- 12.1 Inventories shall be properly maintained by Heads of Department to record appropriate items in the possession of the Council regardless of whether an item has been leased, rented, borrowed or purchased.

- 12.1.1** All assets of the Council shall be recorded in inventories or registers maintained by Heads of Department in a form approved by the Chief Financial Officer and in accordance with procedures agreed with him/her.
- 12.1.2** Separate registers will be maintained by the Director of Corporate Services for:
- (a) Land and Buildings
 - (b) IT equipment
- 12.1.3** The level or value of items to be listed shall be determined by each Head of Department in consultation with the Chief Financial Officer.
- 12.1.4** Heads of Department are responsible for the checking and certifying of inventories within their control at least once a year to ensure the security of all property under the Council's control.
- 12.1.5** The Council's property, equipment and other facilities shall not be removed other than in the ordinary course of the Council's business nor shall they be used for any other purpose. Heads of Department should ensure that where equipment is removed from Council premises to be used for work purposes elsewhere, including officers' homes, that an appropriate record is maintained of such movements and that adequate insurance cover exists (including whilst in transit).
- 12.1.6** Heads of Department shall ensure that a record is maintained, in a format approved by the Chief Financial Officer, of all items written off. This record shall detail date, description, reason and include appropriate authorisation.
- 12.2** Where appropriate a Head of Department shall notify the Chief Financial Officer of any acquisition, disposal or change of an item, which is included in the Authority's balance sheet or where changes in the Council's insurance cover may be necessary.
- 12.3 Stocks And Stores**
- 12.3.1** All records of stocks and stores shall be in a form approved by the Chief Financial Officer.
- 12.3.2** Procedures for the receipt and issue of stocks and stores shall be approved by the Chief Financial Officer.
- 12.3.3** Each Head of Department shall be responsible for the custody and physical control of all stocks and stores under their control.
- 12.3.4** Each Head of Department shall arrange for continuous stock checking of stocks in hand and shall ensure that all items of stocks are checked at least once in every financial year.
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- 12.3.5** Each Head of Department shall furnish the Chief Financial Officer with a certificate showing the value of stock and stores in hand under their control as at 31 March in each year in accordance with the timetable necessary to produce the Statement of Accounts by the statutory deadline.
- 12.3.6** The relevant Corporate Director is authorised to approve the write off of an inventory item and adjusting stocks and stores accounts up to £250 in respect of any one item or £1,250 per annum in consultation with the Chief Financial Officer.

12.4 Disposal of Stocks and Stores and Items owned or managed by the Council

- 12.4.1** Where a Head of Department identifies items of equipment on an inventory or stocks or stores no longer required and they are satisfied that the items/stores are of no use to other Heads of Department then they shall arrange for disposal which can include being offered for sale to staff / Council Members where the sale is based on the highest price offered.

Only then:

If the total estimated value of the items is in excess of £1,000 then disposal shall be by means of public auction or open tender

- 12.4.2** Whatever method of disposal is applied, where the value of the items to be disposed of needs to be written from the accounts, the cost shall be allocated to a separately identifiable write-off code provided by the Chief Financial Officer.
- 12.4.3** Income from any disposal shall similarly be identifiable using a code provided by the Chief Financial Officer

- 12.5** Where there is a net cost of disposal the Head of Department must finance the cost by virement or supplementary estimate in accordance with these Financial Procedure Rules.

13. BANKING ARRANGEMENTS

- 13.1** Only the Chief Financial Officer shall be authorised to open bank accounts for monies under the control of the Council and these shall be in the name of the Council. Day to day operation of bank accounts shall be determined by the Chief Financial Officer.
- 13.2** The conduct of the Council's business with their bankers shall be made by, or under arrangements approved by, the Chief Financial Officer.

- 13.2.1 A bank account or accounts shall be maintained by the Council into which all monies received by the Council shall be paid. Withdrawals from these accounts and transfers from one account to another shall be made only on the authority of the Chief Financial Officer or other officer authorised by him/her in writing.
- 13.2.2 Payments made on the Council's behalf shall be made using BACS transfers wherever possible or otherwise by crossed cheques. The Chief Financial Officer, or other officer authorised by him/her in writing, may make alternative arrangements where they consider it necessary or appropriate, in the interest of the Council.
- 13.2.3 ~~Cheques drawn on banking accounts of the Council shall bear the pre-printed signature of the Chief Financial Officer.~~
- 13.2.4 Manual signatures of the Chief Financial Officer, or other officers authorised by him/her in writing, shall be required in accordance with arrangements determined by the Chief Financial Officer

14. INVESTMENTS, LOANS AND BORROWING

- 14.1 The Council has adopted the CIPFA Treasury Management in Public Services Code of Practice (The Code) 2009.
 - 14.1.1 All securities in the name of the Council and the title deeds of all property in the ownership of the Council shall be held in the custody of the Property Service
 - 14.1.2 This Council will create and maintain, as the cornerstones for effective treasury management:-
 - (a) A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
 - (b) Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
 - 14.1.3 The contents of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.
 - 14.2 The Council will receive reports on its treasury management policies, practices and activities as follows:-
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- 14.2.1** Each year in accordance with statutory requirements and before the start of the forthcoming year Full Council will, following a recommendation by Cabinet and consideration by Corporate Management Scrutiny Committee, approve an Annual Treasury Strategy for the forthcoming year. The Annual Treasury Strategy will include an investment strategy and a borrowing strategy. The investment strategy will include a schedule of those instruments the Council will consider using for investments in the forthcoming financial year. The borrowing strategy will include a statement of the anticipated borrowing requirement for the following financial year. The Annual Treasury Strategy will also include the prudential and treasury indicators for the forthcoming year and at least the subsequent 2 years.
- 14.2.2** The Annual Treasury Strategy will be reviewed as necessary throughout the year. As a minimum the Chief Financial Officer will review the strategy as at the end of September and report the findings of that review to Cabinet, which may at its discretion, forward the report to Council.
- 14.2.3** The Chief Financial Officer will report to Cabinet at the earliest opportunity after 31 March in any year on the Council's Treasury Management performance and activities in the preceding financial year.
- 14.2.4** The Chief Financial Officer will report during the course of the financial year on the Council's Treasury Management performance and activities. Such reports to be considered by Cabinet and the Corporate Management Scrutiny Committee.
- 14.3** The Chief Financial Officer shall, in accordance with the Council's TMPs and the Council's approved Annual Treasury Strategy, be authorised to
- (a) Borrow sums of money.
 - (b) Reschedule or restructure the existing debt portfolio.
 - (c) Invest surplus funds.
 - (d) Determine those counterparties and countries that meet the Council's credit rating criteria.
 - (e) Determine the money brokers the Council will use for temporary borrowing and investment and long term borrowing.
 - (f) Amend as necessary and in accordance with the Council's Treasury Management Practices those schedules set out therein.
 - (g) Take urgent action to safeguard the Council's investments, including where necessary temporarily breaching the conditions set out in the TMP's. The Finance and Revenues and Benefits Portfolio Holder is to be advised of the action taken as soon as practicable.
- 14.4** The execution and administration of treasury management decisions is the responsibility of the Chief Financial Officer, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
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15. LAND AND PROPERTY TRANSACTIONS

- 15.1 All land and property transactions must be undertaken in accordance with the Council's **Property Dealing Procedure**.
- 15.2 Any amendments to the **Property Dealing Procedure** will be made by Full Council as constitutional amendments.

16. EXTERNAL FUNDING

- 16.1 External funding refers to applications to external organisations, including Government departments and agencies for the funding of expenditure. The expenditure may be for the Council's own services or for those services provided in partnership with other public bodies, voluntary sector bodies or private sector organisations.
- 16.2 In any partnership arrangement the Chief Financial Officer must ensure that there are adequate controls in place in respect of the Council's own financial liabilities to the partnership and that there are adequate controls in place for the partnership itself.
- 16.3 Any application for external funding to finance or contribute to the financing of a function, investment or activity for which the Council is either the sole provider or is the accountable body must be approved by Management Team following consultation with the Chief Financial Officer to ensure the external funding being sought is in accordance with the Council's priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.
- 16.4 When making application for payment of funds from the body awarding the grant it is a statutory obligation that all figures in the claim be supported by adequate, and comprehensive working papers. All such working papers will be in a format and detail as determined by the Chief Financial Officer.

17. PROCEEDS OF CRIME ACT 2002 (ANTI-MONEY LAUNDERING)

- 17.1 The Proceeds of Crime Act 2002 sets out some of the obligations placed on individuals and organisations to report known or suspected money-laundering activities. This means that both the Council itself and individual officers within the Council are bound by this act. All employees of the Council must report any suspicions. Failure to do so is a criminal offence.
- 17.2 It is the Council's policy to do all it can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements especially with regard to reporting of actual or suspected cases.

- 17.3** All Heads of Department will ensure that all staff for whom they are responsible and who are involved in financial transactions are aware of the Council's and their own obligations in respect of money laundering.
- 17.4** The Chief Financial Officer, or officer(s) nominated by him/her will be responsible for anti-money laundering measures within the Council to ensure compliance with the Proceeds of Crime Act 2002 and fulfil the Council's policy in respect of money laundering.
- 17.5** The following instances could be an attempt at money laundering and should raise suspicions and must be reported to the Chief Financial Officer or nominated officer(s). The Chief Financial Officer will determine the limits and procedures to be followed in the event of these activities arising.
- 17.5.1** Payment in cash of an unusually large sum of money.
- 17.5.2** Payment in cash of a sum in excess of the amount owing; particularly if a double payment is made, followed by a request for a non-cash refund.
- 17.5.3** The use of Trusts or offshore funds for handling proceeds or settlement of a transaction should be questioned.
- 17.5.4** Care should be exercised and further enquiries may be needed in the following instances.
- (a) A third party intermediary becomes involved in a transaction
 - (b) The identity of a third party is hard to establish or is undisclosed
 - (c) A party is evasive as to the source or destiny of funds
 - (d) A third party uses a vehicle company and the ultimate ownership is concealed or difficult to establish.

18. STATE AID

- 18.1** State aid rules are in place to protect the European Community free market by ensuring state resources are not used to distort competition or give an unfair advantage. State aid rules can apply to voluntary and non-profit making organisations. State aid has four characteristics:
- (a) It is granted by the State or through state resources (this includes local authorities);
 - (b) It favours certain undertakings, or the production of certain goods (this can include voluntary and non-profit making organisations if they are engaged in economic activity);

(c) It distorts or threatens to distort competition;

(d) It affects trade between member states;

If all four characteristics are present the state aid is prohibited, subject to certain exemptions. State aid takes many forms, it relates to a financial advantage of any kind.

18.2 Any support given to organisations must not breach state aid rules.

18.3 Issues regarding state aid must be checked prior to the award of support and advice sought as appropriate (guidance is available from the Department for Business Enterprise and Regulatory Reform).

18.4 Where state aid rules are considered to apply appropriate approvals must be obtained from the European Commission prior to the award of the support unless specific regulations do not require advance approval, for example they are covered by a block exemption (limits apply) or the de minimis regulations.

18.5 If state aid is being given under a block exemption the aid must comply with every condition stated in the block exemption regulation and appropriate procedures for notifying the Commission of the award must be followed.

18.6 If state aid is being given under the de minimis regulation all relevant procedures must be followed, in particular;

(a) the recipient must be informed of the de minimis nature of the grant.

(b) full information must be obtained from the recipient about other de minimis aid received during the previous three years.

(c) new de minimis aid must only be granted if it will not raise the total aid received in the relevant period of three years over the de minimis limit applicable at the time.

(d) all records of de minimis aid paid must be kept in accordance with the regulations and for the relevant minimum time period.

18.7 All aid given must be notified to the Chief Financial Officer Financial records must separately identify any aid given.

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 Head of Governance and Legal Services.
 - (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.

- (a) 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 Revenues and Benefits 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

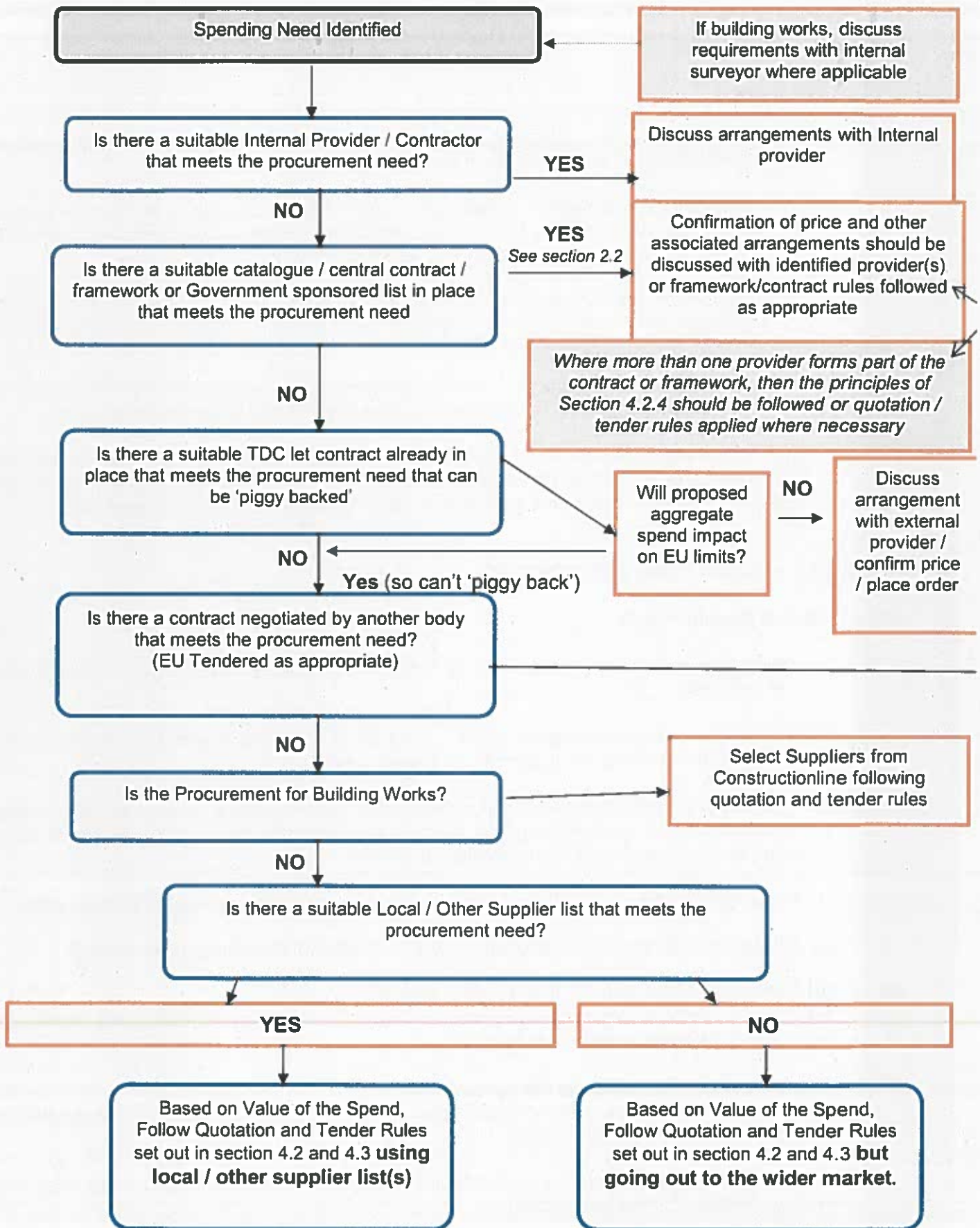
Where the Council seeks to implement alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements may not necessarily be able to be undertaken within

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 Head of Governance and Legal Services , 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 Head of Governance and Legal Services.

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.~~ “unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council Standard Contract for Services must be used when seeking quotations. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought”.
- (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) (x) Unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. Any other requirements that may be specified by the Head of Governance and Legal Services.

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 Corporate Director (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 Consultation Panel

The Council will ~~maintain~~undertake a Tender Evaluation Consultation 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. Panel chaired The Consultation will be led by the relevant Corporate Director (Corporate Services) or their designated officer and will include ~~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 Consultation Panel shall also have the right to include call-on technical assistance / expertise from other departments as he considered ed necessary.

Officers Decisions recording the award of contract Reports made to Management Team / Members in respect of these tenders subject to review by the panel should include reference to the views / comments identified by the consultees panel.

An external representative can be accepted ~~e~~ into the Panel at the discretion of the Chairman of the any Tender Evaluation Consultation Panel. In all cases where an external representative is included ~~accepted onto the Panel~~, they must be asked to declare any potential interests.

SECTION 5 – OTHER PROCUREMENT RULES

5.1 Contract Clauses

Unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. In all cases contracts must follow any guidance issued by the Section 151 and Monitoring Officers in this regard.

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

- | |
|--|
| (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 Head of Governance and Legal Services.

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.
- (d) All orders must: -

(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: -

(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.

(d)	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 order.
(e)	For HRA assets where orders for goods, works or services are required to be raised through the Council's authorised Housing Management computer system.
(f)	For the engagement of Counsel by the Head of Governance and Legal Services .
(g)	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.

