

## **Part 4**

# **Rules of Procedure**



# **COUNCIL AND COMMITTEE PROCEDURE RULES**

## **(STANDING ORDERS)**

The Appendix following this page contains the Council's Standing Orders in relation to:

- Proceedings and Business of the Council (Part I)
- Proceedings and Business of the Cabinet and Committees (Part II)
- Miscellaneous Matters (Part III)

## **PART 4 (RULES OF PROCEDURE)**

### **APPENDIX 1: GENERAL STANDING ORDERS**

#### **PART I: PROCEEDINGS AND BUSINESS OF THE COUNCIL**

##### **MEETINGS OF THE COUNCIL**

- 1.0 In a year of ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.
- 1.1 Ordinary meetings of the Council will be held on such dates and times as the Council shall decide.
- 1.2 Ordinary meetings of the Council can be rescheduled or cancelled by the Mayor on the advice of the Leader, the Chief Executive and the Monitoring Officer.

##### **EXTRAORDINARY MEETINGS OF THE COUNCIL**

- 2.0 The following may request an extraordinary meeting of the Council:
  - (a) the Council by resolution;
  - (b) the Mayor, or in their absence, the Deputy Mayor;
  - (c) the Monitoring Officer;
  - (d) any five members of the Council if they have signed a requisition presented to the Mayor and they have refused or failed to call a meeting within seven days of the requisition.

##### **CHAIR OF MEETING**

- 3.0 Any power or duty assigned to the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

##### **QUORUM**

- 4.0 The quorum for a meeting of the Council shall be at least one quarter of the members.
- 4.1 If during any meeting of the Council the Mayor after counting the number of persons present declares that there is not a quorum present, the meeting shall stand adjourned for fifteen minutes.
- 4.2 If, after fifteen minutes, the person presiding, after again causing the number of persons present to be counted, declares that there is still no quorum present, the meeting shall end.
- 4.3 The consideration of any business not transacted shall be adjourned to the next

ordinary meeting of the Council unless the Mayor indicates otherwise. (Note: The quorum prescribed by the Local Government Act 1972 is at least one quarter of the members).

## ORDER OF BUSINESS

### Meeting to Elect the Mayor and Deputy Mayor

5.0 The order of business at the Mayor-making meeting of the Council shall be as follows:-

- (a) To choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) Election of Mayor;
- (c) Election of Deputy Mayor;
- (d) Appointment of Chaplain;

### Annual Meeting

5.1 Except as otherwise provided by Standing Order 5.3 below, the order of business at the annual meeting of the Council shall be as follows:-

- (a) To choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) Chief Executive's report upon result of elections of Councillors, where appropriate;
- (c) Confirmation of the minutes of the previous meeting;
- (d) To receive communications from the person presiding;
- (e) Apologies from members in respect of absence;
- (f) To appoint the Leader of the Council (Only at the annual meeting held in 2011 or at the first annual meeting after the Leader's normal day of retirement as a councillor (in accordance with s.44E Local Government Act 2000). If the Council fails to elect a Leader at the relevant annual meeting, the Leader is to be elected at a subsequent meeting);
- (g) To receive a report from the Leader;
- (h) To appoint the Committees, Scrutiny Panels and other bodies for the ensuing year (excluding Cabinet);
- (i) To appoint the Chairs and Vice-Chairs of Committees and other bodies (excluding Cabinet);
- (j) Other business, if any, specified in the summons or matters taken as a matter of urgency under 5.4 below.

## Ordinary Meetings

5.2 Except as otherwise provided by Standing Order 5.3 below, the order of business at all other meetings of the Council shall be as follows:-

- (a) To choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) Confirmation of minutes of the previous meeting;
- (c) To receive communications from the person presiding;
- (d) Apologies from members in respect of absence;
- (e) To receive a report from the Leader;
- (f) To dispose of any business (if any) outstanding from the previous meeting;
- (g) To receive any petitions presented under Standing Order 18.0;
- (h)
  - (i) To deal with minutes of the Cabinet (in accordance with Standing Order 9), including 'called-in' decisions;
  - (ii) To receive statements (if any) by the Leader/Cabinet Councillors on Cabinet matters;
  - (iii) To deal with questions from Members to the Leader and Cabinet Members on Cabinet decisions, performance and strategy;
- (i) To deal with minutes of Committees and Scrutiny Panels in accordance with Standing Order 9, including 'called-in' decisions;
- (j) To determine planning applications not otherwise delegated;
- (k) Where the meeting is the last ordinary meeting before 11 March in any year, and where the Council has not set, for the ensuing financial year, amounts of Council Tax for each category of dwelling in its area, to set such amounts. Provided that the Council Tax shall not be set before 1 March prior to the year in question unless all precepts from major precepting authorities have been received;
- (l) To deal with questions submitted in accordance with standing order 10;
- (m) To consider notices of motion in the order in which they were received;
- (n) To fill vacancies on Committees or other bodies or to appoint new Committees or other bodies as required;
- (o) Other business, if any, specified in the summons or matters taken as a matter of urgency under 5.4 below.

### Variation of Order of Business

- 5.3 A motion to vary the order of business:
- (a) shall not displace business falling under item (a) of Standing Orders 5.1 or 5.2;
  - (b) may at any time when an item of business on the agenda has been disposed of, be proposed by the Mayor or any member and shall be put to the vote without discussion.
- 5.4 If the person presiding decides that an item of business not included in the agenda for the meeting sent with the summons for the meeting may be taken for reasons of urgency, that item shall, subject to any direction or resolution under Standing Order 5.3, be taken at the end of the other items of business.

### MINUTES

- 6.0 Minutes of every meeting of the Council shall be submitted to, and signed at, that meeting or at the next following meeting provided that, if the next following meeting is an extraordinary meeting, the minutes shall be signed instead at the next ordinary meeting of the Council.
- 6.1 As soon as the minutes have been read, or if under standing order 15.1 they are taken as read, the Mayor shall put the proposal that the minutes of the meeting of the Council held on the \_\_\_\_\_ day of \_\_\_\_\_ be signed as a true record.
- 6.2 No motion or discussion shall take place upon the minutes except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of, the Mayor shall sign the minutes.

### NOTICES OF MOTION

#### Motions Submitted to Council

- 7.0 Any member of the Council may give notice of a motion for consideration at any meeting of the Council.
- 7.1 Except as provided by Standing Order 8, every notice of motion shall be in writing, signed by the member or members of the Council giving the notice, and delivered at least ten clear calendar days before the meeting of the Council at the office of the Monitoring Officer by whom it shall be dated, numbered in the order in which it is received and entered in a book which shall be open to the inspection of every member of the Council.
- 7.2 The Head of Performance and Governance shall insert in the summons for every meeting of the Council all notices of motion duly given in the order in which they have been received, unless the member giving such a notice has, when giving it, intimated in writing that they propose to move it at some later meeting or has withdrawn it in writing.

- 7.3 If a motion, notice of which is thus specified in the summons, be not moved either by the member who has given the notice or by such other member duly authorised on their behalf it shall, unless postponed by consent of the Council, be treated as abandoned and shall not be moved without fresh notice.

#### Motions Within the Province of Committees, etc

- 7.4 Subject to 7.5 below, if the subject matter of any motion comes within the province of the Cabinet, a Committee or other body, it shall upon being formally moved and seconded stand referred without discussion to such body as the Council may determine, for consideration and report. The motion shall be further moved and seconded at the meeting to which it has been referred.
- 7.5 The Proposer of a motion (or another member of Council) if they believe the contents of the motion require urgent debate may request that the motion be dealt with at the meeting at which it is brought forward. Upon such a request being made the Mayor will immediately put before members for determination (without further debate) the proposal that the motion be heard. If the majority of members present and entitled to vote at the meeting agree to the request the motion will be debated as the next item of business at the meeting.
- 7.6 A member whose notice of motion is referred to the Cabinet, a Committee or other body for consideration shall, if not a member of that body, be permitted to move the motion at the meeting to which it is referred and shall have a right of reply in accordance with Standing Order 11.10. These provisions do not entitle the member to vote.

#### Notices of Motion Out of Order

- 7.7 Every notice of motion shall be relevant to some question over which the Council has power, or which affects the Borough.
- 7.8 If notice be given of any motion which, in the opinion of the Monitoring Officer, is out of order, illegal, irregular, or improper, the motion shall forthwith be submitted to the Mayor and it shall not be placed on the agenda paper without the Mayor's sanction. In the event of non-acceptance of the motion, the Monitoring Officer shall forthwith inform the member or members giving the notice and a report of the action taken shall be submitted to the next meeting of the Council.

#### MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE

- 8.0 The following motions may be moved without notice:-
- (a) Election of a Mayor or Deputy Mayor or appointment of a Chair of the meeting at which the motion is made;
  - (b) Motions relating to the accuracy of the minutes, closure, adjournment, termination, order of business or next business;
  - (c) Adoption of reports and recommendations of the Cabinet, Committees or

staff and any consequent motions;

- (d) Reference to the Cabinet, a Committee or Scrutiny Panel, including the appointment of a special Committee or other body as necessary;
- (e) Appointment of a Committee or members thereof (excluding the Leader), so far as arising from an item mentioned in the summons to the meeting;
- (f) Appointment of representatives to outside bodies;
- (g) That leave be given to withdraw a motion;
- (h) Amendments to motions;
- (i) Extending the time limit for speeches;
- (j) That an item of business specified in the summons has precedence;
- (k) Suspension of any provisions of the Constitution Rules (where permitted in law) in accordance with Standing Order 41;
- (l) Exclusion of the public;
- (m) That a member named under Standing Order 16.0 be not further heard or do leave the meeting;
- (n) Inviting a member to remain under Standing Order 19;
- (o) Motions to refer a petition to the Cabinet, a Committee or other body for consideration;
- (p) Giving consent of the Council where the consent of the Council is required by standing orders.

#### PRESENTATION OF MINUTES

- 9.0 Minutes of the Cabinet, Committees or other bodies shall be divided as between:-
- (a) recommended items, ie those requiring confirmation of the Council, including matters referred under Standing Order 23.2.
  - (b) resolved, or delegated, items which do not require confirmation by the Council.
- 9.1 The adoption of the recommendations shall be moved by the Chair of the body, or in their absence, another member of such body. Any member of the Council may move an amendment (as defined in Standing Order 11.5) to, or demand a separate vote on, any of the recommendations contained therein. When all such amendments have been dealt with or separate votes have been taken, the motion to adopt the recommendations, subject to any amendments that may

have been made thereto by the Council, shall be put to the meeting for adoption without debate.

- 9.2 On resolved items, members shall be permitted only to ask questions and no debate on such items shall be allowed. Questions may be asked in accordance with the procedure set out in Standing Order 10.0 below.

### QUESTIONS

- 10.0 Each Council meeting shall include a session for the Leader and Cabinet Councillors to present/be questioned on Cabinet decisions, performance, strategy and related matters. Questions on Cabinet matters shall be subject to written notice and submitted by 12 noon five working days before the Council meeting. The provisions of Standing Orders 10.3 to 10.6 shall apply in relation to such questions, with members' questions lasting no longer than 30 minutes. Questions will be answered in the order received with any unanswered questions given a written answer in accordance with Standing Order 10.4c. Where a member submits more than one question the order of questions shall be amended so that every other member's first question is taken first.
- 10.1 A member of the Council may ask a question on any resolved item at a meeting of the Council of:-
- (a) the Mayor;
  - (b) the Leader of the Council (if any);
  - (c) the person appointed or chosen to preside in any Committee or Scrutiny Panel;
  - (d) a member of the Council appointed by the authority to any joint authority or joint board of which the authority is a constituent authority;
  - (e) a member of the Council who is, as a result of action taken by or on behalf of the authority, a member or director of any company.
- 10.2 Written questions may be put by a member to the Mayor or other person specified in 10.1 above at a meeting of the Council provided the Monitoring Officer has had ten clear days' notice of the member's intention to ask such questions. The Monitoring Officer shall communicate the questions to the Mayor, Chairs, and staff concerned and such questions shall be placed on the agenda in the order in which they are received.
- 10.3 Every question shall be put and answered without discussion, but the person to whom the question has been put may decline to answer it. If the person presiding permits, the member asking a question may ask one relevant supplementary question which shall be put and answered without discussion.

- 10.4 An answer to a question may be given by the person to whom it is addressed or by a person on their behalf, and may take the form of
- (a) an oral answer;
  - (b) a reference to information contained in some publication;
  - (c) a written answer, which shall be circulated to members of the Council at the latest with the summons for the next meeting of the Council.
- 10.5 If notice of a question has been given, and that question is not for any reason asked orally, and unless the member who gave notice of it withdraws the question or the member to whom it is addressed refuses to answer, the question shall be given a written answer in the same way as under paragraph 10.4(c).
- 10.6 Every question shall be relevant to some matter in relation to which the authority has functions, or which affects the area of the authority, or part of it, or the inhabitants of that area, or some of them.

## RULES OF DEBATE

### Motions and Amendments

- 11.0 Subject to Standing Order 8.0, a motion or amendment shall not be discussed unless it has already been proposed and seconded and, unless notice has already been given in accordance with Standing Order 7, it shall be put into writing and handed to the Mayor before it is further discussed or put to the meeting, except where the Mayor rules otherwise. The Mayor may ask for copies of a motion or amendment to be supplied to all members present before the debate proceeds.

### Secunder's Speech

- 11.1 A member when seconding a motion or amendment may, by declaring the intention to do so at that time, reserve their speech until a later period of the debate. Every motion should have a definitive outcome including where appropriate deferral.

### Member to Stand

- 11.2 A member shall stand when speaking, unless disabled from doing so, and shall address the Mayor. While a member is speaking, the other members shall remain seated unless rising to a point of order or in personal explanation. If two or more members rise, the Mayor shall call on one to speak.

### Content and Length of Speeches

- 11.3 A member shall direct a speech to the question under discussion or to an explanation or to a question of order. Except by consent of the Council, signified without comment, no speech shall exceed five minutes or, in the case of the speech of a proposer of a motion, ten minutes. The time limits contained in this

paragraph shall not apply to the Leader.

#### When a Member May Speak Again

- 11.4 A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-
- (a) to speak once on an amendment moved by another member;
  - (b) if the motion has been amended since they last spoke to move a further amendment;
  - (c) if their first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which they spoke was carried;
  - (d) in exercise of a right of reply given by Standing Order 11.10;
  - (e) on a point of order;
  - (f) by way of personal explanation.
  - (g) the Leader where speaking in reply to the debate or matters raised during public participation.

#### Amendments to Motions

- 11.5 An amendment shall be either:-

- (i) to leave out words;
- (ii) to leave out words and insert or add others;
- (iii) to insert or add words;

but such omission or insertion of words shall not have the effect of introducing unrelated matter into or of negating i.e. being the direct opposite of the substance of the motion before the Council. Provided that the substitution by amendment of a positive course of action for a proposal involving no action shall be valid.

- 11.6 If an amendment is not carried, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment shall be moved.
- 11.7 A further amendment shall not be moved until the Council shall have disposed of every amendment previously moved.

#### Alteration of Motion

- 11.8 A member may, with the consent of the seconder and of the Council, signified

without discussion, alter a motion which they have proposed or of which notice has been given if the alteration is one which could have been moved as an amendment thereto.

#### Withdrawal of Motion

- 11.9 A motion or amendment may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Council, which shall be signified without discussion, and it shall not be competent for any member to speak upon it after the proposer has asked permission for its withdrawal, unless such permission shall have been refused.

#### Right of Reply

- 11.10 The proposer of a motion but not of an amendment shall have a right to reply (but for not more than five minutes) at the close of the debate upon such motion, immediately before it is put to the vote, or before the motion "That the Council proceed to the next business" is put, or after the motion "That the question be now put". If an amendment is proposed they shall be entitled also to reply at the close of the debate upon the amendment. A member exercising a right of reply shall not introduce new matter. After every reply to which this standing order refers a decision shall be taken without further discussion.

#### Motions Which May be Moved During Debate

- 11.11 When a motion is under debate no other motion shall be moved except the following:-
- (a) to amend the motion;
  - (b) to postpone consideration of the motion;
  - (c) to adjourn the meeting (see 11.12);
  - (d) to adjourn the debate (see 11.12);
  - (e) to proceed to the next business (see 11.12);
  - (f) that the question be now put (see 11.12);
  - (g) that a member be not further heard (see 16.0);
  - (h) that a member do leave the meeting (see 16.0);
  - (i) that the subject of debate be referred back to the Cabinet, a Committee or Scrutiny Panel;
  - (j) to exclude the public;
  - (k) to suspend procedural rules under the Constitution (including standing orders) (see standing order 41).

### Closure Motions

11.12 A member may move without comment on the conclusion of a speech of another member:-

"That the Council proceed to the next business",

"That the question be now put",

"That the debate be now adjourned",

"That the Council do now adjourn",

on the seconding of which the Mayor shall proceed as follows:-

(a) On a motion to proceed to next business

unless in their opinion the matter before the meeting has been insufficiently discussed, the Mayor shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to the next business.

(b) On a motion that the question be now put

unless in their opinion the matter before the meeting has been insufficiently discussed, the Mayor shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion a right of reply before putting the motion to the vote.

(c) On a motion to adjourn the debate or the meeting

if the person presiding is of the opinion that the matter before the meeting has been sufficiently discussed, they may refuse to accept either of these motions, and instead put the motion that the question be now put: if in their opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion the Mayor shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply on that occasion.

### Points of Order

11.13 A member may speak shortly in personal explanation, but such explanation shall be confined to some material part of a former speech by the member at the same meeting which may have been misunderstood. A member so rising shall be entitled to be heard forthwith.

11.14 A member may rise to a point of order but in so doing shall intimate to the Mayor the particular standing order under which such point arises.

### Mayor's Ruling

- 11.15 The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

### Respect for the Mayor

- 11.16 Whenever the Mayor rises during a debate a member then speaking or standing shall resume their seat and the Council shall be silent.

## RESCISSION AND ALTERATION OF RESOLUTIONS

### Rescission of Preceding Resolution

- 12.0 At a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period. Provided that such a motion may be moved if
- (a) it is recommended by the Cabinet or a Committee; or
  - (b) notice of such motion has been given by as many members as would constitute a quorum of the Council.

### Rescinding Motion

- 12.1 Notice of motion to rescind a previous decision shall set out the whole or such part of the resolution which it is proposed to rescind and shall specify the date on which the resolution was passed by the Council.

### Alteration to Resolution at Same Meeting

- 12.2 No resolution or other act of the Council shall be revoked or altered at the meeting at which such resolution was made or such act done, except with unanimous consent of the members of the Council who passed such resolution, in order to correct some manifest error.

## VOTING

### General Provisions

- 13.0 Except where otherwise requested, and subject to 13.1 below, the method of voting at meetings of the Council, Cabinet, Committees and Scrutiny Panels shall be by show of hands.
- 13.1 On the requisition of any member, made before the vote is taken and supported by three other members who signify their support by rising in their place, the voting on any question shall be recorded so as to show whether each member present gave their vote for or against that question or abstained from voting. Unless the Mayor indicates otherwise, members shall indicate orally their voting preference, "For", "Against" or "Abstain", which shall be recorded appropriately.

- 13.2 If a vote is taken by show of hands, any member who is present when the vote was taken may require that their vote or abstention shall be recorded in the minutes by notifying the proper officer of their wish immediately after the vote has been taken.

#### Casting Vote

- 13.3 In the event of the Mayor declining to give a second or casting vote, the motion, amendment, or other matter under consideration shall be declared to be "not carried" and shall thereupon fall.

#### Voting on Appointments

- 13.4 Where a vote is required on a motion to appoint or elect a member of the Council to a position to be filled by the authority, and there are two or more members nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.
- 13.5 In the case of nominations for more than one vacancy, a simple majority of votes shall suffice.

#### MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

- 14.0 If any question arises at a meeting of the Council, Cabinet, Committee or Scrutiny Panel as to the appointment, promotion, dismissal, salary, superannuation or conditions of service or as to the conduct of any person employed by the Council, a motion under section 100A(4) of the Local Government Act 1972 to exclude the public shall be moved forthwith by the Mayor or Chair of the meeting and, upon being formally seconded, shall be put to the meeting without debate.

#### GENERAL PROVISIONS CONCERNING MINUTES AND REPORTS

- 15.0 Officers' reports to the Council, Cabinet and Committees shall, as far as practicable, be presented in writing, unless the Chair considers it conducive and convenient to the despatch of business to receive an oral report.
- 15.1 Reports, minutes or other documents shall, unless the meeting otherwise requires, be taken as read when presented thereto, provided they have been made available at least five clear days before the meeting.

## DISORDERLY CONDUCT

### Misconduct by Member

- 16.0 If the person presiding is of the opinion that a member has misconducted, or is misconducting themselves by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, they may notify the meeting of that opinion, and may take any of the following courses, either separately or in sequence:
- (a) they may move that the member named be not further heard; this motion shall not require to be seconded, but shall be put and decided without comment; if it is carried, the member named shall not speak further at that meeting;
  - (b) they may move that the member named shall leave the meeting; this motion shall not require to be seconded, but shall be put and decided without comment; if it is carried, the member named shall forthwith leave the meeting;
  - (c) they may adjourn the meeting for fifteen minutes or such period as shall seem expedient to them.

### Disturbance by Members of the Public

- 16.1 If a member of the public interrupts the proceedings at any meeting the Mayor shall warn the person concerned. If the interruption continues the Mayor shall order the person to leave the room. If they do not leave the Mayor shall order the person's removal. If a member of the public persistently creates a disturbance, the Mayor may adjourn the meeting for fifteen minutes or such other period as may seem expedient.

### Adjournment or Suspension of Sitting

- 16.2 In the event of a general disturbance in any part of the room where any meeting is being held which is open to the public, the Mayor shall order that part to be cleared and may:-
- (a) suspend or adjourn the sitting of the Council for such period as the Mayor in their discretion shall consider expedient; or
  - (b) transfer the meeting to some other convenient location where the business may be conducted without hindrance.
- 16.3 The powers conferred by this standing order are in addition to any other powers which the person presiding may lawfully exercise.

## SMOKING

- 17.0 Smoking shall not be permitted at any meetings of the Council, Cabinet, Committees, Scrutiny Panels or other bodies whether held in Eastleigh House or in other accommodation.

## PETITIONS

### Petitions Presented by Members of the Council

- 18.0 At a meeting of the Council (other than the annual meeting or a meeting convened for a specific purpose) any member of the Council may present a petition which is relevant to some matter in relation to which the authority has functions, or which affects the area of the authority, or part of it, or the inhabitants of that area, or some of them.
- 18.1 No notice shall be required but the presentation shall not be accompanied by any speech or comment other than in the course of the member's contribution to a relevant debate at that meeting.
- 18.2 Any petition presented to a Council meeting shall stand referred to the Cabinet, Committee or Scrutiny Panel within whose terms of reference it falls, who shall report to the Council thereon, unless the matter the subject of the petition has already been considered and determined by the Council.

### Petitions Presented by a Member of the Public

- 18.3 At any meeting of the Cabinet, a Committee or Scrutiny Panel (other than a meeting convened for a specific purpose) a member of the public may present a petition which is relevant to some matter in relation to which the authority has functions or which affects the area of the authority, or part of it, or the inhabitants of that area or some of them.
- 18.4 The person wishing to present the petition shall give at least ten days' notice of their intention to do so to the Monitoring Officer and shall show the petition to them. The petition shall not be accepted unless the Monitoring Officer is satisfied that the petition is proper to be presented. The presentation of the petition shall form an item on the agenda for the relevant body.
- 18.5 The presentation of the petition shall be limited to not more than five minutes, and shall be confined to reading out, or summarising, the subject matter of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition as the person presenting it shall think fit.
- 18.6 No more than one petition from a member of the public shall be submitted to the Cabinet, Committee or Scrutiny Panel at any one meeting.

- 18.7 On receipt of a petition, the relevant body shall proceed to discuss the matter or matters raised by the petition unless the matter the subject of the petition has already been considered and determined by the Council within the previous twelve months. In every case, the body shall have the discretion to defer all debate and decision on a petition to a subsequent meeting.

## INTEREST OF MEMBERS IN CONTRACTS AND OTHER MATTERS

### Disclosure of Personal Interests at Meetings

- 19.0 Subject to the generality of the Code of Conduct (reproduced in full in Part 5 of the Constitution), a Member with a non-disclosable pecuniary interest or a non-pecuniary interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence of that interest at the commencement of that consideration, or when the interest becomes apparent.

For the purposes of clarification, "meeting" in this context means any meeting organised by or on behalf of the authority, including:

- (i) Any meeting of the Council, or a Committee or sub-committee of Council
  - (ii) In taking a decision as a ward councillor or as a member of any body of the Council; and
  - (iii) At any site visit to do with business of the authority
- 19.1 Subject to the requirements set out in the Code of Conduct, a Member with a disclosable pecuniary interest in any matter must:
- (i) withdraw from the room or chamber where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless they have obtained a dispensation from the authority's Monitoring Officer or Administration Committee; and
  - (ii) not seek improperly to influence a decision about that matter.

\* The circumstances in which a dispensation may be obtained are prescribed in Section 33 of the Localism Act 2011

### Register of Members' Interests

- 19.2 A member or co-opted member must, before the end of 28 days beginning with the day on which the Member becomes a member or co-opted member of the authority, notify the Monitoring Officer, in writing, of any disclosable pecuniary interests as set out in the Code of Conduct, or of any changes to those interests.
- 19.3 Members, and Co-opted Members entitled to vote, must within 28 days of receiving any gift, benefit or hospitality with a value in excess of £50, provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality.
- 19.4 The Monitoring Officer must maintain a register of the financial and other interests specified in the Code of Conduct, which must be available for inspection by members of the public at all reasonable hours.

## PART II: PROCEEDINGS AND BUSINESS OF THE CABINET AND COMMITTEES

### APPOINTMENT OF THE COMMITTEES, CHAIRS AND VICE-CHAIRS

#### Appointment

- 20.0 The Council shall at the annual meeting appoint such Committees (excluding Cabinet) and Scrutiny Panels as they are required to appoint by statute, and may at any time appoint such other Committees or Panels as are necessary to carry out the work of the Council but, subject to any statutory provisions in that behalf and to the provisions of Standing Order 22:
- (a) shall not appoint any member of a Committee (excluding Cabinet) or Panel so as to hold office later than the next annual meeting of the Council;
  - (b) may at any time dissolve or alter the membership of a Committee (excluding Cabinet) or Panel.

#### Appointment of the Leader of the Council, Chairs and Vice-Chairs

- 20.1 The Council shall at the annual meeting elect the Chairs and Vice-Chairs of Committees (excluding Cabinet) and Scrutiny Panels and such other bodies as it may decide.
- 20.1A The Leader will be elected to the position by the Council. The term of office of the Leader starts on the day of their election as Leader and ends on the day when the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor unless they:
- (a) are removed from Office by resolution of the Council (see Standing Order 20.1C) or resigns;
  - (b) ceases to be a Councillor; or
  - (c) is disqualified from being a Councillor before that day.
- 20.1B The Leader will appoint one of the Members of the Cabinet to be their deputy, to hold office until the end of the term of office as Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. The Deputy Leader will carry out the functions of the Leader when they are absent (including any portfolio functions).
- 20.1C The Council can remove the Leader by way of resolution by a simple majority provided that no such resolution may be moved unless a notice of motion is given in accordance with Standing Order 7 of Part 4 of this Constitution.
- 20.2 In the event of a vacancy occurring in the office of the Leader of the Council, the vacancy shall be filled at the meeting at which the Leader was removed from office or at the next meeting or a subsequent meeting of the Council. A vacancy occurring in the office of a Chair or Vice-Chair of a Committee (excluding Cabinet) or Scrutiny Panel shall be filled at **a subsequent Council meeting.**

### Membership

- 20.3 Membership of the Cabinet, Area Committees, Administration Committee, Audit and Resources Committee, Licensing Committee and Scrutiny Panels shall be as contained in the relevant Article of the Constitution. Membership of the Cabinet is subject to change by the Leader.
- 20.4 Membership of any other Committees or Panels shall be as determined by the Council.

### Deputies

- 20.5 Political groups may appoint or send deputies or substitutes for meetings of Scrutiny Panels. Such deputy shall be allowed to attend in the place of one of the appointed members of that group on the respective body and with full powers to speak and vote. Provided that such powers of a deputy shall lapse on the attendance of the appointed member.

### Terms of Reference

- 20.6 Except as the Council otherwise determine, the terms of reference of the Cabinet, Committees and Scrutiny Panels shall be as contained in the relevant Article of the Constitution.
- 20.7 The terms of reference and powers of such other Committees or Panels as the Council may appoint shall be as ordered by the Council.

### PANELS

#### Appointment

- 21.0 The Council, Cabinet or any of its Committees may appoint panels as required for particular functions. Any panels as are in existence at the annual meeting each year shall be re-appointed at such meeting unless, for reasons specified by the council or relevant body, the panel is no longer required.
- 21.1 Such panels as are currently in existence, together with their terms of reference, appear in Appendix C at the end of this section.
- 21.2 The term 'panel' in 21.0 and 21.1 above shall exclude 'Scrutiny Panels', provision for which is made elsewhere in the Constitution.

### REVIEW OF ALLOCATION OF SEATS TO COMMITTEES AND SCRUTINY PANELS

- 22.0 Except in relation to the appointment of members to the Cabinet or Local Area Committees, whenever
- (a) the Council is required to review the allocation of seats on Committees or Scrutiny Panels between political groups, or

(b) the Council resolves to carry out such a review,

the Monitoring Officer shall submit a report, first to the relevant body and then to the Council, showing what allocation of seats would, in their opinion, best meet the requirements of section 15(4) of the Local Government and Housing Act 1989.

22.1 In the light of such a report, the Council shall determine the allocation of seats to political groups.

22.2 Whenever an appointment of a voting member of the Cabinet, a Committee or Scrutiny Panel falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the Monitoring Officer shall make or terminate the appointment accordingly.

## DELEGATION SCHEME

### Delegation to the Cabinet and Committees

23.0 Subject to these Standing Orders and to any direction of the Council, the Cabinet and Committees shall have delegated powers as specified in their terms of reference. Such delegated powers shall be executed and performed on behalf of the Council until such time as the delegation shall be varied or revoked, provided that the Cabinet or a Committee may not exercise any function specifically referred by statute to the whole Council including (but not limited to):-

- (a) A local authority's functions with respect to levying or issuing a precept for a rate (s101(6) Local Government Act 1972);
- (b) The approval of schemes for local lotteries (Gambling Act 2005);
- (c) The consideration of an Auditor's Report or recommendation (s5 Local Government Act 1992);
- (d) The consideration of a Report of the Council's Chief Financial Officer under s114 Local Government Finance Act 1988;
- (e) The removal of a member from a Committee (s102 LGA 1972);
- (f) The consideration of a Report of the Council's Monitoring Officer (s5 Local Government & Housing Act 1989);
- (g) The consideration of a Report of the Council's Head of Paid Service (s4 Local Government & Housing Act 1989);
- (h) The following duties/powers under the Local Government Finance Act 1992:-
  - (i) s8(2) - to make owners of specified dwellings, rather than residents, liable to pay Council Tax;
  - (ii) ss 32-37 and 60 - calculating the budget requirement, the basic amount of Council Tax, special items, tax for different valuation

bands etc; and

- (iii) Setting an amount of Council Tax for a financial year under Chapter III of Part I;
- (i) Power to promote or oppose local or personal Bills of Parliament (s239 Local Government Act 1972); and
- (j) Proposals for the discharge of functions, by or on behalf of another local authority.

23.1 The Cabinet or any Committee to which a matter has been delegated may decline to act under the delegated power and choose instead to make a recommendation to the Council.

#### Call In/Minority Order Arrangements

23.2 Where a matter has been determined by the Cabinet or a Committee in accordance with delegated powers then, subject to the provisions in 23.3 below, such matter may be referred to Council for determination/review. In the case of a Committee decision, the matter may be referred back to the Committee if the Committee is to meet earlier than the Council. The requirements for referral are:

- (i) In the case of the Cabinet or after a delegated Cabinet decision being made by a Local Area Committee:

The request may be made by any five Members of the Council or the relevant Scrutiny Panel. Such request shall be made in writing and be delivered to the Monitoring Officer not later than 5.00 pm on the fifth working day after the meeting.

- (ii) In the case of Area or other Committees:

- (a) Dealing with a non regulatory matter

The request may be made by any two Members (one of whom shall be a member of the Committee). Any such request shall be made in writing and be delivered to the Monitoring Officer not later than 5.00 pm on the second working date after the meeting.

- (b) In respect of a regulatory matter

The request may be made by such number of members of the Committee making the decision who comprises at least 50% of the total number of members appointed to that Committee.

23.3 The provisions of 23.2 above shall not apply in the following circumstances:

- (a) where the matter has been delegated by express resolution of the Council; or
- (b) where a Committee has met in quasi-judicial mode (eg certain licensing issues) as determined by the Monitoring Officer (see paragraph 11.03 of Article 11); or

- (c) where 'special urgency' conditions apply in the case of a key decision (see paragraphs 15 and 16 of the Access to Information Procedure Rules in Part 4 of the Constitution).

- 23.4 The Provisions of Paragraph 23.2 above shall be amended to provide that in the case of a non Cabinet function of a regulatory nature be referred back, in any event, to the decision making Committee for further consideration rather than to Council.
- 23.5 In referring a matter under this Standing Order, the Members concerned shall give notice of any proposed amendment to the relevant recommendation(s) at the same time as they request referral. Details of the amendment shall be circulated with the agenda for the meeting at which the referred item will be discussed.
- 23.6 Where a matter has been referred up under the provisions of Standing Order 23.2, the original resolution of the Cabinet or Committee shall be deemed a recommendation and form part of the recommendations of that body. Any alteration to the recommendation shall be dealt with by way of an amendment to which the Chair of the Cabinet or Committee shall have a right of reply at the end of the amendment debate.

#### Delegation to Staff

- 23.7 The persons referred to in Part 3 of the Constitution shall have powers to deal with such matters as are so listed and these matters shall be executed and performed on behalf of the Council as delegated powers until such time as the delegation is revoked or varied by resolution of the Council.
- 23.8 Any person or persons to whom a matter has been delegated may decline to act under the delegated power and choose instead to make a recommendation to the Council, Cabinet or Committee as the case may be.

### MEETINGS OF THE CABINET, COMMITTEES AND SCRUTINY PANELS

#### Date and Time of Meetings

- 24.0 Subject to the relevant statutory provisions, the ordinary meetings of the Cabinet, Committees and Scrutiny Panels shall be held on such days and at such hours as the Council or relevant body shall fix or, if none are so fixed, as the respective Chair or Vice-Chair thereof may determine.
- 24.1 Subject to the relevant statutory provisions, the Chair of the Cabinet, Committee or Scrutiny Panel or the Mayor may direct the Monitoring Officer to summon a special meeting of the Cabinet, Committee or Scrutiny Panel at any time. A special meeting shall also be summoned by the Monitoring Officer on the requisition in writing of three members of the Cabinet, Committee or Scrutiny Panel.

### Quorum

- 24.2 Except where authorised by statute or ordered by the Council, business shall not be transacted at a meeting of the Cabinet or any Committee or Scrutiny Panel unless at least one-quarter of the whole number of the body is present. Provided that the quorum in either case shall not be less than three members.

### Attendance by Non-Members

- 24.3 Any member of the Council may attend a meeting of the Cabinet, Committee or Scrutiny Panel of which they have received notice, but if they are not a member of the body then, except as provided in 24.4 below, they shall take no part in the proceedings save with the consent of the Chair. In any case, they shall not be entitled to vote.

### Attendance of Proposer of Motion

- 24.4 In the case of a member of the Council who has proposed a motion which has been referred to a body of which they are not a member, then the provisions of standing order 7.6 shall apply.

### Adjournment of Meetings

- 24.5 A meeting of the Cabinet, Committee or other body may, by virtue of a simple majority vote, be adjourned, either for a short period or to such other time and date as may be agreed.

### Recording Support or Objection

- 24.6 Councillors who speak at a Cabinet/Scrutiny/Committee meeting, where they are a member of that body can request that their support or objection to a decision be recorded and this will be subject to the agreement of the Chair of the meeting. Where a councillor is not attending a meeting as a member of the committee, their support or objection will not normally be recorded.

### RESIGNATION FROM THE CABINET, COMMITTEES, ETC

- 25.0 Any member of the Cabinet, a Committee or Scrutiny Panel desiring to resign therefrom shall signify their resignation in writing to the Monitoring Officer

### CONFIDENTIAL AND EXEMPT PROCEEDINGS

- 26.0 Business transacted by the Cabinet, a Committee or Scrutiny Panel from whose meeting the press and public have been excluded, and all documents relating thereto, shall be regarded as private until such business or documents have been disclosed to the Council or unless a specific or general permission has been given by the Council for prior disclosure. No information relating to business transacted at such meeting shall be communicated to the press before it has been reported to the Council, unless, in any specific case, the Cabinet, a Committee or Scrutiny Panel otherwise direct, when the Chief Executive will be authorised to communicate such information to the press as directed.

## PLANNING APPLICATIONS

- 27.0 Planning applications will be determined in accordance with the procedure set out in Appendix A following this section.

## PUBLIC PARTICIPATION

- 28.0 A scheme of public participation shall apply to meetings of the Council, Cabinet, Committees and Scrutiny Panels in accordance with the provisions of Appendix B following this section.

## STANDING ORDERS TO APPLY TO THE CABINET AND COMMITTEES

- 29.0 In addition to Standing Orders expressly stated to refer to Committee proceedings, the following Standing Orders shall mutatis mutandis apply to the Cabinet and Committee meetings:-

- 7 (Submission of Motions)
- 8 (Motions which may be moved without notice)
- 11 (Rules of Debate) (except that these Rules may be relaxed by the Cabinet to facilitate the effective conduct of business).
- 12.2 (Alteration to Resolution at Same Meeting)
- 13 (Voting)
- 16 (Disorderly conduct, disturbance by members of the public and suspension of sittings)
- 18 (Petitions presented by members of the Council but not those presented by members of the public)
- 19 (Interest of members in contracts and other matters)
- 41 (Suspension of provisions of Procedural Rules in Constitution (including standing orders))

30 NOT USED

APPENDIX A  
PLANNING APPLICATIONS

It is important to separate the decision making process leading to the resolution to seek planning permission from the decision making process on the planning application itself.

Accordingly the following is the agreed procedure for planning applications under the Council's Constitution. See also the delegations to the Head of Housing & Development on page 3-16.

- (a) Where the Council's only interest is as landowner and the application is made by a third party, then the application will be referred by the Head of Housing & Development to the Head of Strategic Planning for comment and may be determined by the Head of Housing & Development Lead or Local Area Committee as appropriate.
- (b) (Save where paragraph c applies) Where the development is wholly within the geographical area of the Local Area Committee the decision to seek planning permission in respect of Borough Council promoted development will be made by the relevant Service Lead, Area Coordinator or by the Cabinet as appropriate.

The application will be determined by the Head of Housing & Development or Local Area Committee as appropriate.

- (c) Where Council development is being promoted in relation to a borough-wide asset, which is an asset provided for the whole borough, the decision to submit a planning application will be authorised by the Cabinet.
- (d) Where third party development is being promoted in relation to a Council owned borough-wide asset, the application will be determined by the Local Area Committee.
- (e) Development which is likely to cause wide public controversy extending into the area of an adjoining Local Area Committee, or which has a clear impact beyond the boundaries of a single area, the Local Area Committee in which the development would be situated can determine in consultation with the Members of any other interested Local Area Committee.
- (f) The following categories of development applications shall remain for determination by the Council:
  - (i) Development constituting a substantial departure from any approved statutory or non statutory plan where the Local Area Committee wishes to take a decision contrary to the recommendation of the Head of Housing & Development
  - (ii) Development which has a borough-wide significance where the Local Area Committee wishes to take a decision contrary to the recommendation of the Head of Housing & Development Lead

## APPENDIX B

### PUBLIC PARTICIPATION

#### A. Cabinet, Committee and Scrutiny Panel Meetings

1. Members of the public shall be entitled to speak at all meetings of the Cabinet, Committees and Scrutiny Panels. The Council has approved the following procedure to guide and control this process:

Acknowledging the need for the public participation process to be fair, properly structured and well-ordered the following framework shall apply for public participation at all relevant meetings.

- (a) At the beginning of each meeting the Chair should welcome those attending and outline the approach to public participation. In this way the expectations of the public are placed immediately into the context of Borough Council committee meetings at which decisions of the Council are to be made. They will know that the same guidelines will apply to them as to others. Indeed the public may themselves be encouraged to monitor those who unreasonably abuse the process.
- (b) A general public session should take place during the first 15 minutes of the meeting. Speakers will be called in the order that names and addresses are received by the Democratic Services Officer. A statement or question should not exceed three minutes. The issues raised will not be discussed by Councillors but will be answered by the Chair or officers if possible. A written answer will be provided where a satisfactory verbal response cannot be given.
- (c) The Cabinet, Committees and Scrutiny Panels should encourage public participation on any agenda item when the item is reached.
- (d) Such participation should be limited to 10 minutes with equal time allowed for persons wishing to express opposing views, ie. 5 minutes for, 5 minutes against. Parish Council contributions should be made within the 10 minute slot.
- (e) Those wishing to speak should wherever possible advise the Democratic Services Officer before the meeting commences.
- (f) Nobody should normally be permitted to speak more than once and individuals should address the meeting only when called by the Chair.
- (g) Where it is apparent that a number of people wish to express a common view, they should be encouraged to nominate a spokesperson. In such circumstances the Chair will ask members

of the public to express their support for a particular speaker by a show of hands.

- (h) Repetition of points made by previous speakers should be discouraged.
- 2. These guidelines should be fairly and sensibly applied by Chairs. Rigid and inflexible application cannot be justified: neither can disregard.
- 3. It is imperative that these guidelines are presented in a manner which encourages people to participate in a productive and orderly fashion.

B. Council Meetings

At Council meetings, members of the public shall be entitled to speak on any recommended item, including those referred under minority order provisions (Standing Order 23.2). Public Participation will follow the Proposing and Seconding of any motion. The guidelines approved for Cabinet, Committee and Scrutiny Panel meetings shall apply in all other respects. **Public Participation will follow the proposal and seconding of any motion.**

## APPENDIX C

### PERMANENT PANELS/BOARDS

#### **Complaints**

Delegated powers

To consider and determine complaints which have not been satisfactorily resolved under stage 1 to 3 of the Council's Complaints Procedure.

#### **Membership**

A panel of 5 members drawn from a pool of members appointed annually.

## PART III MISCELLANEOUS

### CUSTODY OF SEAL

- 31.0 The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal Services.

### SEALING OF DOCUMENTS

- 32.0 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council, Cabinet or Committee, or officer to whom the Council has delegated its powers in this behalf, but a resolution of the Council (or of the Cabinet or a Committee where that body has the power) authorising the transaction shall be a sufficient authority for sealing any document necessary to give effect to the resolution.
- 32.1 The seal shall be attested by one at least of the following persons present at the sealing, viz, the Mayor or Deputy Mayor, the Chief Executive, the Head of Legal Services, Monitoring Officer, Senior Solicitor or Senior Chartered Legal Executive and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person or persons who shall have attested the seal.

### SIGNATURE OF DOCUMENTS

- 33.0 Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority (either specifically or by virtue of the delegation scheme) to some other person for the purpose of such proceedings, be signed by the Head of Legal Services or in their absence, the Chief Executive or Monitoring Officer

### ADVERTISEMENTS AND PUBLIC NOTICES

- 34.0 All press advertisements and public notices, statutory or otherwise, on behalf of the Council, the Cabinet or any Committee, shall be issued in the name of one or other of the Chief Executive, Head of Legal Services or relevant Service Manager.

### CONDUCT OF NEGOTIATIONS RELATING TO LAND

- 35.0 All negotiations for the acquisition, appropriation, exchange, lease or sale of land (other than the management of Grange Park (Mobile Homes) and other matters specifically assigned by the Council to other officers) shall be conducted on behalf of the Council by, or under the supervision of, the Lead Asset Manager who shall report initially on the proposal to the Cabinet and relevant Committee.

- 35.1 Before entering into any contract, lease agreement or other document relating to such a transaction (other than as specifically authorised within these Standing Orders) the Lead Asset Manager shall report upon the terms provisionally negotiated to the Cabinet.
- 35.2 For the purposes of this standing order "land" shall include the rights in land and buildings erected thereon.

#### INSPECTION OF DOCUMENTS

- 36.0 A member of the Council may, for the purpose of their duty as such member but not otherwise, inspect any document which has been or is to be considered by the Council, the Cabinet, a Committee or Scrutiny Panel, and if copies are available shall on request be supplied for the like purpose with a copy of such document. Provided that:-
- (a) The provision described above shall not apply to categories of exempt information contained in paragraphs 1-6, 9, 11, 12 and 14 of Part I of Schedule 12A of the Local Government Act 1972.
  - (b) A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which they are professionally interested or in which they are directly or indirectly any pecuniary interest within the meaning of sections 94 and 95 of the Local Government Act 1972; and
  - (c) This Standing Order shall not preclude the Legal Services Manager from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client.

#### INSPECTION OF WORKS

- 37.0 A member of the Council, subject to any restrictions necessary in the interests of health and safety and the legal rights of third parties, may inspect any property or works carried out by the Council. Before doing so, as a matter of courtesy, the member shall first inform the Head of Service or other accredited person concerned of their intention.
- 37.1 Suitable identification shall be produced to a responsible person on the site of any such property or works before the inspection is commenced.
- 37.2 No member of the Council shall be allowed to give direct or indirect instructions to any officer or workman of the Council, unless specifically authorised by the Council or a Committee to do so.

#### INTERESTS OF STAFF IN CONTRACTS

- 38.0 The Head of Legal Services shall record in a book to be kept for the purpose particulars of any notice given by an officer of the Council under section 117 of the Local Government Act 1972, of an interest in a contract and the book shall be open during office hours to the inspection of any member of the Council.

### INTERPRETATION OF STANDING ORDERS

- 39.0 In the event of a difference arising as to the interpretation of any Standing Order, an appeal shall lie:-
- (a) at a meeting of the Council to the Mayor; and
  - (b) at a meeting of the Cabinet or a Committee to the Chair of that body and in each case the decision of the Mayor or Chair shall be final.

### VARIATION AND REVOCATION OF STANDING ORDERS

- 40.0 Any motion made at a Council meeting to vary or revoke Standing Orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council.

### SUSPENSION OF STANDING ORDERS

- 41.0 Subject to 41.1 below any Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved.
- 41.1 Except in the case of a motion under Standing Order 23.5, a motion to suspend Standing Orders shall not be moved under Standing Order 8 - that is without notice given in pursuance of Standing Order 7 - unless there shall be present at least a quarter of the members of the Council, or in the case of the Cabinet or a Committee, at least three members.

### WAIVER OF STANDING ORDERS - PROCUREMENT

- 42.0 On behalf of the Council's Procurement Executive Group which has been granted delegated authority to consider and decide on requests to waive Standing Orders in relation to procurement.
- 42.1 The terms of reference of the Procurement Executive Group follow as Appendix 1.

### USE OF EMAIL

- 43.0 Where the context allows, and subject to no legal requirement to the contrary, a reference in this Constitution to the submission of documents in writing and/or to the Monitoring Officer shall be construed as including the use of email.

## PROCUREMENT EXECUTIVE GROUP TERMS OF REFERENCE

### **Aims and Purpose**

The Eastleigh Borough Council (EBC) Procurement Executive Group aims to ensure that the procurement of goods services and works achieves value for money in delivering the Council's corporate strategy and strategic priorities through fair and proper processes.

### **Objectives**

To achieve this aim the Group will:

1. Keep the EBC Procurement Policy up-to-date and in line with legislation, Government requirements, national guidance and best practice.
2. Ensure that the EBC Procurement Policy is up-to-date and in line with EBC Strategy, legislation, Government requirements, national guidance and good practice.
3. Ensure congruence between EBC Procurement Policy, EBC Constitution, Contracts Procedure Rules and Financial Regulations, and project management arrangements.
4. Ensure that Procurement Policy, and procurement activities reflect sustainability including, environment, community development, community safety, diversity, economic development, equalities and health.
5. Ensure that the Code of Practice includes use of e-procurement where this adds to value for money.
6. Provide a source of expertise to programme boards and informed support to staff.
7. Provide a forum for debate about good practice, to resolve internal conflicts about interpretation of procurement guidance.
8. Promote and monitor compliance with Procurement Policy, and identify actions to be taken in response to non-compliance.
9. Resolve any problems or conflicts about EBC Procurement Policy or process, including consultation and debate with relevant stakeholders.
10. Discuss and make decisions on behalf of Cabinet regarding any requests to waive Contracts Procedure Rules.

## **Responsibilities of the Procurement Executive Group**

The Group considers both strategic and operational procurement matters. The principal responsibilities are:

1. To identify where changes are needed to Constitution, Contracts Procedure Rules, Financial Regulations, Procurement Strategy and Code of Practice and to recommend new wording to the officer or body responsible for authorising that change.
2. To respond to any procurement issues identified by internal or external audit. To ensure recommendations in Procurement Audit Reviews are reviewed and monitored through to implementation.
3. To refer examples of non-compliance to relevant managers with a recommendation for action.
4. To ensure that the Council provides opportunities for staff to learn about procurement systems and procurement skills. This includes publishing Procurement Policy on the Intranet, and training staff in their use.
5. To consider performance monitoring data on compliance and non-compliance trends; to identify and investigate specific examples and the action required to avoid recurrence; to ensure that gateway procedures are followed in respect of procurement which is significant in terms of cost or risk.
6. To consider updates on the spend analysis and review expenditure category management.
7. To ensure, through options appraisal, that adequate consideration is given to the different approaches to provision of services – normally when a contract is due for renewal.

For all these, “consider” includes debate (involving relevant colleagues) and recommending actions to Management Team or whatever other person or body is appropriate.

## **Scope and Constraints**

The Procurement Executive Group’s scope includes all procurement carried out by EBC from external suppliers, including joint procurement with other authorities.

The scope does not include:

- externalisation of in-house services
- collaborative arrangements to provide services with other public sector agencies

- membership or work of partnerships set up as a result of national guidance.

The Group makes recommendations to Council or Cabinet, and does not have the power to make decisions itself, in relation to amending the Constitution, Standing Orders or Financial Regulations. It has delegated power to define the Procurement Policy and to waive Contracts Procedure Rules ; this decision should be made by a majority of elected members of the group.

The Group does not have the power to take disciplinary action against any officer for procurement non-compliance, but can recommend to management that disciplinary action be considered.

The Group has no powers to make decisions that commit resources. It may make recommendations to Cabinet about level of budget or to the individual budget holder about expenditure.

### **Structure and Membership**

The Group's membership is:

1. Corporate Director (Support Services) or nominee (Chair)
2. Head of Finance or nominee
3. Head of Operations - Support Services
4. Head of Internal Audit (Chief Internal Auditor) or nominee
5. Head of Legal Services or nominee
6. Strategy Lead (Environment)
7. Lead Building Surveyor
8. Four Members: two appointed by Cabinet including the relevant Portfolio lead and two appointed by Audit and Resources Committee. Elected Members should aim to reflect the political make-up of the Council.

Secretariat to the Group will be provided by Democratic Services.

The Group may co-opt other people for their specialist expertise for one or more meetings e.g. Facilities Manager

To maintain their independence as per the Public Sector Internal Audit Standards 2017, the Chief Internal Auditor or Nominee shall not have any voting rights but will take an advisory/consultative role in any decision making.

The Group may invite but cannot require any other Member or officer to join them for whole or part of any meeting.

The Board may set up short-term 'Task and Finish' groups for any related purpose, with membership drawn from a wider group than Board membership if necessary.

## **Protocols**

The Procurement Executive Group will meet on at least an 8 weekly basis at which the following protocols will apply:

1. Agendas for meetings will be drawn up by the Democratic Services Officer in consultation with the Chair and circulated at least 7 days before the meeting.
2. In the absence of the Chair, meetings will be chaired by the most senior officer present.
3. A Declaration of Pecuniary Interests be sought prior to any meeting particularly when a waive of Contract Standing Orders is being requested.
4. Minutes will be taken by the Democratic Services Officer and approved by whoever chaired the meeting before circulation.
5. Email will be the main method of communication outside meetings.
6. These Terms of Reference are reviewed annually and are dated accordingly.

## **Decision-Making and Reporting**

Decisions are taken by consensus. If this is impossible to achieve, a report will be submitted to Cabinet seeking a decision. The Group will be considered quorate with a minimum of one quarter of the membership i.e.3 people (either officers or members).

The Group will produce an annual report on procurement which it will make available to members of Management Team, Cabinet, and Audit and Resources Committee. The report will include details of decisions taken by the Group during the year – including waiving of Contracts Procedure Rules.

Where appropriate, Minutes are put on Management Team agenda, alongside any report(s) giving the reasons for any recommendations to Management Team.

## **Inter-dependencies with other Groups, Boards, Committees etc.**

1. Cabinet, Audit and Resources Committee and Council (constitution, Standing Orders and financial regulations).
2. Programme Boards (guidance/gateways on procurement).
3. Management Team (in relation to financial management and performance management).
4. Finance Specialist Team (to receive recommendations about audit, financial regulations and Contracts Procedure Rules).

# Access to Information Procedure Rules

## 1. SCOPE

### **Cabinet Arrangements**

These rules apply to all meetings of the Council, the Cabinet, Committees and Scrutiny Panels (together called meetings).

## 2. ADDITIONAL RIGHTS TO INFORMATION

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

## 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings (subject only to the exceptions in these rules) and may contribute to debates at meetings (subject to the public participation rules in Part 4).

## 4. NOTICES OF MEETINGS

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at Eastleigh House, Upper Market Street, Eastleigh.

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

The Council will make copies of the agenda and reports open to the public available for inspection at Eastleigh House at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

## 6. SUPPLY OF COPIES

The Council will supply copies of:

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

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

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

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

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

## 8. **BACKGROUND PAPERS**

### 8.1 **List of Background Papers**

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in [their](#) opinion:

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

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

### 8.2 **Public Inspection of Background Papers**

The Council will make available for public inspection at Eastleigh House and on its website, for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Eastleigh House.

As the Constitution must be available to the public, these Rules will constitute the written summary.

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

### **10.1 Confidential Information - Requirement to Exclude Public**

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

### **10.2 Meaning of Confidential Information**

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

### **10.3 Exempt Information - Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. The meeting must first consider the "public interest test" to ascertain whether disclosing the information contained in those items of business deemed exempt are outweighed by the public interest in maintaining the exemption.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in the said Article 6.

### **10.4 Meaning of Exempt Information**

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

#### **LOCAL GOVERNMENT ACT 1972**

#### **SCHEDULE 12 A**

Note: Schedule 12A was substituted by the Local Government (Access to Information) (Variation) Order 2006.

#### **ACCESS TO INFORMATION: EXEMPT INFORMATION**

#### **PART 1:**

#### **DESCRIPTION OF EXEMPT INFORMATION: ENGLAND**

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated

consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

6. Information which reveals that the authority proposes

a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

b) to make an order or direction under any enactment

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2:

### QUALIFICATIONS: ENGLAND

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—

(a) the Companies Act 1985;

(b) the Friendly Societies Act 1974;

(c) the Friendly Societies Act 1992;

(d) the Industrial and Provident Societies Acts 1965 to 1978;

(e) the Building Societies Act 1986; or

(f) the Charities Act 1993.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992[

10. Information which—

(a) falls within any of paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## PART 3

### INTERPRETATION: ENGLAND

11. —(1) In Parts 1 and 2 and this Part of this Schedule—

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matter" means—

(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to

employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to—

(i) any constituent principal council;

(ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and

(iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and

(c) in the case of a sub-committee, to—

(i) the committee, or any of the committees, of which it is a sub-committee;

and

(ii) any principal council which falls within paragraph (b) above in relation to that committee.

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public (subject to the "public interest test" referred to earlier). Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE CABINET**

Rules 13 - 24 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 16.04 of this Constitution.

If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with a member of staff other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 16.04 of this

Constitution. This requirement does not include meetings, whose sole purpose is for staff to brief members.

### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **14. THE FORWARD PLAN**

#### **14.1 Period of Forward Plan**

Forward plans will be prepared on a monthly basis by the Leader to cover a period of four months.

#### **14.2 Contents of Forward Plan**

The forward plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, staff, Area Committees or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

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

become available.

Exempt information need not be included in a forward plan and confidential information cannot be included.

#### 15. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) where the Monitoring Officer has informed the chairperson of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;
- (b) where the proper officer has made available at Eastleigh House for inspection by the public and published on the Council's website a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).

As soon as reasonably practicable after the proper officer has complied with the above they must—

- (a) make available at the offices of the relevant local authority a notice setting out the reasons why compliance with Rule 13 is impracticable; and
- (b) publish that notice on the Council's website.

#### 16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of a relevant Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Scrutiny Panel, or if the Chair of the relevant Scrutiny Panel is unable to act, then the agreement of the Mayor, or in their absence the Deputy Mayor will suffice.

As soon as is reasonably practicable after the decision taker has obtained the agreement, as above, that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must –

- (a) make available at Eastleigh House a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

## **17. REPORT TO COUNCIL**

### **17.1 When a Scrutiny Panel can Require a Report**

If a Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Scrutiny Panel Chair, or the Mayor/Deputy Mayor under Rule 16;

The Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Panel when so requested by the Chairman or any five members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Panel.

### **17.2 Cabinet's Report to Council**

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

### **17.3 Quarterly Reports on Special Urgency Decisions**

In any event the Leader will submit at least annually a report to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken, the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, details of any alternative options considered and rejected at that meeting, a record of any conflict of interest declared at the meeting and a note of any dispensation given by the Head of Paid Service.

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

### **19.1 Reports Intended to be Taken into Account**

Where an individual member of the Cabinet receives a report which they intend

to take into account in making any key decision, then they will not make the decision until at least five clear days after receipt of that report.

### **19.2 Provision of Copies of Reports to Scrutiny Panels**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

### **19.3 Record of Individual Decision**

As soon as reasonably practicable after an Cabinet decision has been taken by an individual member of the Cabinet they will prepare, or instruct the Monitoring Officer to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, details of any conflict of interest declared and a note of any dispensation given for that conflict of interest by the Head of Paid Service. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

## **20. SCRUTINY PANELS ACCESS TO DOCUMENTS**

### **20.1 Rights to Copies**

Subject to Rule 20.2 below, a Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

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

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

### **20.2 Limit on Rights**

A Scrutiny Panel will not be entitled to:

- (a) any document that is in draft form (unless the Cabinet or a Committee has considered the document in its draft form);
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise.

Where the Cabinet determines that a member of Scrutiny Panel is not entitled to a copy of a document or part of a document that has been requested for the

reasons set out in 20.1 above, the Cabinet must provide the relevant Scrutiny Panel with a written statement setting out its reasons for that decision.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **21.1 Material Relating to Previous Business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information. Such documents will be made available for inspection at least five clear days before the meeting except where an item is added to the agenda at shorter notice when the document must be made available as soon as it is added to the agenda.

Any document which is in the possession or control of the Cabinet and contains material relating to business transacted at a private meeting must be available for inspection by any Member when the meeting concludes, except where that information falls within the description of paragraph 3 or 6 of Schedule 12A of the Local Government Act 1972.

### **21.2 Material Relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision unless it contains exempt or confidential information.

### **21.3 Nature of Rights**

These rights of a member are additional to any other right they may have.

# Budget and Policy Framework Procedure Rules

## 1. The Framework for Cabinet Decisions

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

## 2. Process for Developing the Framework

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

- (a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation. The Chairs of the Scrutiny Panels will also be notified. The consultation period shall in each instance be not less than two weeks.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Panel wishes to respond to the Cabinet in that consultation process then it may do so. The Cabinet will take any response into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved the firm proposals, the minutes setting out the recommendations will be referred at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The Monitoring Officer shall supply to the Leader a copy of the minute of the Council's decision.
- (g) An in-principle decision will automatically become effective within five working days from the date of the Council's decision, unless the Leader informs the Monitoring Officer in writing within that period that they objects to the decision becoming effective and provides reasons why.

- (h) In that case, the Monitoring Officer will call a Council meeting within a further 20 working days. The Council will be required to re-consider its decision and the Leader's written submission.

The Council may, by a simple majority of votes cast at the meeting:

- (i) approve the Cabinet's recommendation; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet.
- (i) The decision shall then be made public and shall be implemented immediately.
  - (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget which may be undertaken by the Cabinet, in accordance with paragraph 5 of these Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. Decisions Outside the Budget or Policy Framework**

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

### **4. Urgent Decision Outside the Budget or Policy Framework**

- (a) The Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not

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

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

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

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

## 5. **Virement**

Steps taken by the Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, virement across budget heads will be allowed in accordance with the Council's financial regulations contained in the Financial Procedure Rules in Part 4 of this Constitution.

## 6. **In-year Changes to Policy Framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals, except those changes which are necessary to ensure compliance with the law, Ministerial direction or Government guidance.

## 7. **Call-in of Decisions Outside the Budget or Policy Framework**

- (a) Where a Scrutiny Panel is of the opinion that a Cabinet decision is contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of

whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, and to the Scrutiny Panel if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.

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

# Cabinet Procedure Rules

## 1. How Does the Cabinet Operate?

### 1.1 Who May Make Cabinet Decisions?

The arrangements for the discharge of Cabinet functions are set out in the Cabinet arrangements adopted by the Council. The arrangements provide for Cabinet functions to be discharged by:

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

### 1.2 Sub-Delegation of Cabinet Functions

- (a) Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for a Cabinet function, they may delegate further to an Area Committee, joint arrangements or a member of staff.
- (b) Even where Cabinet functions have been delegated, that fact does not preclude the discharge of delegated functions by the person or body who delegated.

### 1.3 The Council's Scheme of Delegation and Cabinet Functions

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

### 1.4 Conflicts of Interest

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

## **1.5 Cabinet Meetings - When and Where?**

The Cabinet will meet as required for the purpose of conducting its business. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Monitoring Officer in consultation with the Leader.

## **1.6 Public or Private Meetings of the Cabinet?**

All meetings of the Cabinet shall be open to the public unless the items under discussion would involve the disclosure of exempt or confidential information.

## **1.7 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the members. Provided that a quorum shall not be less than three members.

## **1.8 How are Decisions to be taken by the Cabinet?**

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

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

### **2.1 Who Presides?**

If the Leader (or in their absence the Deputy Leader) is present they will preside. In their absence, then a person appointed to do so by those present shall preside.

### **2.2 Who May Attend?**

A Councillor other than a Cabinet member may attend a meeting of the Cabinet and may speak in the circumstances described in the Council and Committee Procedure Rules in Part 4. Cabinet meetings are also open to members of the public, subject to paragraph 1.6 above.

### **2.3 What Business?**

At each meeting of the Cabinet the business shall include:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by a Scrutiny Panel or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of the Constitution;
- (iv) consideration of reports from Scrutiny Panels; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of the Constitution.

## 2.4 Consultation

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

## 2.5 Who Can Put Items on the Cabinet Agenda?

- (a) The Leader may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Committee of it or any Councillor or member of staff in respect of that matter. The Monitoring Officer will comply with the Leader's request in this respect.
- (b) The Monitoring Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Panel or the full Council so request.
- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

# Overview and Scrutiny Procedure Rules

## 1. Arrangements for Overview and Scrutiny

The Council will have the Scrutiny Panels set out in Article 6 and will appoint to them as it considers appropriate from time to time.

- 1.1 Panels of eight non-Cabinet Councillors will be the normal size (enabling all such Councillors to be on one Panel), but the Council retains the flexibility to vary Panel size if considered appropriate.

## 2. Who May Sit on Scrutiny Panels?

All Councillors, except members of the Cabinet, may be members of a Scrutiny Panel. However, no member may be involved in scrutinising a decision in which they have been directly involved.

## 3. Co-optees

Each Scrutiny Panel shall be entitled to include third parties in their meetings in a non-voting capacity.

## 4. Meetings of Scrutiny Panels

Scrutiny Panels will determine their own frequency of meetings. A Panel meeting may be called by the Chair of the Panel or by the Monitoring Officer if they consider it necessary or appropriate.

## 5. Quorum

The quorum for a Scrutiny Panel shall be as set out for Committees in the Council and Committee Procedure Rules in Part 4 of the Constitution.

## 6. Who Chairs Scrutiny Panel Meetings?

The Panel Chairs and Vice-Chairs will be appointed annually by the Council.

## 7. Work Programme

The Scrutiny Panels will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Panel who are not members of the largest political group on the Council. Panels will also receive staff support to assist with their work.

## 8. Agenda Items

The Scrutiny Panels shall respond, as soon as their work programme permits, to requests from the Council, and if it considers it appropriate the Cabinet, to review particular areas of Council activity. Where they do so, the Scrutiny Panel shall report its findings and any recommendations back to the Cabinet and/or Council for consideration as soon as reasonably possible.

## **9. Policy Review and Development**

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

## **10. Reports from Scrutiny Panels**

- (a) Once it has formed recommendations on proposals for policy development, the relevant Scrutiny Panel will prepare a formal report and submit it to the Monitoring Officer for consideration, as appropriate, by the Cabinet, an Area Committee or the Council.
- (b) The relevant body shall consider the report at the next available meeting.

## **11. Making sure that Scrutiny Reports are Considered by the Cabinet**

- (a) Once a scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 2 months. In such cases, the report of the Scrutiny Panel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the scrutiny report within 3 months then the matter will be referred to Council for review, and the Monitoring Officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- (b) Scrutiny Panels will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Panel following a consideration of possible policy/service developments, the Panel will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## 12. Rights of Scrutiny Panel Members to Documents

- (a) In addition to their rights as Councillors, members of Scrutiny Panels have the additional rights to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. In particular, they will have access to all Council papers, including Internal and External Audit reports relevant to their theme areas, subject to preserving the confidentiality of those relating to exempt business of the kind referred to in legislation.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Panels as appropriate depending on the particular matter under consideration.

## 13. Members and Staff Giving Account

- (a) Any Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any member of staff to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance;and it is the duty of those persons to attend if so required.
- (b) Where any Councillor or member of staff is required to attend a Scrutiny Panel under this provision, the Chair of that Panel will inform the Monitoring Officer. The latter shall inform the Councillor or member of staff in writing giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, then the Councillor or member of staff concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Councillor or member of staff is unable to attend on the required date, then the Scrutiny Panel shall in consultation with the person concerned arrange an alternative date for attendance.

#### 14. **Attendance by Others**

A Scrutiny Panel may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Councillors and staff in other parts of the public sector and may invite such people to attend.

#### 15. **Call-in**

Provisions enabling members to call-in decisions of the Cabinet, Local Area Committees or other Committees of the Council are included in the Council and Committee Procedure Rules in Part 4 of the Constitution. These are available to all Councillors and not reserved exclusively to members of Scrutiny Panels.

#### 16. **The Party Whip**

No party whip shall be applied to the proceedings of Scrutiny Panels.

#### 17. **Procedure at Scrutiny Panel Meetings**

(a) Scrutiny Panels shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest;
- (iii) responses of the Cabinet to reports of the Panel;
- (iv) the business otherwise set out on the agenda for the meeting.

(b) Where the Panel conducts investigations (for example with a view to policy development), the Panel may also ask people to attend to give evidence at Panel meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the Panel by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public.

#### 18. **Matters Within the Remit of More Than One Scrutiny Panel**

Where a matter for consideration by a Scrutiny Panel also falls within the remit of one or more other Scrutiny Panels the decision as to which Panel will consider it will be resolved by the Cabinet or Council as appropriate. In any event, the Chair(s) of the other Panel(s) will be invited to attend meetings at which the matter is being discussed.

# Procedure Rules for Area Committees and the Administration Committee

## 1. How Do the Committees Operate?

### 1.1 Committee Meetings - When and Where?

Area Committees and the Administration Committee will meet in accordance with a timetable or at such other times as may be agreed by the relevant Committee Chair. Area Committees shall determine their own meeting places and shall publicise details of the venues and meeting dates accordingly. The Administration Committee will meet at the Council's main offices or another location to be agreed by the Monitoring Officer in consultation with the Committee Chair.

### 1.2 Public or Private Meetings?

All meetings of Area Committees and the Administration Committee shall be open to the public unless the items under discussion would involve the disclosure of exempt or confidential information.

### 1.3 Quorum

The quorum for a meeting of an Area Committee or the Administration Committee shall be one quarter of the number of the whole body. Provided that a quorum shall not be less than three members.

### 1.4 How are Decisions to be Taken?

Cabinet decisions which have been delegated to an Area Committee or the Administration Committee will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

## 2. HOW ARE COMMITTEE MEETINGS CONDUCTED?

### 2.1 Who Presides?

The Chair of the Committee (or in their absence the Vice-Chair) will preside. In their absence, then a person appointed to do so by those present shall preside. The Chairs and Vice-Chairs of Area Committees and the Administration Committee are appointed annually by the Council.

### 2.2 Who May Attend?

A Councillor other than a Committee member may attend a meeting and may speak in the circumstances described in the Council and Committee Procedure Rules in Part 4. Committee meetings are also open to members of the public (subject to paragraph 1.2 above) and may speak in accordance with the public participation rules in Part 4.

### 2.3 What Business?

At each meeting of a Committee the business shall include:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not, and also (in the case of Area Committees) which are functions of the Cabinet and which are not, in accordance with the Access to Information Procedure Rules set out in Part 4 of the Constitution.

The Chair of the Committee may, at their discretion, alter the order of business shown on the agenda.

### 2.4 Who Can Put Items on a Committee Agenda?

- (a) The Chief Executive, a Corporate Director or an appropriate Unit Manager may ask the Monitoring Officer to include in an agenda for a meeting of an Area Committee or the Administration Committee any item requiring a Cabinet decision.
- (b) The Leader or the Chair or Vice-Chair of an Area Committee or the Administration Committee may put on the agenda of a relevant Committee meeting any matter which they wish, whether or not authority has been delegated to the Committee or any Councillor or member of staff in respect of that matter. The Monitoring Officer will comply with the member's request in this respect.
- (c) The provisions in paragraph (b) above are in addition to the right of members to submit a Notice of Motion to a Committee on any matter relevant to that Committee, in accordance with standing order 7 (in Council and Committee Procedure Rules in Part 4).
- (d) The Monitoring Officer may request an item related to a standards matter be added to the agenda for the Administration Committee.

### 2.5 Sub-Committees

The Administration Committee may appoint sub-committees for the purpose of considering a complaint(s) that a Member has breached the Council's Code of Conduct referred to the sub-committee by the Monitoring Officer. The procedure for these meetings will be in accordance with the procedure agreed by the Council on 26 July 2012.

# **Financial Procedure Rules**

The Appendix following this page contains the Council's Financial Regulations.



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## **1 STATUS OF FINANCIAL REGULATIONS**

- 1.1 Financial regulations provide the framework for managing the Council's financial affairs. They apply to every member, all staff of the Council and anyone acting on its behalf.
- 1.2 The regulations identify the financial responsibilities of the full Council, the Cabinet, Local Area Committees and Scrutiny Members, the Head of Paid Service, the Monitoring Officer, the Chief Financial Officer and budget holders.
- 1.3 Unless specifically stated, for the purpose of these regulations the Chief Executive is deemed to be the Head of Paid Service, the Monitoring Officer is deemed to be the Monitoring Officer and the Chief Financial Officer is deemed to be the Council's Chief Financial Officer. Any reference to a budget holder is deemed to include the Management Team, both collectively and individually, Local Area Managers and staff holding a designated position of financial responsibility.
- 1.4 All reference to "Management Scheme of Delegation" refers to the latest approved Management Scheme of Delegation.
- 1.5 All reference to "The Constitution" refers to the current Eastleigh Borough Council Constitution. Reference is included in this document as necessary to reflect financial management issues. All statements in italics are extracts of, or summarise elements in the Constitution.
- 1.6 The Chief Financial Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full Council for approval. The Chief Financial Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or to the Cabinet Members. The Chief Financial Officer is responsible for issuing advice and guidance to underpin the financial regulations that members, staff and others acting on behalf of the Council are required to follow.
- 1.7 Operational Managers are responsible for ensuring that all staff for whom they are responsible are aware of the existence and content of the Council's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that the Financial Regulations are available for reference to their sections. All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves Best Value.
- 1.8 These regulations are effective from 18 October 2018.

## **2 FINANCIAL REGULATIONS – FINANCIAL MANAGEMENT**

### **INTRODUCTION**

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget and should be read in conjunction with the Council's Constitution.

#### THE FULL COUNCIL

- 2.2 The full Council is responsible for adopting and changing the Council's constitution and members' code of conduct and for approving or adopting the policy framework, the budget and budget strategy within which the Cabinet operates.

#### THE CABINET

- 2.3 The Cabinet is responsible for proposing the policy framework, its overall community and corporate strategies and budget strategy to the full Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
- 2.4 Cabinet decisions, excluding key decisions, can be delegated to a committee of the Cabinet, and individual Cabinet member (Cabinet Lead), an Area or other committee or to a member of staff.

#### **Key Decisions**

- 2.5 A key decision means an Cabinet decision which is likely:
- (a) to result in the Council incurring expenditure or making savings which amount to either £50,000 or 20% (whichever is the larger) of the gross expenditure budget for the service of general function to which the decision relates; or
  - (b) to be significant in terms of its effect on communities living or working in an area comprising two or more wards within the Borough of Eastleigh.
- 2.6 Paragraph 2.5 above shall not apply:
- (a) if the expenditure or savings are part of a programme already approved; or
  - (b) if it is a decision taken by the Chief Financial Officer in accordance with the approved Treasury Management Policy.
  - (c) a decision-taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of the Constitution.
- 2.7 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

## SCRUTINY PANELS

- 2.8 The Scrutiny Panels are responsible for the review and/or scrutiny of decisions of the Cabinet and Local Area Committees. Scrutiny Panels are also responsible for making recommendations on future policy development, overview or scrutiny and for reviewing the general policy and service delivery of the Council. The Audit and Resources Committee will agree and oversee the Council's Internal Audit Plan.

## LOCAL AREA COMMITTEES

- 2.10 Local Area Committees are responsible for taking Cabinet decisions within policy framework and budget on locally provided services and the local Community Investment Programme (including matters delegated to them by either the Council or the Cabinet).

## STATUTORY OFFICERS

### Head of Paid Service

- 2.11 The Head of Paid Service is responsible for overall corporate management and operational responsibility for the management of the Council as a whole. They must report as necessary to the Council and Cabinet. They are responsible for the provision of professional advice to all parties in the decision-making process. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions.

### Monitoring Officer

- 2.12 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Administration Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively
- 2.13 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions, and relevant staff reports and background papers are made publicly available as soon as possible.

- 2.14 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- 2.15 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.
- 2.16 After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an Cabinet function) if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 2.17 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

#### Chief Financial Officer

- 2.18 The Chief Financial Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972 amended 2003
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 2003
- 2.19 The Chief Financial Officer is responsible for:
- the proper administration of the Council's financial affairs
  - setting and monitoring compliance with financial management standards
  - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - providing financial information
  - preparing the revenue budget and community investment programme
  - Treasury Management
  - maintaining an adequate and effective system of internal audit in accordance with the Accounts and Audit Regulations 1996
- 2.20 The Chief Financial Officer shall make a report to the Council under sub-section 2 of S114 of the Local Government Finance Act 1988 where the Council, a Committee or a member of staff, or a Joint Committee on which the Council is represented:
- has made or is about to make a decision which involves or would involve the Council incurring unlawful expenditure
  - has taken, or is about to take, a course of action which if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency; or

- is about to enter an item of account which is unlawful

In preparing a report the Chief Financial Officer shall consult as far as practicable with the person designated as the Head of the Council's Paid Service and with the person responsible for performing the duties of the Council's Monitoring Officer under the Local Government and Housing Act 1989.

The Chief Financial Officer shall make a report under sub-section 3 of S114 of the Local Government Finance Act 1988 if it appears to them that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

2.21 Members and Officers shall draw to the attention of the Chief Financial Officer, at the earliest opportunity, any subject which may lead to a formal report.

2.22 Section 114 of the 1988 Act also requires:

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

#### Other Staff

2.23 The Chief Executive and Corporate Directors will exercise an overview of the activity of services and capital schemes within their respective portfolio. They will ensure that managers consult with the Chief Financial Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

2.24 Budget holders are responsible for ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer.

2.25 All staff are responsible for the financial processes under their control, or influence. In order to fulfil this duty, budget holders, in consultation as necessary with the responsible Corporate Director, shall have a primary responsibility for the observance of the Council's Financial Regulations throughout the area under their control and ensure that adequate operational controls are in place.

2.26 Staff shall comply with all financial principles and policies, contained within any Management Scheme of Delegation or Empowerment, which the Council may introduce, whether specific reference is contained within these Financial Regulations or not.

## ACCOUNTING

- 2.27 All prime accounting forms, records, systems (including financial systems operated on PC software) and procedures of the Council shall be subject to the approval of the Chief Financial Officer. Such procedures shall have regard to S115 of the Local Government Act 1972, the Accounts and Audit Regulations 2003 and appropriate accounting Standards.
- 2.28 A budget holder shall consult the Chief Financial Officer before introducing, amending or discontinuing any record or procedure related to accounting for cash, stores or equipment, or dealing with income, expenditure or other financial transactions in the area under their control.
- 2.29 The following principles shall be observed in the allocation of accounting duties and responsibilities:-
- So far as it is practicable, the duties of providing information on, calculating, checking and recording sums due to or from the Council shall be separated from duties of collection or disbursement.
  - Staff responsible for the examination and checking of cash transactions shall not themselves be engaged in any such collection procedures.
  - Staff shall bring into account, at the end of each financial year, the revenue and capital cost of any service or supply received or consumed by the Council during that year, for which no account has been paid.

### **3 FINANCIAL REGULATIONS – FINANCIAL PLANNING**

#### INTRODUCTION

- 3.1 The full Council is responsible for agreeing the policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- Corporate Strategy
  - the Medium Term Financial Plan
  - the treasury management strategy
  - Capital Investment Strategy incorporating the community investment programme
- 3.2 The Council will be responsible for the adoption of its budget and policy framework. Once a budget or policy framework is in place, it will be the responsibility of the Cabinet to implement it.

#### BUDGETARY CONTROL

##### Budget format

- 3.3 The general format of the budget will be prepared in accordance with appropriate legislation and codes of practice. It will be approved by the full Council and proposed by the Cabinet on the advice of the Chief Financial Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

##### Budget preparation

- 3.4 The Chief Financial Officer is responsible for ensuring that the following is prepared on an annual basis for consideration by the Cabinet, before submission to the full Council.
- a revenue budget
  - a capital budget (Community Investment Programme)
  - a rolling medium term financial plan of at least 3 years for presentation to the Cabinet before the November preceding each financial year

The full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

- 3.5 The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Chief Financial Officer as soon as possible following approval by the full Council.
- 3.6 It is the responsibility of budget holders to ensure that budget estimates reflecting

agreed plans are submitted to the Cabinet in consultation with the Chief Financial Officer and that these estimates are prepared in line with guidance issued by the Cabinet.

#### Budget monitoring and control

- 3.7 The Chief Financial Officer is responsible for providing appropriate financial information systems to enable budgets to be monitored effectively. The Chief Financial Officer must monitor and exercise overall control of expenditure and income against budget allocations and report to the Cabinet on the overall position quarterly.
- 3.8 Budget Holders are accountable for the control of income and expenditure within their area and to monitor performance, taking account of the financial information available. They should report actual and forecast variances within their own areas. They should also take appropriate action necessary to avoid exceeding their budget allocation and alert the Chief Financial Officer to any problems.
- 3.9 All Budget Holders are required to comply with the Council's Corporate Financial Monitoring process as directed by the Chief Financial Officer.
- 3.10 Where it appears that the approved budget on any element of revenue or capital expenditure is likely to be exceeded or that the amount of expected income may not be received, it shall be the duty of the budget holder concerned, after consultation with the Chief Financial Officer, to inform the Cabinet or appropriate Local Area Committee. Where such variations occur under a budget included within the Scheme of Management Delegation the Chief Executive shall also be notified.
- 3.11 Budget Holders may delegate authority to other staff to act on their behalf in sanctioning orders for payment, but such delegation shall not in any way reduce the accountability of the Manager.
- 3.12 No expenditure may be incurred unless it has been included in budgets approved by the Cabinet and Council. Subject to the virement limits in regulation 3.26 any proposed new policy or any changes in policy likely to affect the financial resources of the Council shall be proposed to the Cabinet who shall make recommendations to the Council.
- 3.13 It shall be the duty of the Cabinet to monitor and regulate financial performance and report to Local Area Committees those matters which require action, to ensure that income and expenditure remain within the limits of the approved budget. It shall be the duty of the Local Area Committees to comply.
- 3.14 Where expenditure or income involves a contract with a third party Budget Holders must follow procedures laid down in Standing Orders.
- 3.15 Where service areas operating under an approved Scheme of Management Delegation are able to generate additional income from external sources, which does not impact upon the parameters or policies agreed by the Council, the income can be reinvested in the service with the agreement of the relevant Portfolio Lead, Corporate Director and subsequent approval from the Chief

Financial Officer.

Resource allocation

- 3.16 The Chief Financial Officer is responsible for developing and maintaining a financial resource allocation process that ensures due consideration of the full Council's policy framework.

Capital Programme (Community Investment Programme)

- 3.17 Draft estimates for the ensuing year, together with a financial report shall be presented to the Cabinet so that provision for approved items may be made in revenue estimates. The budget process shall be as follows:

- (a) The CIP shall be prepared by the Chief Financial Officer who shall identify appropriate sources of funding.
- (b) The Chief Financial Officer shall prepare revenue budgets in consultation with each budget holder consistent with the general directions of the Cabinet. Such budgets must take account of the revenue effects of any capital expenditure. budget holders should be confident that their budgets can bear the longer term consequences of any expenditure that they authorise.
- (c) The Cabinet shall consider the aggregate effect of the programmes and budgets upon the resources of the Council and will submit these to Council for approval.

- 3.18 A forward provisional programme of at least three years shall be maintained.

- 3.19 Before any scheme can be added to the CIP the following criteria must be met:

- (a) The nature of the project and its links to the Corporate Strategy and Portfolio/Local Area Committee/Service Plans must be identified.
- (b) The project has been subject to an appropriate feasibility study (the level depends on the nature of the project).
- (c) The structure of the project as to;
  - Project Board (or equivalent)
  - Project Manager
  - Timescale
  - Cost and source of funding
  - Appropriate resources (not just financial) are available to complete the project
- (d) Method of implementation
- (e) Performance measures/Success factors

- 3.20 Subject to paragraph 5.52 no expenditure may be incurred upon a capital

scheme until it has been included in the capital programme approved as follows:

- (a) if within an existing budget, agreement by Local Area Committee or Cabinet.
- (b) if a new budget, up to a set sum of £50,000, agreement by Local Area Committee or Cabinet, subject to the identification of funding.
- (c) if over £50,000 agreement by Council.

A scheme may only be committed when an estimate of the associated revenue expenditure and income has been approved by the relevant committee.

#### Virement and Supplementary Estimates

- 3.21 Expenditure shall not be incurred or a reduction of income authorised, unless it is covered by the annual budget, special financial provision or a supplementary estimate.
- 3.22 When it is desired to direct a budget to a purpose other than that for which it has been approved, as part of the budgetary process, virement will be permitted subject to the limits detailed below.
- 3.23 Virement within any controllable individual portfolio budget (as defined by the Chief Financial Officer), whether capital or revenue is permitted subject to the financial limits and virement authority levels contained in paragraph 3.26 below.

Note: This will allow virement between services provided they are within the same portfolio. Virement between portfolios are the subject to approval from all relevant portfolio leads. .

- 3.24 Virement of any budget within a service is permitted, with the exception of internal recharges, subject to the financial limits and virement authority levels contained in paragraph 3.26 below.
- 3.25 Virement between any service within an LAC budget will be permitted with the exception of internal recharges, subject to the financial limits and virement authority limits contained in paragraph 3.28 below.

#### Virement Limits and Authority Levels

- 3.26 The following financial limits shall apply in respect of any virement. Such limits are to be viewed as annual sums. If any virement affects the level of service provided for a devolved function approval must also be gained from the relevant LAC Chair.

- (a) Between service budgets within portfolio (revenue or CIP)

Up to £10,000, at the discretion of the appropriate Cabinet Member in consultation with the relevant Budget Holder Approval must also be obtained from the Chief Financial Officer.

Between £10,001 and £49,999, at the discretion of the appropriate Cabinet Member in consultation with the Budget Holder. Approval must also be obtained from the Chief Financial Officer.

Any virement above £50,000 shall require the approval of the relevant Local Area Committee or the Cabinet.

For the avoidance of doubt, "Service" means an individual page of the budget book, e.g. Car parks.

(b) Within a Service

Any sum within the approved budget (excluding internal recharges) at the discretion of the Budget Holder with approval from the Chief Financial Officer.

For the avoidance of doubt, "Within a Service" means a virement between subjective headings, e.g. supplies and services to property within the same Service.

(c) Between services within an LAC budget (capital or revenue)

Up to £25,000 at the discretion of the LAC Chair in consultation with the relevant Corporate Director and relevant Budget Holders. Approval must also be obtained from the Chief Financial Officer.

For the avoidance of doubt, "Between Services", is as per the principle in b) above, but relates to virements between subjective headings in different Services, but within the same LAC budget.

3.27 Any virement which is undertaken within the parameters of these regulations must also reflect the Corporate Strategy and policy decisions of the Council.

3.28 Where a supplementary estimate is required, a request will be made to the Chief Financial Officer in accordance with the procedures laid down from time to time. Such requests shall be considered by the Chief Financial Officer and the Cabinet. All requests must identify the following:

- (a) Nature and reason for growth
- (b) Cost (including 5 year projection)
- (c) Link to Portfolio and Corporate Strategy
- (d) Proposed source of funding

3.29 Where virement is not possible a Cabinet Member or LAC must seek the approval of the Cabinet for a supplementary estimate. The Cabinet will consider the reasons why a supplementary estimate is required which may include:-

- (a) circumstances of an exceptional nature which could not have been foreseen.
- (b) a change in Council or National Policy, in providing a new service or altering an existing one which was not known at the time budgets were

proposed.

Maintenance of Reserves

- 3.30 It is the responsibility of the Chief Financial Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.

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

### **INTRODUCTION**

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

### **RISK MANAGEMENT**

- 4.2 The Cabinet is responsible for approving the Council's policy on risk management and for defining the member, staff and committee structure through which risk management will be planned and monitored.
- 4.3 The Chief Executive and Chief Financial Officer are responsible for preparing the Council's risk management policy statement and project plan for submission to the Cabinet. They are responsible for reporting to the Cabinet on at least an annual basis on the achievement of the project plan.
- 4.4 The Chief Financial Officer shall consider and advise the Cabinet on those risks which are to be covered by a policy of insurance, which have been identified to them, and shall advise relevant Operational Managers and Functional Leads of any changes in such cover.
- 4.5 Managers shall give prompt notification to the Chief Financial Officer of:-
- (a) All risks in the control of their unit or area, covered by such a policy of insurance, with the estimate of value in the case of property, vehicles or plant or other intangible assets.
  - (b) Any alteration which may affect existing insurances.
  - (c) Any loss, liability or damage, or any event likely to lead to a claim.
  - (d) All leases of property granted by or to the Council which involve a transfer of insurance cover.
  - (e) The terms of any indemnity which the Council is requested to give.
- 4.6 The Chief Financial Officer shall periodically review insurances in consultation with other Operational Managers and Functional Leads as appropriate.

### **INTERNAL CONTROL**

- 4.7 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.8 The Chief Financial Officer is responsible for advising on effective systems of

internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

- 4.9 It is the responsibility of Operational Manager and Functional Lead to maintain internal control and to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### AUDIT REQUIREMENTS

##### Internal Audit

- 4.10 These regulations are supplemented to the powers and duties of the Chief Financial Officer imposed by Regulation 6 of the Accounts and Audit Regulations 2003.
- 4.11 The Council shall be responsible for maintaining an adequate and effective internal audit service. This shall be delegated to the responsible financial officer in accordance with the Accounts and Audit Regulations 2003. This shall enable a continuous examination of the internal control systems, all accounts, records and terms of the Council and the achievement of economic, efficient and effective use of resources, and the Council shall make sufficient resources available for this.
- 4.12 Internal Audit will comply with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit and any subsequent amendments. Compliance with the Code will be reviewed by the External Auditor on an annual basis, or any other frequency as determined from time to time by the latter.
- 4.13 The Chief Financial Officer or their authorised representatives shall have Council to:-
- (a) Enter at all times any Council premises land.
  - (b) Have access to any information from the Council which they require in order to carry out their duties.
  - (c) Require and receive any such explanations as the Chief Financial Officer deems necessary concerning any matter under examination;
  - (d) Require any employee of the Council to produce cash, or other Council property, records or data under their control upon request; and
  - (e) Undertake planned observation or surveillance in accordance with the Regulation of Investigatory Powers Act 2000 following authorisation by the Authorised Officer, who shall be the Chief Financial Officer or in their absence the Head of Legal Services.

- 4.14 When any matter arises which involves, or is thought to involve, irregularities or theft concerning cash, stores, data or other property or functions of the Council, the appropriate Operational Manager and Functional Lead shall forthwith notify the Chief Financial Officer who shall take such steps as they consider necessary by way of investigation and report. If there is evidence or strong suspicion of fraud the Chief Financial Officer will normally bring the matter to the attention of the Chief Executive.
- 4.15 The Chief Financial Officer shall report promptly and fully to the Chief Executive and, if appropriate to the Chair of the Audit and Resources Committee, on the results of an investigation into an irregularity or suspected irregularity.
- 4.16 The Chief Financial Officer shall submit a report to the Audit and Resources Committee on the performance of Internal Audit activity for the financial year, by the 30 June of the following year and at other times as circumstances dictate.

#### External Audit

- 4.17 The Council have chosen to appoint Public Sector Audit Appointments Limited (PSAA) to appoint external auditors for the audit of accounting statements. The basic duties of the external auditor are governed by the Local Audit and Accountability Act 2014. The external auditor of Housing Benefit claims is appointed separately by the Council.
- 4.18 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

#### PREVENTING FRAUD AND CORRUPTION

- 4.19 The Chief Financial Officer is responsible for the development and maintenance of the policies on Prevention of Fraud and Corruption and the Prevention of Computer Fraud and Abuse. All staff are to comply with these policies.
- 4.20 Managers are responsible for ensuring compliance with the above policies by the staff, including any temporary staff, under their control and by external contractors/consultants employed by the Council from time to time.

#### ASSETS

- 4.21 The Chief Financial Officer should ensure that asset registers are maintained by designated Managers in accordance with good practice for all fixed assets with a value in excess of £5,000, with the exception of IT equipment which is the responsibility of the Head of IT, and assets identified in paragraph 4.28 below, where a record must be maintained of all assets held. The Chief Financial Officer can request information for accounting, costing and financial management from each Operational Manager and Functional Lead charged with maintaining an asset register.
- 4.22 The Operational Manager and Functional Leads designated below should ensure that records and assets are properly maintained and securely held. They should

ensure that information is supplied to the Chief Financial Officer when requested, to support the valuations contained in the accounts of the Council. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

- 4.23 The Head of Strategic Planning in liaison with the relevant Cabinet Lead, is responsible for the development and review of a strategy to encourage the efficient use of land and buildings and to secure the proper maintenance of buildings. This strategy will have regard to the effect of acquisition, disposal and long term lettings on the Council's capital programme and revenue budget.
- 4.24 The Lead Asset Manager will be responsible for the maintenance of a register of all properties owned by the Council, the purpose for which held, the location, the extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
- 4.25 Disposals must be recorded in the record and reference made to the Council for disposal, together with details of purchaser, income received and any other details relevant to the disposal.
- 4.26 The Head of Legal Services shall have the custody of all title deeds under secure arrangements and shall, on completion of any deed or agreement, notify the Chief Financial Officer of any financial rights or liabilities arising therefrom.
- 4.27 All negotiations for the purchase, occupation and development of land or buildings owned by third parties, or for the sale to, or use of Council land or buildings by third parties (with the exception of casual lettings) will be carried out by the Lead Asset Manager in consultation with the relevant managers.
- 4.28 The Head of Direct Services will be responsible for the maintenance of a register of all vehicles, plant and equipment owned and recorded by the Council as a fixed asset, or held under a lease arrangement, or sub-leased to an external contractor. Information held must include the identification of each asset by a unique number and by registration (if applicable), the description of the asset together with the details and dates of purchase and lease arrangements.

#### TREASURY MANAGEMENT

- 4.29 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.30 The full Council is responsible for approving the Treasury Management Policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to the full Council by the Cabinet. The Chief Financial Officer has delegated responsibility for implementing and monitoring the statement.
- 4.31 All money in the hands of the Council is to be aggregated for the purpose of Treasury Management and controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Chief Financial Officer.

- 4.32 The Chief Financial Officer is responsible for reporting to the Cabinet a proposed Treasury Management Strategy for the coming year at or before the start of each financial year.
- 4.33 All Cabinet decisions on borrowing, investment or financing shall be delegated to the Chief Financial Officer or a staff member nominated by them who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.34 The Chief Financial Officer is responsible for reporting to the Cabinet not less than twice in each financial year on the activities of the treasury management operation and on the exercise of their delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
- 4.35 If the Chief Financial Officer wishes to depart in any material respect from the main principles of the CIPFA Code, the reasons should be disclosed in the report to the Cabinet.

#### BORROWING & INVESTMENTS

- 4.36 All borrowing shall be effected in the name of the Council and shall have regard to the Council's statement on Treasury Management in paragraphs 4.29 – 4.35 of these regulations.
- 4.37 The Chief Financial Officer shall have authority within any declared policy of the Council to raise loan monies to meet the expenses of the Council and to make and realise investments.
- 4.38 The Chief Financial Officer shall be the Council's Registrar of stocks, bonds and mortgages, and shall maintain records of all borrowing and lending of money by the Council.
- 4.39 All investments shall be effected in the name of the Council.
- 4.40 The Chief Financial Officer shall be authorised to arrange such overdraft facilities and other borrowing as they consider reasonable as long as it:-
- (a) is in accordance with the Local Authorities (Borrowing) Regulations 1990; and
  - (b) is within the borrowing limits approved by the Council.
- 4.41 In accordance with S45 of the Local Government and Housing Act 1989 the Chief Financial Officer shall make recommendations to the Cabinet by the 31 March each year on the borrowing limits to be set for the following financial year, which are to include:
- (a) an amount of money (the "overall borrowing limit") which is for the time being the maximum amount which the Council may have outstanding by

way of borrowing;

- (b) an amount of money (the “short term borrowing limit”) being a part of the overall borrowing limit, which is for the time being the maximum amount which the Council may have outstanding by way of short term borrowing; and
- (c) a limit on the proportion of the total amount of interest payable by the Council where the rate is variable by the lender or external factors.

## SECURITY

- 4.42 Operational Managers and Functional Leads shall be responsible for maintaining proper security at all times of all assets and resources of the Council, both tangible and intangible which are under their control.
- 4.43 The Lead Asset Manager be informed of any building where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 4.44 The Chief Financial Officer shall be informed, as soon as possible, of any break-in, theft or attempt at such, and any loss otherwise suffered together with the estimated value of such loss.
- 4.45 The Chief Financial Officer shall inform the Chief Executive, Chief Internal Auditor and the appropriate Operational Manager and Functional Lead of any such loss and shall submit a statement of the circumstances and the loss sustained to the Council’s insurers.
- 4.46 Each Operational Manager and Functional Lead shall be responsible for maintaining proper security and privacy with respect to information held within their department and have particular regard to the requirement of the Data Protection Act 2018 and General Data Protection Regulations 2018.
- 4.47 Maximum limits for cash holdings shall be agreed with the Chief Financial Officer and shall not be exceeded without their permission. Staff responsible for the collection and custody of cash shall apply the same security over the latter as they would their own monies.
- 4.48 In addition to the requirements of paragraph 5.14 staff responsible for the collection and custody of cash outside Eastleigh House shall bank such monies when the limit reaches the maximum cash holding as advised in the above paragraph or weekly, whichever is the sooner.

## INFORMATION TECHNOLOGY

- 4.49 The Information Technology Board, in liaison with the relevant Cabinet Lead, is responsible for overseeing the development, review and compliance with Digital Strategy..
- 4.50 The Information Technology Board are authorised to make minor changes to the

Digital Strategy in the light of changing circumstances, and in particular to keep it up to date.

- 4.51 The Information Technology Board are authorised to agree and amend the annual investment programme within the CIP, in consultation with the Leader, subject to the Council's normal budgetary processes, including the consideration of ongoing revenue costs.
- 4.52 The Head of IT Lead is responsible for the development and implementation of Information Technology standards drawing on guidance from British Standard (BS7799).
- 4.53 The Head of IT in liaison with the relevant Cabinet Lead, is responsible for ensuring that computing is approached in a uniform and professional manner by providing detailed guidance to staff and members as appropriate.
- 4.54 Each Operational Manager and Functional Lead or Member, shall:-
- (a) Liaise with the Head of IT to ensure compliance with the Council's Digital Strategy and ensure that technical expertise is utilised to the fullest extent.
  - (b) Be responsible for maintaining security systems which prevent unauthorised access to all data held by computer or other methods of storage, and in particular financial and personal data, and have particular regard to the requirements of the General Data Protection Regulations 2018, the Computer Misuse Act 1990, the Council's Prevention of Computer Fraud & Abuse policy and the Internet and E-Mail policy.
  - (c) Be responsible for the safe custody, use and access permitted by all computer hardware and software under their control and shall submit any removable media, or third party hosted storage containing data from an external source, including systems or data amended or copied, outside of the Council's in-house I.T. Service, to the Head of IT Lead for virus checking prior to use.

Note: All IT hardware and software which is to be used by Council staff must be purchased via IT Services.

- (d) Ensure that any Council owned computer in their possession (including laptops, mobile devices and smartphones) are only connected to the Internet via the Council network.
  - (e) In liaison with the Head of IT, develop and maintain a contingency plan for implementation in the event of a disaster for the restoration of systems at each installation under their control. Such plans are to include a periodic backup of system information and programs in a form agreed by the Head of IT. Contingency plans must be drawn up in consultation with the Head of IT and the relevant Business Lead.
- 4.55 Each Manager, shall ensure that only licensed software is used in systems under

their control, and shall seek advice from the Head of IT as necessary.

## STORES & STOCKS

- 4.56 Operational Managers and Functional Leads shall be responsible for the care and safe custody of the stocks and stores under their control.
- 4.57 Stock levels shall not be in excess of reasonable requirements consistent with operational needs.
- 4.58 Operational Managers and Functional Leads shall maintain a system of continuous stocktaking of stores under their control, with periodical test examination by persons other than those who have a responsibility for the stock control system. All managers shall ensure that the total stock is checked annually at 31 March and certified as correct, under the supervision of the relevant Operational Manager or Functional Lead..
- 4.59 Any adjustment of stores records to account for a variance between physical and book stock shall be authorised by the appropriate Operational Manager or Functional Lead and shall be reported to the Chief Financial Officer. Where a deficiency occurs or obsolete stock is identified a Operational Manager or Functional Lead may write off such amounts and advise the Chief Financial Officer who will report such sums to the Cabinet if considered significant.
- 4.60 Stores records shall be maintained in a form agreed by the Chief Financial Officer. Details of stores received, returned or issued shall be entered promptly in the stores records. Stores issues and returns shall be made against properly completed issue notes.
- 4.61 Operational Managers and Functional Leads may sell obsolete or surplus equipment of a “revenue nature” to other units (of the Council) at an agreed price, or to third parties by competitive tender or public auction except where the anticipated value of the item or lots is less than £100 in which case a sealed bid method can be used. Proceeds can be devoted to services under their control. The appropriate Operational Manager or Functional Lead shall dispose of the equipment in an effective and fair manner and shall keep adequate records of such disposals.
- 4.62 Operational Managers and Functional Leads are not free to spend the proceeds from the sale of capital equipment and should consult the Chief Financial Officer where such a sale is anticipated or effected.

## INVENTORIES

- 4.63 Inventories of the Council’s property other than land and buildings shall be maintained for each department for all items of moveable equipment, furniture, vehicles, plant and machinery, where the value exceeds £100.
- 4.64 Inventories shall be checked annually at 31 March and be certified as correct, under the supervision of the appropriate Operational Manager or Functional Lead. The form in which the inventories shall be kept is to be determined by the appropriate Operational Manager or Functional Lead, with the agreement of the Chief Financial Officer.

- 4.65 Disposal of any items which are no longer serviceable or are obsolete shall be in accordance with paragraph 4.61 of these regulations and the inventory shall be endorsed accordingly.
- 4.66 The Council's property shall not be removed other than in the ordinary course of the Council's business except in accordance with directions issued by Operational Manager or Functional Lead concerned.
- 4.67 The Chief Financial Officer shall have access to all property and may audit the inventories at any time.

## **5 SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

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

### **GENERAL**

- 5.2 The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records, budgetary control and paymaster functions. Any changes made to the existing financial systems or the establishment of new systems must be approved by the Chief Financial Officer. However, Operational Managers and Functional Leads are responsible for the proper operation of financial processes in their own areas.
- 5.3 Any changes to agreed procedures by Operational Manager-s or Functional Leads to meet their own specific service needs should be agreed with the Chief Financial Officer.
- 5.4 Operational Managers and Functional Leads should ensure that their staff receive relevant financial training that has been approved by the Chief Financial Officer.
- 5.5 Operational Managers and Functional Leads must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Operational Managers and Functional Leads must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **INCOME AND EXPENDITURE**

- 5.6 It is the responsibility of Operational Managers and Functional Leads to ensure that proper delegation has been established within their area and is operating effectively. The nature of the delegation should identify staff authorised to act on the Operational Manager's and Functional Lead's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their delegation. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **BANKING ARRANGEMENTS & CHEQUES**

- 5.7 All arrangements with the Council's bankers shall be made by the Chief Financial Officer who shall be authorised to operate such banking accounts, as they may consider necessary.
- 5.8 All forms of cheque shall be ordered, issued and controlled by the Chief Financial Officer who shall make proper arrangements for their safe custody.
- 5.9 Cheques or other authorities for payment made on the Council's main banking

accounts shall bear the facsimile signature of the Chief Financial Officer or be signed by them or by an officer nominated by them. They shall also sign all alterations and amendments to cheques.

- 5.10 All cheques which are manually produced or are for a value of £20,000 or more, shall be countersigned by an officer nominated by the Chief Financial Officer.
- 5.11 Where payments are to be transmitted electronically the transactions shall be countersigned by two independent officers.
- 5.12 Operational Managers and Functional Leads shall ensure that any imprest accounts issued to them are operated in accordance with the criteria specified by the Chief Financial Officer, in these and any other regulations produced for that purpose.
- 5.13 Where an officer in their official capacity is required to operate a bank account for the control of charitable, community or other funds not belonging to the Council, then the operation of that account shall be notified to the Chief Financial Officer. The operator of the account shall have regard to any guidance given by the Chief Financial Officer.

#### INCOME COLLECTION

- 5.14 The arrangement for the collection and receipt of all monies due to the Council shall be approved by the Chief Financial Officer. All monies received on behalf of the Council shall be receipted without delay, and paid direct to the Council's banking account. No deduction therefrom may be made, save to the extent that the Chief Financial Officer may specifically authorise.
- 5.15 Except where the Council has no discretion, all scales of charges or other levels of income shall be reviewed at least annually and approved by the Cabinet or the relevant Local Area Committee.
- 5.16 Each collecting officer shall be responsible for taking all necessary precautions to safeguard money whilst it is within their charge. Personal cheques must not be cashed out of monies held on behalf of the Council. All cheques and postal orders shall be crossed to the Council's bank account as soon as they are received.
- 5.17 Every transfer of official money from one member of staff to another must be recorded, and signed for by the receiving officer.

#### FORMS OF RECEIPT

- 5.18 The format of all official receipts, other forms, tickets, and documents representing money's worth shall be approved by the Chief Financial Officer who shall be satisfied as to the arrangements for their order, control and issue. Officers in possession of such forms shall be responsible for the safe custody and proper use thereof.
- 5.19 Official receipts, or receipting arrangements in a form approved by the Chief Financial Officer, shall be used to acknowledge receipt of all income received.

Receipts or tickets of the prescribed type shall be issued at the time payment is received and daily takes shall be reconciled and properly recorded.

#### INCOME RECORDS

- 5.20 Records relating to income maintained in any Service of the Council shall be in a form approved by the Chief Financial Officer.

#### INCOME DUE

- 5.21 Operational Managers and Functional Leads shall supply the Chief Financial Officer with all information necessary for them to secure promptly the complete and accurate recording, collection, and recovery of all sums due to the Council.
- 5.22 Debts shall be recovered in line with the relevant Council Debt Recovery Policy which is published on the Staff Hub and Website.
- 5.23 Operational Managers and Functional Leads are responsible for ensuring the prompt and regular reconciliation of income received and recorded in services to the Council's financial systems. Managers shall supply the Chief Financial Officer with details of the reconciliations on request and at a minimum at the end of each financial year.
- 5.24 In accordance with the Accounts and Audit Regulations 2015, every officer of the Council who pays money into a banking account of the Council, shall enter on the paying-in-slip and on the counterfoil or duplicate particulars of such payment including:
- (a) amount of cheque
  - (b) a reference connecting the cheque with the debt or debts in discharge or partial discharge of which

#### Cheques etc. - Endorsement

- 5.25 Cheques or other forms of orders payable to the Council and requiring endorsement shall be endorsed by the Chief Financial Officer or such other officer of their department so authorised by the Chief Financial Officer.

#### Bad Debts

- 5.26 Any debt which is deemed to be irrecoverable and which is to be the subject of a write-off is to be notified to the Chief Financial Officer in writing. The Chief Financial Officer may write off debts due to the Council not exceeding £5,000 in any individual case where they are satisfied there are sound reasons therefore, and any balance outstanding where bankruptcy or liquidation proceedings have been instituted. In all other cases the approval of the Cabinet shall be obtained.
- 5.27 A record of all such sums written off shall be maintained by the Chief Financial Officer in a register kept by them for that purpose and a report shall be made, at least annually, to the Cabinet of the value of debts written off by the Chief Financial Officer under delegated powers.

#### SUPPLIES AND OFFICIAL ORDERS

- 5.28 Official orders in a form approved by the Chief Financial Officer shall be used for all goods, works and services required by the Council with the exception of:
- (a) items of a recurring nature – e.g. gas, electricity, telephone.
  - (b) purchases from Petty Cash.
  - (c) works or services provided under contract where the requirements of Standing Orders apply; or
  - (d) such exceptions as the Chief Financial Officer may approve
  - (e) all vehicles and mechanical plant required by Managers should be procured by the holder of the Transport Operators Licence.
- 5.29 Subject to Part III (Contracts) of Standing Orders official orders for supplies shall be made using the electronic ordering system, and shall not be issued unless:-
- (a) proper financial provision has been made in approved estimates;
  - (b) they are authorised by the Manager so approved;
  - (c) they indicate the nature and quality of the work, goods or services in sufficient detail to enable its complete identification;
  - (d) reasonable endeavours have been made to obtain the most favourable terms for price, quality and delivery;
  - (e) an estimate of the cost of supply or service is detailed on the order.
- 5.30 A list of officers authorised to sign requisitions and specimen signatures shall be supplied to the Chief Financial Officer by Operational Managers and Functional Leads who must advise of any amendments regarding authority levels or staff movements. An officer so authorised shall sign in their own name for the appropriate Operational Manager or Functional Lead.
- 5.31 All orders shall comply with any directions the Council may make with respect to central purchasing arrangements and annual quotations. The provisions of Standing Orders relating to contracts should be followed for obtaining tenders and quotations, and the tendered or quoted price of the work, goods or services shall be stated on the order.

## PAYMENT OF ACCOUNTS

### Payment

- 5.32 The Chief Financial Officer is authorised to pay all properly certified accounts payable by the Council provided they are satisfied that Operational Managers and Functional Leads have an adequate system to ensure that payment is legally due and within estimates. Operational Managers and Functional Leads shall

ensure that all sums due are paid in accordance with local agreements or terms of trade.

#### Invoices – Checking and Certification

- 5.33 All payments for goods, supplies and services shall be supported by invoices or proper accounts. Prior to an invoice being passed to the Chief Financial Officer for payment the authorising officer concerned shall be responsible for the examination, and certification of the invoice. .
- 5.34 Any amendment to the above authorisation including the termination of employment of any authorised signatory, shall be notified promptly to the Chief Financial Officer by the Operational Manager.
- 5.35 Certification by an authorised officer means that the following has been checked and verified prior to certification:
- (a) The correct expenditure code and job code has been allocated for each item and VAT has been properly accounted for and coded;
  - (b) That the goods or services received correspond to the requirements of any official order and have been examined as to quantity and quality;
  - (c) Any special discount or allowance available has been accepted and the invoice forwarded promptly to the Chief Financial Officer for payment;
  - (d) Income tax has been deducted from payments to sub-contractors of the Council unless current documentary evidence has been sighted of the arrangements made with the Inland Revenue for the payment of such tax;
  - (e) All expenditure has been properly incurred and is within current estimates;
  - (f) All prices, charges and arithmetic are correct;
  - (g) No account for the goods, or services supplied has been previously certified.
- 5.36 No member of staff shall certify an invoice or claim form for the reimbursement of expenditure to himself/herself. Certification shall be provided by a more senior member of staff.
- 5.37 Operational Managers and Functional Leads shall ensure wherever possible that a division of duties exists between the person ordering the goods, receiving the goods and authorising the invoice.
- 5.38 Once certification of the invoice has been completed by the authorised officer it should be forwarded to the Chief Financial Officer for payment in sufficient time to comply with terms of trade or local agreement.

#### Invoices - Verification

- 5.39 The Chief Financial Officer shall verify that all invoices passed to them for payment have been certified in accordance with paragraph 5.35 and shall make

such checks and impose such further examinations as they consider necessary.

- 5.40 The Chief Financial Officer shall verify that the registered invoice details agree to the details on the actual invoice and that the correct supplier is to be paid.
- 5.41 Cheques, once produced, must not be passed to Case Management Officers operating the accounts payable system or to the originator of the payment, unless a specific request is made to and approved by the Chief Financial Officer.

#### PROCUREMENT CARDS

- 5.42 Procurement cards shall be issued and managed in line with the Council's procurement card policy published on the staff hub.

#### PETTY CASH

- 5.43 The Chief Financial Officer shall provide imprest accounts as they considers appropriate for such staff of the Council.
- 5.44 Income received on behalf of the Council must not be paid into an imprest account but paid to the Council as provided elsewhere in these Regulations.
- 5.45 Petty Cash disbursements shall be limited to minor items of expenditure and shall be supported wherever practical by receipted vouchers. Payments of salaries or wages shall not be made from petty cash except as may be authorised by the Chief Financial Officer to cover emergency arrangements.
- 5.46 Any staff member responsible for an imprest account shall, if so requested, give to the Chief Financial Officer a statement of their account. An annual certificate to this effect should also be included in the end of year accounts.
- 5.47 All claims for petty cash should be made on the official form and signed by a staff member duly authorised to certify such documents. The claimant should sign for receipt of cash, and all payments made out of the imprest should be recorded in a format approved by the Chief Financial Officer.
- 5.48 Operational Managers and Functional Leads shall ensure that any staff member has accounted to the Chief Financial Officer for the amount advanced prior to that staff member leaving the employment of the Council, or otherwise ceasing to be entitled to hold an imprest account.

#### CONTRACTS

- 5.49 All contracts shall be subject to the procedures prescribed in Part III of the Council's Standing Orders on contracts and Financial Regulations. Where contracts are controlled or supervised by private consultants, they shall be made aware of these Financial Regulations and shall comply with them.
- 5.50 Stage payments to contractors shall be made only to the Council of a certificate issued and signed by the appropriate Operational Manager or Functional Lead or a staff member approved by that Operational Manager or Functional Lead. Such

payments shall be authorised by the appropriate Operational Manager or Functional Lead or by a senior staff member authorised by them in writing

- 5.51 Where contracts provide for payment to be made in instalments the Chief Financial Officer shall arrange for the keeping of an appropriate record to show the state of account on each contract, together with fees for all consultants and relevant minute references for committee approvals.
- 5.52 The final payment certificate shall not be issued until the Chief Financial Officer has completed an examination of the contract final account and has reported to the appropriate authorised officer on such examination. For this purpose such final accounts and all supporting documents shall be made available to the Chief Financial Officer sufficiently early to enable them to examine the final account before the date agreed for the release of the final retention monies, or in any case when the final account has been prepared, whichever date is the earlier.
- 5.53 Every variation of a contract for building or construction work, including any extension of time, shall be authorised in writing on an official variation order signed by the appropriate contract supervisor together with a reasonable valuation of the cost following consultation with the Contractor. Variation orders shall normally be issued prior to the work being carried out, or in confirmation of a site instruction.
- 5.54 Subject to financial regulation 3.21 the approval of the appropriate committee shall be obtained for variations in accordance with paragraphs 5.52 (i) and 5.52 (ii) below.

(h) Variations arising as a result of:

- unforeseen circumstances disclosed during the period of the contract
- errors in the preparation of the contract documents
- subsequent legislation

will be deemed essential works, necessary for the completion of the original contract as specified, and will be subject to reporting to the Cabinet or Local Area Committee as soon as practicable, if it is estimated that the total net value of such variations will cause the contract sum to be exceeded by 10% or £25,000, whichever is the lower (subject to a minimum threshold of £10,000). Between £10,000 and £25,000 the approval of the relevant Portfolio lead is required.

- (ii) Variations which fall outside of the above category including those relating to additional works or enhancements to the original specification, shall require the prior approval of the appropriate committee for each individual variation to the contract sum which involves estimated additional expenditure exceeding 2% or £5,000 whichever is the greater. Where this would cause unnecessary delay, the delegated powers of the Chief Executive in consultation with the appropriate Cabinet Member or LAC Chair shall be used. Savings and additions of a similar nature may be

netted off for the purpose of calculating the value of the net variation.

- 5.55 In any event, where the total cost of any work carried out under a contract exceeds the approved contract sum by 5% or £10,000 whichever is the greater, the final costs shall be reported to the Cabinet or appropriate LAC.
- 5.56 Any claim, or notice of claim, against the Council which is likely to exceed £2,000 can only be agreed by the appropriate Operational Manager or Functional Lead after they have brought the matter to the attention of the Monitoring Officer, or an officer authorised by them, for consideration of the Council's legal liability. If the claim is likely to exceed £5,000 then the matter shall be referred to the Chief Executive and Chief Financial Officer before a settlement is reached.
- 5.57 When the completion date of a contract is delayed through the fault of a contractor, it shall be the duty of the Operational Manager or Functional Lead concerned to determine whether a claim for liquidated damages is to be made against that contractor.

#### STAFFING

- 5.58 The full Council is responsible for determining how staff support for Cabinet and non-Cabinet roles within the Council will be organised.
- 5.59 The Head of Paid Service is responsible for providing overall management to staff. They are also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 5.60 Heads of Service and managers are responsible for controlling total staff numbers by:
- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - the proper use of appointment procedures

#### PAYMENTS TO EMPLOYEES AND MEMBERS

- 5.61 The Chief Financial Officer is responsible for all payments of salaries to all staff, including payments for overtime, and for payment of allowances to members.

##### Salaries

- 5.62 The payment of all salaries, compensation and other emoluments to employees of the Council or agency employees shall be made by the Chief Financial Officer or under arrangements approved by them.
- 5.63 All time records or other pay documents shall be in a form prescribed or approved by the Chief Financial Officer and shall be certified by or on behalf of

an Operational Manager or Functional Lead.

- 5.64 The Chief Financial Officer shall be notified immediately by:
- (a) the Head of HR or relevant staff member under an approved Scheme of Management Delegation of all appointments, dismissals, resignations, suspensions, secondments, transfers and changes in remuneration (other than normal increments); and
  - (b) the appropriate Operational Manager or Functional Lead of all resignations, absence from duty (other than annual or special leave) or any change of circumstances affecting remuneration.
- 5.65 These staff members shall supply the information required to maintain all necessary records.
- 5.66 The Chief Financial Officer shall maintain all necessary personal records concerning pay; earnings related contributions, income tax and superannuation contributions and make all relevant payments on behalf of both employees and the Council to the appropriate agencies.
- 5.67 All employees paid by reference to hourly rates, schedule of rates or piecework and such other employees as may be required from time to time shall complete and sign documentation as agreed by the Chief Financial Officer. Operational Managers and Functional Leads shall ensure that these are properly completed and are examined and certified by a responsible member of their staff and costs are properly allocated to job codes.
- 5.68 In applying conditions of service, the Head of HR or appropriate officer under an approved Scheme of Management Delegation shall confer with the Chief Financial Officer on any financial implications.
- 5.69 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments and annual estimates, grades and rate of pay, and shall not subsequently be altered without approval of the Cabinet or Chief Executive in consultation with its Chair in cases of urgency. Except under a Scheme of Management Delegation where the relevant staff member may make changes to the establishment, following consultation with the HR Lead Specialist and make appointments in accordance with the revised establishment and within existing budget.
- 5.70 Operational Managers have the ability to award salary increases from specific funds set aside for that purpose in liaison with the relevant Corporate Director.
- 5.71 No employment of temporary or casual staff shall take place without the approval of the Operational Manager, Head of HR and the overview Corporate Director and Chief Financial Officer. Verbal approval may be given by the above to cover emergency arrangements but this must be confirmed in writing within 7 days. The relevant staff member under a Scheme of Management Delegation may employ temporary or casual staff so long as the financial rules applying to the scheme are observed.

- 5.72 All direct payments to casual or temporary staff shall be processed through the Payroll system and an appropriate contract issued.

#### TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES

- 5.73 Travelling, subsistence and other allowances shall be managed in line with the Council's travel and subsistence policy as agreed at Joint Consultative Committee and published on the staff hub.
- 5.74 Travelling, subsistence and other allowances shall be processed through the Council's HR system, XCD.
- 5.75 No expenses will be paid without appropriate receipts and proofs of purchase.
- 5.76 Staff using a private vehicle on council business must ensure that they have appropriate business use insurance, an MOT if required and that the car is well maintained.
- 5.77 Authorising officers are responsible for checking that all receipts, documents and relevant insurance cover is in place prior to approving any expenses.
- 5.78

#### Car Loans

- 5.79 All car loans shall be the subject of a written agreement between the employee and the Council, signed by both parties. The agreement shall specify the terms and conditions surrounding repayment other than over the period specified in the contract.
- 5.80 The Chief Financial Officer shall make arrangements for the deduction from salary of all costs payable by the employee under any loan agreement and shall make the necessary declarations in respect of income tax, national insurance or any other such cost to the appropriate authorities.
- 5.81 The amount and period of any car loan shall not exceed that approved from time to time by the Cabinet, as recorded in the car loan policy
- 5.82 Interest shall be charged on all car loans in accordance with the policies agreed by the Cabinet.

#### TAXATION

- 5.83 The Chief Financial Officer is responsible for advising Operational Managers and Functional Leads, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 5.84 The Chief Financial Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and signing and submitting tax returns by their due date as appropriate.

- 5.85 Operational Managers and Functional Leads are responsible for the correct attribution of VAT on any payment, fee or charge authorised, or collected by them or their staff, subject to paragraph 5.81.

#### TRADING ACCOUNTS/SERVICE UNITS

- 5.86 It is the responsibility of the Chief Financial Officer to advise on the establishment and operation of trading accounts and service units. These responsibilities may be delegated to a Management Board, but their terms of reference must define the responsibilities laid down by the Council.

## 6 EXTERNAL ARRANGEMENTS

### INTRODUCTION

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

### PARTNERSHIPS AND EXTERNAL FUNDING

- 6.2 The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 6.3 The Cabinet can delegate functions (including those relating to partnerships) to members of staff. These are set out in the scheme of delegation that forms part of the Council's constitution. Where functions are delegated, the Cabinet remains accountable for them to the full Council.
- 6.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 6.5 The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. [They](#) must ensure that the risks have been fully appraised before arrangements are entered into with external bodies.
- 6.6 Operational Managers and Functional Leads are responsible for ensuring that appropriate approvals (or approval of the Cabinet/Management Team is) are obtained before any negotiations are concluded, or commitment is made, in relation to work with external bodies.
- 6.7 Where sponsorship or grant funding is being sought which does not involve a formal application for funding, a written notification from the Operational Manager or Functional Lead to the Finance Specialist team will suffice. This applies where such sponsorship exceeds £1,000 but is less than £10,000 in total for any one initiative. Below this sum, Heads of Service and other managers are expected to exercise adequate control over these monies, liaising with their service accountant as necessary. Sponsorship or grant funding exceeding £10,000 in total should be approved by Cabinet
- 6.8 In circumstances where the Council is to go through a formal bidding or application process for external funding, the application form together with all associated paperwork is to be sent to the Chief Financial Officer for him or her to satisfy themselves of the stipulated financial arrangements and verify or supply the financial information required in support of the application. Operational

Managers and Functional Leads are to notify the Chief Financial Officer of the success of any application.

- 6.9 The Chief Financial Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 6.10 The Functional Lead of the service receiving the external funding is responsible for ensuring that all financial conditions are complied with during the currency of this agreement, including any audit arrangements, and for ensuring that all financial information is supplied in accordance with the terms of the agreement.

#### WORK FOR THIRD PARTIES

- 6.11 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies where net income will exceed £10,000 per annum. All such arrangements shall have regard to the terms and provisions of the Goods & Services Act 1970.

#### PARTNERSHIP ARRANGEMENTS

- 6.12 The Cabinet is responsible for approving partnership arrangements which the Council enters into.

END

## **Contracts Procedure Rules**

The Appendix following this page contains the Council's Standing Orders relating to Contracts.

**NOTE: PROVISIONS RELATING TO CCT NO LONGER APPLY AND HAVE THEREFORE BEEN DELETED**

# Staff Employment Procedure Rules

## 1. Recruitment and Appointment

- (a) Declarations:
  - (i) The Council will draw up a statement requiring any candidate for appointment as a member of staff to state in writing whether they are a family relation or have a close personal relationship of an existing Councillor or member of staff of the Council; or of the partner of such persons.
  - (ii) No candidate so related to a Councillor or a member of staff will be appointed without the authority of the relevant Corporate Director or an officer nominated by them.
  
- (b) Seeking support for appointment:
  - (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
  - (iii) Paragraph (ii) above shall not preclude a Councillor from giving a written testimonial of a candidate's ability, experience or character, for submission to the Council with an application for appointment.
  
- (c) Every member and officer of the Council taking part in a staff appointment process shall disclose to the Council any relationship known to them to exist between themselves and a candidate for an appointment of which they are aware. It shall be the duty of the Chief Executive to report to the Council or to the appropriate body any such disclosure made to them.
  
- (d) Where relationship to a member of the Council is disclosed the standing order headed "Interests of members in contracts and other matters" (Standing Order 19) shall apply (Part 4 - Council and Committee Procedure Rules).

- (e) Candidates who are short-listed for a post with the Council shall be required to complete a medical detail form to accompany their application for the post. The information thus supplied shall form a condition of any contract of employment offered by the Council.
- (f) Where required under legislation, candidates for a post with the Council shall be required to supply (for verification by the Police) details concerning the existence and content of any criminal record/cautions. An offer of employment may be withdrawn, or dismissal may result if previous cautions/convictions for criminal offences are not disclosed.

## **2. Recruitment of Chief Executive/Head of Paid Service, Other Statutory Officers and Corporate Directors**

Where the Council proposes to appoint a statutory officer or a member of Management Team and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

## **3. Appointment of Chief Executive/Head of Paid Service**

3.1 Responsibility for appointment of the Chief Executive/Head of Paid Service rests with the full Council. The Council will decide whether to:

- (b) make an appointment on the recommendation of a Panel appointed for this purpose; or
- (c) delegate responsibility for the appointment to an appointments panel.
- (d) In either event, the appointments panel must include at least one member of

the Cabinet.

#### 4. Appointment of Corporate Directors and Heads of Units

- (a) An appointments panel of the Council will appoint Corporate Directors and Heads of Units. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of employment as Corporate Director or Head of Unit shall only be made where no well-founded objection from any member of the Cabinet has been received.

#### 5. Other Appointments

**Officers Below Head of Unit:** Appointment of officers below Head of Unit is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors. The appointment of such staff may be delegated to Corporate Directors, Unit Heads or senior managers if so provided in the Council's Standing Orders in Part 4 of the Constitution.

#### 6. Disciplinary Action

- (a) **Suspension:** The Chief Executive/Head of Paid Service, Monitoring Officer and the Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent Person:** No other disciplinary action may be taken in respect of any of those members of staff except in accordance with a recommendation in a report made by a designated person.
- (c) Councillors will not be involved in the disciplinary action against any member of staff below Head of Unit except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

#### 7. Dismissal

Councillors will not be involved in the dismissal of any member of staff below Head of Unit except where involvement is necessary for an investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

"The Chief Executive/Head of Paid Service, Monitoring Officer and Chief

Financial Officer may not be dismissed by the Council unless the procedure set out in Schedule 3 of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 is complied with. This involves inviting the Council's two Independent Persons (or, if more appropriate, using an Independent Person appointed by authority as one of the two Independent Persons) to be considered for appointment to the Panel considering the matter and that any Panel should be appointed at least 20 working days before the relevant meeting. Before any decision is made by Council, any advice, views or recommendations of the Panel, along with any investigation and representations of the officer in question must be taken into account by Council. It will also be important to ensure there is appropriate HR or employment solicitor advice before a dismissal is made to ensure a fair, legal and reasonable outcome is achieved."

## PART 4 (RULES OF PROCEDURE)

### APPENDIX 3: CONTRACT STANDING ORDERS

#### PART IV: CONTRACTS

##### Sections:

- (A) General provisions
- (B) Legal requirements for below EU threshold contracts
- (C) Internal process for contracts above £50,000 and up to EU threshold
- (D) Procedure for contracts above EU threshold
- (E) Framework agreements
- (F) Special contracts
- (G) General principles applying to all contracts

#### (A) GENERAL PROVISIONS

##### 1. General Application

- 1.1. These Contract Standing Orders (CSOs) apply to all types of contracts where the Council either incurs expenditure or receives monies or some other form of consideration. They apply to the purchase of works, supplies (goods) and services by or on behalf of the Council.
- 1.2. These CSOs do not apply to (this is not an exhaustive list):
  - (i) employment contracts for staff
  - (ii) Property/land purchase or sales - refer to Part III of the Constitution
  - (iii) contracts to appoint legal counsel and the appointment of expert witnesses in legal proceedings
  - (iv) public service contracts awarded to one or more public bodies
  - (v) arbitration or conciliation services contracts
  - (vi) contracts for the lending or borrowing of money
- 1.3. 'Works' cover construction, demolition, refurbishment and other building related works. 'Supplies' are all types of goods from stationery to furniture. 'Services' cover the full range of services purchased by the Council in its day to day activities. All values indicated are exclusive of VAT.
- 1.4. Every contract which the Council enters into must be recorded on the Contracts and Partnerships Register (under development). This register should be kept updated by every Lead Specialist and held centrally by the Chief Financial Officer. Details of the contracts register must also be published quarterly on the Council's website as part of the Government's transparency agenda.

##### 2. Waivers

- 2.1. All procurement processes and contract awards must comply with these

CSOs. There are only limited circumstances (detailed below) where not complying may be authorised.

2.2. A waiver to these CSOs must be approved in writing (using a waiver form) by one of the following, depending on contract value:

- (i) £0 up to £49,999:  
Corporate Director (or their delegated representative)
- (ii) £50,000 up to EU thresholds:  
the Councillors appointed to the Procurement Executive Group (PEG) or the Chief Financial Officer. In all instances a majority decision of Councillors should apply however if there is no majority then the Chief Financial Officer (CFO) is able to make the final decision.
- (iii) Over EU thresholds:  
use of waivers are prohibited.

2.3. Waivers may be requested in the following circumstances but are still subject to authorisation as listed above:

- (i) for the purchase of proprietary items exclusively owned by a private individual or corporation under a trademark or patent and their subsequent repair or maintenance (e.g. computer software).
- (ii) where the price is wholly controlled by trade organisations or by Government order.
- (iii) having followed a procurement process, it is identified there is a lack of suitable suppliers prepared to submit quotes or tenders due to the specialised nature of the purchase item.
- (iv) a contract needs to be entered into as an emergency due to unforeseen circumstances. A waiver must be completed retrospectively in this instance. This excludes circumstances where the officer has failed to take appropriate action before contract expiry dates.
- (v) a purchase is made at a public sale by auction.
- (vi) the supplier has a unique position/exclusivity (for example are already in contract and there are cost implications).

### 3. **Financial Thresholds and Procurement Procedures**

3.1. The officer must calculate the likely contract value to ascertain which procurement procedure is applicable and is particularly important in determining whether an opportunity falls within the OJEU rules.

3.2. Regulation 6(16) of the Public Contract Regulations 2015 stipulates that

supplies or services which are regular in nature or which are intended to be renewed within a given period must be aggregated. A procurement opportunity must not be subdivided or split into lots for the purpose of reducing the total value of the contract. Estimated contract values must follow the rules on aggregation as stipulated in Regulation 6 (16).

3.3. If quotes or tenders received from suppliers are above the officer's estimated contract value and limit of the process chosen, then the procurement process must be restarted at the correct level. To get an accurate estimate of contract value, soft market testing should be carried out.

**(a) Contracts £4,999 and below (exclusive of VAT)**

The officer may select a supplier without tendering and issue a purchase order to the supplier which incorporates the Council's standard terms and conditions. These can be found on the Council's website.

**(b) Contracts £5,000 to £49,999 (exclusive of VAT)**

The officer must obtain at least 3 written quotes from suppliers who can be approached directly or through the quick quote function of the e-tendering portal. Quotes must be assessed on the basis of the most economically advantageous tender (MEAT) and environmental and sustainable issues.

Alternatively, a supplier may be selected from a framework agreement (see section E) (if available) either by direct contract award or using a mini competition.

The officer must issue a purchase order to the supplier which incorporates the Council's standard terms and conditions. These can be found on the Council's website. Seek guidance from Legal Services if standard terms and conditions are not sufficient and the officer requires additional contract provisions.

The officer must ensure that a record is kept for six years confirming how the quotes were evaluated using the MEAT test i.e. the reasons why the successful supplier was chosen.

**(c) Contracts £50,000 up to EU thresholds (exclusive of VAT)**

The officer shall comply with one of the following procurement processes to select a supplier:

- (i) by means of a framework agreement (if available) – refer to **Section E**.
- (ii) by means of the Council's formal tendering process set out in **Section C**. The officer may instruct Legal Services to prepare the contract prior to tendering if the Council's Terms and Conditions are not sufficient and the officer requires additional contract

provisions.

**(d) Contracts above EU thresholds (exclusive of VAT)**

The officer must comply with the Public Contracts Regulations 2015 (PCR 2015) which governs the award of public contracts – refer to **Section (D)** for full details.

Waivers **cannot be sought** in these circumstances.

The current EU thresholds as at January 2018 are:

Supply of goods & services: £181,302 (exclusive of VAT)  
Execution of works: £4,551,413 (exclusive of VAT)  
Light Touch Contracts: £615,278 (exclusive of VAT)

**(B) LEGAL REQUIREMENTS FOR BELOW EU THRESHOLD CONTRACTS**

4. Part 4 of the PCR 2015 imposes obligations relating to below EU threshold contracts to facilitate access to public contracts by SMEs (small and medium sized enterprises).

The additional provisions deal with:

- prohibitions on the use of pre-qualification questionnaires.
- publishing contract award notices on Contract Finder.
- prompt payment of sub-contractors.

**(C) INTERNAL PROCESS FOR CONTRACTS valued £50,000 BUT LESS THAN EU THRESHOLDS**

5. **Advertising**

The contract opportunity must be advertised on:

- (i) The E-tendering portal (Pro-Contract – this will place an advert on the South East Business Portal (SEBP).
- (ii) Contracts Finder.
- (iii) And may advertise in other trade publications depending on the specialised nature of the contract.

The officer must allow a minimum of 10 working days from the date of publication for bids to be returned. Advertising is not required if a framework agreement is being used.

6. **Tender Documents**

6.1 The officer shall prepare and publish the following tender documents on the e-tendering portal:

- (i) a suitability assessment if required – there is a standard Selection Questionnaire (SQ) available from the Staff Hub
- (ii) an invitation to tender (ITT) detailing the specification of the goods, services or works required, the Council's project requirements and objectives, how to and when to submit the tender bid and how it will be evaluated. A template invitation to tender is available on the Staff Hub but this should be adapted for each project
- (iii) a form of contract
- (iv) any other documents which are ancillary to the specification (ITT) or the contract such as plans, drawings, parent company guarantees, bonds, deeds of novation etc.

6.2. Tender documents should make it clear that deadlines are strict; no submissions will be accepted after the applicable deadline and that tenders may be rejected if they do not provide complete responses to all questions. The use of pre-qualification questionnaires (PQQs) for contracts below EU thresholds is not permitted (Regulation 111(1) PCR 2015).

## 7. **Delivery and Receipt of Tenders**

7.1 All requests for tenders and tender documents should be advertised and sent electronically through the e-tendering portal. Tenders operated in paper format are prohibited.

7.2 All tender submissions must be sent to the Council electronically through the e-tendering portal. The ITT must state that tender submissions will not be accepted by any other method.

## 8. **Late Tender Returns**

8.1 Any tender submission received after the deadline for receipt shall not be accepted unless there is satisfactory evidence that the cause was outside the tenderer's control (for example system malfunction). Note this is at the Council's discretion and late tenders may still be rejected.

8.2 Any tender submissions which are incomplete may be rejected.

8.3 The Council does, have the discretion to accept a late tender but if the officer chooses to extend a deadline, it is important that all bidders are treated equally and are aware of and given the extension.

## 9. **Verification process**

9.1 Once the tender submission deadline has passed, the 'seal' can be removed

to begin the verification process. Note the system requires an appointed Verifier to perform this action. Once all tenders have been verified, evaluation can begin.

## 10. **Requests for Information (pre & post tender clarifications)**

- 10.1 If a tenderer requests further information to enable it to prepare its tender submission or at interview stage, then the question raised and the Council's response must be submitted through the e-tendering portal and shared with all tenderers to ensure a fair process.

## 11. **Selection of Successful Tender/Evaluation**

- 11.1 The following shall be authorised to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council):
- (i) for tenders valued between £50,000 and £100,000 - the relevant Lead Specialist
  - (ii) for tenders valued above £100,000 - the Chair or Vice-Chair of Cabinet, the appropriate Local Area Committee or other committee authorised by the Council for the specific project.
- 11.2 Winning tenders shall be reported to the appropriate body e.g. Cabinet or the relevant Local Area Committee together with an evaluation report to justify the winning tender.

## 12. **Contract Award**

- 12.1 Once the evaluation panel select the successful tenderer, the officer shall notify the decision to the successful and unsuccessful tenderers by email. The Contract Decision Notice has a prescribed form and is available on the Council's intranet.
- 12.2 A Contract Award Notice (available on the Council's intranet) must be published on Contracts Finder within a reasonable time. The notice should contain the following information:
- (i) the name of the selected tenderer
  - (ii) the date on which the contract was entered into
  - (iii) the value of the contract
  - (iv) whether the tenderer is a small or medium enterprise (SME) or voluntary community and social enterprise (VCSE).

## 13. **Alteration to Tender Sum**

- 13.1 No alteration to the tender sum shall be permitted except where there are obvious errors in calculations. Any errors shall be drawn to the attention of the tenderer, who shall be given the opportunity of confirming their offer or amending it to correct genuine errors.
- 13.2 In cases of abnormally low tenders, the provisions of Regulation 69 PCR 2015 should be followed.

## **(D) PROCEDURE FOR CONTRACTS ABOVE EU THRESHOLDS**

14.1 Contracts which exceed EU thresholds must comply with EU and UK legislation, in addition to complying with these CSOs. The officer shall consult with the Monitoring Officer or Legal Services on the appropriate EU tendering procedures to be followed.

14.2 Contracts must be awarded by using either:

- (i) a relevant framework agreement (see **Section E** for further details of framework agreements); or
- (ii) one of the following official procurement procedures set out in PCR 2015:

1. *Open* – all tenders received by the contracting authority within the deadline are evaluated before the contract is awarded. This procedure is used where there are a limited number of suppliers who can provide the goods, services or works and must be awarded to the most economically advantageous tender (MEAT).
2. *Restricted* - this is a 2-stage process. In the first stage, interested suppliers are asked to complete a pre-qualification questionnaire and a short-list is drawn up. In the second stage, the shortlisted suppliers are invited to respond to an invitation to tender (ITT). The tenders are then evaluated based on the most economically advantageous tender (MEAT) and the contract is awarded.
3. *Negotiated* - the contracting authority enters into contract negotiations with one or more suppliers.
4. *Competitive dialogue* - this procedure is used for more complex procurements. After a selection process, the contracting authority then negotiates with suppliers and invites companies to put in a bid. Suppliers put in their tenders and the contract is awarded.
5. *Innovative partnership procedure* – a partnering type approach to allow for both the development and subsequent purchase of new and innovative products,

services or works.

## 15. **Advertising**

15.1 The type of procurement procedure must be advertised in:

- (i) the Official Journal of the European Union (OJEU) both at tender invitation (the contract notice) and contract award stage (the contract award notice).
- (ii) The E-tendering portal (Pro-Contract – this will place an advert on the South East Business Portal (SEBP).
- (iii) Contracts Finder.
- (iv) And may advertise in other trade publications depending on the specialised nature of the contract.

## 16. **Tender Documents**

16.1 Once the advertisement has been placed on OJEU all the procurement documents must be available free of charge electronically. For all parties who have submitted an expression of interest under a restricted procedure, the officer may submit a pre-qualification questionnaire to shortlist candidates. The officer shall prepare and publish the following tender documents:

- (i) the invitation to tender (ITT) detailing the specification of the goods, services or works required, the Council's project requirements and objectives, how to and when to submit the tender bid and how it will be evaluated. A template ITT is available on the Staff Hub but this should be adapted for each project.
- (ii) the form of contract.
- (iii) any other legal documents which are ancillary to the contract such as parent company guarantees, bonds, deeds of novation etc.

## 17. **Delivery, Receipt and Opening of Tenders**

17.1 Refer to the relevant part of **Section (C)** for further details governing delivery and receipt of tenders and the tender opening ceremony. The same rules apply to above threshold procurement processes.

## 18. **Requests for Information (pre & post tender clarifications)**

18.1 If a tenderer requests further information to enable it to prepare its tender submission or at interview stage, then the question raised and the Council's response must be submitted through the E-Tendering Portal and shared with all tenderers to ensure a fair process.

19. **Selection of Successful Tender/Evaluation**

- 19.1 The Chair or Vice-Chair of Cabinet, the appropriate Local Area Committee or other committee authorised by the Council for the specific project shall be authorised to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council).

20. **Late Tender Returns**

- 20.1 Refer to the relevant part of **Section (C)** for further details governing late tender submissions and the Council's discretion to accept them. The same rules apply to above threshold procurement processes.

21. **Contract Award**

- 21.1 Once the evaluation panel select the successful tenderer, the officer shall notify the decision to the successful and unsuccessful tenderers by email. The Contract Decision Notice has a prescribed form and is available on the Council's intranet.
- 21.2 There is a mandatory 10 calendar day (standstill) period from the date the Contract Decision Notice is sent to tenderers until the contract can be signed and dated. The standstill period must conclude on a working day.
- 21.3 A Contract Award Notice must be published in the OJEU no later than 30 days after the date the Contract Decision Notice is sent to tenderers (Regulation 50 PCR 2015).
- 21.4 In relation to public works contracts, the officer shall prepare and keep a record of the tender procedure followed as required by Regulation 84 PCR 2015.
- 21.5 Under Regulation 84 PCR 2015 the officer shall prepare and send to the Monitoring Officer and the Procurement Officer a statistical report at the contract award stage giving the following details:
- (i) the value of the contract.
  - (ii) which of the official procurement procedures was used (ie the open, restricted, negotiated, competitive dialogue or innovative partnership procedures).
  - (iii) if the negotiated or competitive dialogue procedure was used, justification and reasoning to select the successful tenderer must be documented in accordance with the requirements of PCR 2015.
  - (iv) the nature of the goods, services or works.
  - (v) the nationality of the person to whom the contract was

awarded.

## 22. **Alteration to Tender Sum**

- 22.1 No alteration to the tender sum shall be permitted except where there are obvious errors in calculations. Any errors shall be drawn to the attention of the tenderer, who shall be given the opportunity of confirming their offer or amending it to correct genuine errors.
- 22.2 In cases of abnormally low tenders, the provisions of Regulation 69 PCR 2015 should be followed.

## 23. **Variation of Contracts following Contract Completion**

- 23.1 If a contract is signed and completed and subsequently the Council and the supplier wish to vary the terms of the contract, the variation may constitute a new award, requiring a fresh procurement procedure. The officer should have regard to Regulation 72 PCR 2015 which sets out how contracts can be modified without requiring a new procurement procedure and whether the variations are 'materially different in character' from the original contract (Pressetext case 2008). Please refer to Legal Services for further guidance.

## **(E) FRAMEWORK AGREEMENTS**

- 24.1 A Framework Agreement is defined in the PCR 2015 as 'an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.'
- 24.2 In simple terms this is an 'umbrella agreement' that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts (call-offs) can be made throughout the period of the agreement (normally a maximum of 4 years).
- 24.3 The officer should consider whether a relevant and current framework agreement is available for the goods, services or works required.
- 24.4 If a public sector organisation knows they are likely to need particular goods or services, but are unsure about exactly what they will need or when, they may decide to set up a group of approved suppliers that they can use when necessary. This is called a 'framework agreement'.
- 24.5 The organisation will invite through public advertisement suppliers to put themselves forward for the framework and choose the ones most able to do the work based on the most economically advantageous tender (MEAT). Once the framework is set up, individual contracts are made throughout the period of the agreement. If there is more than one possible supplier on the framework, a 'mini-competition' may be held to decide who gets the contract. Framework agreements usually last for a maximum of 4 years.
- 24.6 A framework agreement may have been set up by either a Central Purchasing

Body (as prescribed in Regulation 37 PCR 2015) or another public authority such as Hampshire County Council. A framework agreement can only be used if the Council is either a named party to the contract or is legally entitled to enter into the contract. For the avoidance of doubt, the advice of the Procurement Officer should be sought.

24.7 Advertising is not required if a framework agreement is being used.

## **(F) SPECIAL CONTRACTS**

### **25. Agency Work**

25.1 This CSO shall apply where the Council is acting as agent for another public authority ('the principal authority') and the principal authority maintains an approved list of contractors or framework agreement for the goods, services or works to be procured.

25.2 Tender documents shall be sent to contractors on the approved list or framework agreement of the principal authority. Where a contractor is selected for agency work from the approved list or framework agreement, the contract standing orders and financial regulations of that principal authority shall apply.

### **26. Construction Work**

26.1 In respect of contracts for construction works the officer should consider the following:

- (i) payment of liquidated and ascertained damages to the Council in the event of contractor's default.
- (ii) a contract sum retention at an appropriate rate and not less than the rate of a standard form construction contract.
- (iii) whether a parent company guarantee or bond is appropriate in the circumstances. The Council's standard forms are available on the Council's intranet.
- (iv) In a 2 stage tender process for a design and build construction project, if the original advertisement was for two separate contracts (ie a pre-construction agreement and the main building contract), in which the terms of the first contract set out the grounds on which the contracting authority would enter into the second contract and in which the scope and value of that second contract was clearly set out, then a single Contract Award Notice would be required at the point when the contracting authority awarded the first contract. If however, the second phase was not clearly scoped nor the criteria on which it would be awarded, it is likely that a separate advertisement would be required and therefore a separate Contract Award Notice as well.

### **27. Software Maintenance and Enhancements**

27.1 Any extension or additional modules to software may be procured without a tendering process if:

- (i) the original system was procured through a full tendering exercise.
- (ii) the initial contract for the purchase of the system and any support and maintenance contracts are still in force.
- (iii) the cost of the additional modules does not exceed 25% of the original purchase price.
- (iv) the total cumulative price does not exceed current EU thresholds.
- (v) the proposed purchase satisfies the following three tests:
  - (a) technical assurance sign off by the Head of IT
  - (b) financial appraisal and value for money assessment sign off by the Chief Financial Officer.
  - (c) defined user requirements signed off by the Senior User.
- (vi) Support and maintenance contracts can be negotiated directly with the relevant software supplier provided:
  - (a) The Head of IT is satisfied that the agreement offers value for money; and
  - (b) any annual increase is clearly linked to a national inflationary index or on a basis approved by the Chief Financial Officer.

## **(G) GENERAL PRINCIPLES APPLYING TO ALL CONTRACTS**

### **29. Power to Enter into Contracts**

29.1 Officers shall consult with Head of Legal Services to prepare contracts above £50,000 where they are not based on the Council's standard terms and conditions or based on a standard form contract.

29.2 No councillor shall enter into any contract on the Council's behalf either orally or in writing.

29.3 No officer shall enter into any contract with a councillor or any company, partnership, firm or other organisation which a councillor has an interest in, unless approval has been sought by the Monitoring Officer.

### **30. Letters of Intent (LOI)**

30.1 The Council may require goods, services or works to be supplied or performed before completion of a contract. For contracts above £50,000, the use of a letter of intent and the limit on the Council's financial commitment must be agreed by the Monitoring Officer.

## 31. **PCR Requirements for Contracts**

### 31.1 Contracts shall make reference to the following:

- (i) prompt payment terms - Regulation 113(2) PCR 2015 requires all public contracts to contain provisions which require the Council to pay all valid and undisputed invoices within a 30 calendar day period and to ensure that invoices are considered and verified by the Council in a timely fashion. The Council must procure that any further subcontracts awarded by the supplier or its subcontractor contain the same requirements, so that the 30 day payment term is passed down the supply chain. These terms will be implied into the contract if not expressly contained. The requirements are without prejudice to any contractual or statutory provision requiring payment to be made in a shorter period than 30 days. Authorities are required to publish annual statistics declaring the extent of their compliance with the prompt payment requirements as part of the transparency agenda;
- (ii) ability for the Council to terminate the contract before expiry

for grounds under Regulation 73(1) PCR 2015:

- (a) there is material contract amendment which ought to have been subject to a new procurement;
- (b) the contractor ought to have been excluded from the process on a mandatory exclusion ground in regulation 57(1); or
- (c) there is a serious infringement of treaty/directive obligations declared by the Court of Justice of the European Union under infringement proceedings.

## 32. **Technical Standards**

32.1 For contracts above EU thresholds, the procurement documents must comply with Regulation 42 PCR 2015. If technical specifications or standards apply to the industry sector for the goods, services or works required, then the contract shall require compliance with them.

32.2 Without prejudice to mandatory national technical rules, to the extent that they are compatible with EU law, the technical specifications shall be formulated in one of the following ways:

- (i) in terms of performance or functional requirements.
- (ii) by reference to technical specifications and, in order of preference, to:
  - (a) national standards transposing European standards
  - (b) European Technical Assessments
  - (c) Common technical specifications
  - (d) international standards

- (e) other technical reference systems established by the European standardisation bodies, or
- (f) when none of the above exist, national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the supplies

but each reference shall be accompanied by the words 'or equivalent'.

### 33. **Anti-Bribery and Corruption**

- 33.1 Contracts shall contain a clause allowing the Council to terminate the contract and recover any losses from the supplier in the event that an offence is committed contrary to anti-bribery and corruption legislation (currently the Bribery Act 2010 and Section 117 of the Local Government Act 1972 – disclosure by officers of pecuniary interests in a public contract).
- 33.2 It is a criminal offence to offer, promise, give, request, or accept a bribe. Individuals found guilty can be punished by up to ten years' imprisonment and/or a fine. As an employer, if the Council fails to prevent bribery, the Council can face an unlimited fine, exclusion from tendering for public contracts and damage to its reputation.
- 33.3 Bribery is offering, promising, giving or accepting any financial or other advantage, to induce the recipient or any other person to act improperly in the performance of their functions, or to reward them for acting improperly, or where the recipient would act improperly by accepting the advantage.
- 33.4 An advantage includes money, gifts, loans, fees, hospitality, services, discounts, the award of a contract or anything else of value.
- 33.5 A person acts improperly where they act illegally, unethically, or contrary to an expectation of good faith or impartiality, or where they abuse a position of trust. The improper acts may be in relation to any business or professional activities, public functions, acts in the course of employment, or other activities by or on behalf of any organisation of any kind.
- 33.6 Corruption is the abuse of entrusted power or position for private gain.

### 34. **Insurance Requirements**

- 34.1 The contract may require the supplier to produce satisfactory insurance policies in respect of:
  - (i) Employer's liability – where the supplier employs staff, they are under a statutory obligation to maintain employer's liability insurance of not less than £5 million pounds.
  - (ii) Public liability (also known as third party liability) – the supplier is to maintain cover for death or personal injury to third parties (ie those persons not employed by the supplier) and damage to third party

property. The amount of cover must be commensurate with the likely level of a potential claim. As a guide, the Council usually seeks public liability insurance of not less than £10 million pounds but this amount will either increase or decrease depending on the level of risk and contract sum.

- (iii) Professional indemnity – applicable where the supplier is providing services. Again, the amount of cover must be commensurate with the likely level of a potential claim. As a guide, the Council usually seeks professional indemnity insurance of not less than £10 million pounds but this amount will either increase or decrease depending on the level of risk and contract sum.
- (iv) Any other appropriate insurances based on the nature of the goods, works or services supplied.
- (v) The insurances policies must be in force and maintained by the supplier during the length of the contract and for a period of either 6 or 12 years after the contract has expired (depending on whether the contract is signed ‘under hand’ with a 6 year limitation period or ‘as a deed’ which has a 12 year enforcement period.

### 35. **Equality**

- 35.1 Before entering into a contract, the Council shall comply in all respects with the provisions of the Equality Act 2010, the Human Rights Act 1998 or any other relevant legislation with due regard to the need to:
  - (i) eliminate unlawful discrimination; and
  - (ii) promote equality of opportunity and good relations.

### 36. **Management Devolution**

- 36.1 Where under any Council approved scheme of management devolution (whether a pilot project or a permanent scheme), powers of management have been devolved from a Corporate Director to the next senior or other officer, then references throughout these contract standing orders to the relevant Corporate Director shall be deemed to refer to the relevant next senior or other officer with such devolved powers.