

## **PART 3**

### **RULES OF PROCEDURE**

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**COUNCIL PROCEDURE RULES**

**RULE NO. 1 – DEFINITIONS AND INTERPRETATION**

1.1 In these Rules, unless the context otherwise demands, the following terms have the meaning assigned to them:

"Authority" - the Newark and Sherwood District Council acting by any means which they may lawfully adopt;

"Chairman" - the Chairman of the Council or the Chairman of a Committee or Sub Committee and includes the Chairman of any meeting for the time being; and in respect of Rule No 16, shall include any other Member of the Council presenting the Minutes on his/her behalf;

"Chief Officer" - the Chief Executive, Deputy Chief Executive and Directors;

"Committee" - a Committee of the Authority expressly excluded within these rules;

"Council" - the Newark and Sherwood District Council acting by the Council;

"delegated decision" - a decision of a Committee or Sub Committee taken in exercise of its delegated powers and which has not been reserved in accordance with Rule No. 22;

"deputy leader" – the person elected by the Council as such;

"employee" - an employee of the Authority or the holder of a paid office under the Authority other than the Chairman or Vice-Chairman of the Council;

"Head of the Council's Paid Service" - the person designated as such under Section 4 of the 1989 Act;

"leader of a political group" - the leader of a political group as defined in the Local Government (Committees etc) Regulations 1990 or any amending regulations thereto;

"leader of the council" – the person elected by the Council as such;

"majority group" - a political group to which belong either:

- (i) more than half of the members of the Council; or
- (ii) exactly half of the number of members of the Council, including the Chairman of the Council;

"meeting" - a meeting of the Council, a Committee or a Sub Committee, unless described otherwise;

"member" - in relation to the Council, a member of the Council; in relation to any Committee or Sub Committee a person appointed as a member of that Committee or Sub Committee, whether or not entitled to vote;

"minority group" - a political group which,

- (i) where there is a majority group among the members of the Council, is not that majority group;
- (ii) in any other case, is designated as such by a resolution of the Council;

"Monitoring Officer" - the person designated under Section 5 of the 1989 Act (designation and reports of Monitoring Officer) or, if that person is unable to act owing to absence or illness, the person nominated as his/her deputy under Subsection (7) of that Section;

"number of members" - in relation to the Council, the number of persons who may act at the time in question as members of the Council, and in relation to a Committee or Sub Committee, the number of persons who may act at the time in question as voting members of that body;

"officer" - any person employed by the Council, a Committee or Sub Committee, unless described otherwise;

"opposition spokesperson" – any member of the major opposition group so appointed.

"person presiding" - the person entitled, or appointed, to preside at any meeting;

"political group" - a political group as defined in the Local Government (Committees etc) Regulations 1990 or any amending Regulations thereto;

"reserved decision" - means a decision, or that part of a decision, which has been reserved in accordance with Rule No 22;

"senior officer" - any officer graded senior officer or above;

Rules marked \* shall apply only to meetings of the Council. Other Rules shall apply to meetings of Council, where appropriate, and to Committees and Sub Committees

(unless a Rule expressly states otherwise) as detailed in Rule No 30, and the word "Council" shall be adapted accordingly in the context;

"Sub Committee" - a Sub Committee of a Committee;

"the 1972 Act" - the Local Government Act 1972;

"the 1989 Act" - the Local Government and Housing Act 1989;

"the whole number of members" - in relation to the Council, the total number of persons who may become members of the Council, disregarding any person who is a member of the Council only by virtue of Section 3(3) or Section 5(2) of the 1972 Act (Chairman and Vice Chairman to remain members until replaced);

"without comment" - in relation to the moving, seconding or putting of a motion, without any person speaking except to indicate the wording of the motion, the fact that it is being moved, seconded or put, or (in the case of the person presiding) the effect of adopting the motion.

- 1.2 Unless the context otherwise requires, the singular includes the plural and the plural includes the singular.
- 1.3 Any reference in any Rule to a numbered paragraph is, unless the context otherwise requires, a reference to the paragraph of that Rule bearing that number.

#### **RULE NO. 2 - COUNCIL PROCEDURE RULES**

- 2.1 No arrangements shall be made whereby a Committee, Sub Committee or Officer may exercise any power of the Authority to vary, revoke or add to these Rules.
- 2.2 This Rule and Rule Nos 22(1), 26(4), and 27(2)(3) and (4) are not capable of being suspended.
- 2.3\* Any of Rule Nos 4, 7(3), 8, 18(5)(6) and (7) and 21 may be suspended by the Council, but only if:
- (a) notice of the intention to move such suspension has been included in the agenda for the meeting; and
  - (b) before the motion is put to the vote, every political group to which members of the Council belong has declared that they are content.
- 2.4\* Provided at least one half of the number of members of the Council are present the Council may suspend any of the other Rules if the Members present at a meeting and voting thereon shall so decide, but the Rules shall be deemed to be suspended only to the extent required for the purpose stated in the resolution. Unless the Chief Executive has been notified of the item and of the intent before the commencement of the meeting and he/she has so notified the Council under "Communications", such suspension shall not operate at any meeting of the Council so as to permit a motion to alter a previous decision by the Council at that meeting or a delegated decision.
- 2.5 The ruling of the person presiding at any meeting as to the construction or application of any of these Rules shall not be challenged at that meeting.

**RULE NO. 3 - MEETINGS OF THE COUNCIL**

- 3.1\* The Annual Meeting of the Council shall be held concurrently with an ordinary meeting of the Council. All meetings of the Council shall be held on such days and at such times at Castle House, Great North Road, Newark or other place as the Council shall determine. Meetings of Committees and Sub-Committees will normally be held at Castle House, Great North Road, Newark but in exceptional circumstances and/or by reason that the nature of one or more of the items on the Agenda is of particular local significance, it is considered that meeting at an alternative venue would be beneficial in terms of citizen engagement, openness and transparency, the Chief Executive, after consultation with the Chairman of the relevant Committee, may agree to a meeting being held at an alternative venue.
- 3.2 The Council Chamber shall be laid out as the Council shall determine from time to time.

**RULE NO. 4 - EXTRAORDINARY MEETINGS OF THE COUNCIL**

- 4.1\* The Chairman of the Council may at any time call an extraordinary meeting of the Council.
- 4.2\* If the office of Chairman is vacant, or if the Chairman is unable to act for any reason, the Vice Chairman of the Council may at any time call an extraordinary meeting of the Council.
- 4.3\* If the offices of Chairman and Vice Chairman are both vacant, or if both the Chairman and the Vice Chairman are unable to act for any reason,
- (a) the Leader of the Council (if any); or
  - (b) any two members of the panel appointed under Rule No 4.8 below may at any time call an extraordinary meeting.
- 4.4\* The Head of Paid Service, Monitoring Officer and/or Section 151 Officer may at any time call an extraordinary meeting.
- 4.5\* The appropriate number of members of the Council may call an extraordinary meeting of the Council if a requisition for such a meeting signed by the appropriate number of members of the Council has been presented to the Chairman of the Council, and either the Chairman has refused to call a meeting or, without him/her so refusing, no extraordinary meeting has been called within seven days of the presentation of the requisition.
- 4.6\* The appropriate number of members of the Council is:
- (a) in any circumstances, the number of members who then form a quorum of the Council;
- or

(b) in relation to any item of business where any political group have required that the provisions of Rule No 8 (opposition priority business) should be applied to an item of business, and the question on that item of business has not been put to the vote, or has been put to the vote as a result of a resolution on Rule No 25(14) (closure motions), at least five.

4.7\* Any requisition under Rule No 4.5 may be presented to the Chairman by being left for him/her with the Chief Executive.

4.8\* At, or as soon as possible after, the Annual Meeting of the Council, the Council shall appoint a panel of at least four members of the Council for the purposes of Rule No 4.3(b).

4.9\* Where any member or members or officers decide to call an extraordinary meeting of the Council, they shall signify to the Chief Executive that they have done so, the business to be transacted and the date and time for which the meeting is called. The Chief Executive shall thereupon ensure that the notices and summonses required by Paragraph 4 (2) of Schedule 12 to the 1972 Act are published and sent.

4.10\* Any extraordinary meeting of the Council which may be called shall be held at Castle House, Great North Road, Newark or such other place as the Chairman of the Council may reasonably appoint.

4.11\* No extraordinary meeting shall be called unless it is proposed to transact at the meeting business which, in accordance with the relevant enactments and these Rules, may be transacted at that meeting.

#### **RULE NO. 5 - PERSON PRESIDING AT MEETINGS OF THE COUNCIL**

5.1\* Any power of the Chairman of the Council in relation to the conduct of a meeting of the Council may be exercised by the person presiding at the meeting.

5.2\* If it is necessary to choose a member of the Council to preside in the absence of the Chairman and Vice Chairman, the Chief Executive shall call on a member of the Council to move that a member of the Council be proposed to take the chair.

5.3\* If discussion arises on that motion, the Chief Executive shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting.

5.4\* The motion, and any amendments, shall be put to the meeting in accordance with Rule No 28.5(voting on appointments).

#### **RULE NO. 6 - QUORUM OF MEETINGS**

6.1 If, during any meeting of the Council, the person presiding, after causing the number of members present to be counted, declares that there are not one quarter of the whole number of voting members (of the Council) present, the meeting shall stand adjourned for fifteen minutes.



- 6.2 If, after fifteen minutes, the person presiding, after again causing the number of members present to be counted, declares that there are still not one quarter of members present, the meeting shall end.
- 6.3 Notwithstanding any provision in these Rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph and which has not been completed before the meeting is brought to an end shall be postponed to the next meeting of the Council, whether ordinary or extraordinary.

**RULE NO. 7 - ORDER OF BUSINESS AT MEETINGS OF THE COUNCIL**

- 7.1\* Subject to Rule No. 8 or unless the Council otherwise order in accordance with paragraph 7.3, the order of business at every ordinary meeting of the Council shall be:
- (a) at the commencement of a Council meeting, the Chairman of the Council shall be announced and members, officers, and the public shall forthwith come to order and stand;
  - (b) in the absence of the Chairman and Vice Chairman, to choose a member of the Council to preside;
  - (c) at the Annual Meeting, and at any other meeting which is the first after the office of Chairman shall have become vacant, to elect a Chairman;
  - (d) at the Annual Meeting, and at any other meeting which is the first after the office of Vice Chairman shall have become vacant, to appoint a Vice Chairman;
  - (e) to receive apologies for absence;
  - (f) to approve as a correct record the minutes of the last meeting of the Council, and of any earlier meeting of which the minutes have not been so approved, and for the person presiding to sign them;
  - (g) to receive declarations of interests from Members and Officers;
  - (h) to receive declarations of intention to record the meeting;
  - (i) to receive communications which the person presiding or the Chief Executive considers should be laid before the Council;
  - (j) to receive communications which the Leader of the Council and Committee Chairmen consider should be laid before the Council;

- Members of the Council will be given the opportunity to ask questions of the Leader of the Council and Committee Chairman following receipt of communications, if these specifically relate to functions of the relevant committee of which the member is the chairman.
- (k) where the meeting has been called by Members under Rule No 4.5 to consider the business specified in the summons;
  - (l) where a meeting has been summoned to consider
    - (i) a change of the name of the area of the Authority under Section 74 of the 1972 Act;
    - (ii) the promotion or opposition of a Bill under Section 239 of the 1972 Act;
    - (iii) the presentation of a petition to The Queen praying for the grant of a charter under Section 245 of the 1972 Act;
    - (iv) a report from the s151 Officer under Section 114 of the Local Government Finance Act 1988; or
    - (v) a report of the Monitoring Officer under Section 5 of the 1989 Actto consider the business for which the meeting has been summoned;
  - (m) the asking and answering of questions by Members of the Council under Rule No. 14 and the asking and answering of questions by the Public under Rule No. 15.
  - (n) to receive and debate petitions under Rule No. 10;
  - (o) at the Annual Meeting to:
    - (i) elect the Leader;
    - (ii) elect the Deputy Leader
    - (iii) appoint such Committees as is considered necessary including the Chairman and Vice-Chairman thereof;
    - (iv) appoint representatives on outside bodies.
  - (p) to consider items of business required by Statute or the Council's Constitution;
  - (q) to consider items of business, if any, which were on the agenda of the last meeting of the Council and which were not disposed of or did not lapse;
  - (r) to consider items of business referred direct to the Council by the Chief Executive or any other Chief Officer pursuant to Rule No 21;
  - (s) to consider reserved decisions from Committees and recommendations of Committees and Sub Committees which have arisen since the last ordinary meeting of the Council in the order prescribed under paragraph (2);

- (t) to consider motions of which notice has been submitted by members of the Council in accordance with Rule No 14 in the order in which they are recorded as having been received;
- (u) to receive for noting the minutes of all Committee and Sub Committee meetings held since the last ordinary meeting of the Council; and
- (v) to consider other business, if any, specified in the summons for the meeting.

7.2\* The items of business under items (o), (p) and (q) in the last paragraph shall be considered in the order in which they are listed in the agenda for the meeting, and that order shall be in accordance with arrangements determined by the Chief Executive after consultation with the Chairman of the Council.

7.3\* The order of business in paragraph (1) may be varied by

- (a) direction of the person presiding, made with the unanimous consent of the members present, but not so as to alter the order of items (a) to (i); or
- (b) a resolution of the Council, moved, seconded and put without comment but not so as to alter the order of items (a) to (i), or to over-ride the provisions of Rule No 8.

7.4\* 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 in accordance with the 1972 Act, that item shall, subject to any direction or resolution under Rule No 7.3 be taken at the end of the other items of business or at any other time which the person presiding considers appropriate and notifies to the meeting when announcing the item of urgent business.

#### **RULE NO. 8 - OPPOSITION PRIORITY BUSINESS**

8.1\* This Rule applies where there is a majority group among the members of the Council.

8.2\* A minority group may require, by a notice in writing given to the Chief Executive not later than the latest time for the receipt of notices of motion for that meeting, that any one item of business to be placed on the agenda for any meeting of the Council shall be treated as opposition priority business.

8.3\* Where the Chief Executive receives more than one such notice for any meeting, he/she shall decide which notice shall be effective so as to ensure that as far as possible each minority group's share of such notices which are effective fairly reflects the relative sizes of those groups in the period since the last Annual Meeting of the Council.

8.4\* The Chief Executive shall indicate on the agenda which (if any) item of business is to be treated as opposition priority business.

- 8.5\* If an item of business is to be treated as opposition priority business, and if, after a period of two hours from the commencement of the meeting, consideration of that item has not begun, that item shall be taken next after the conclusion of the business then under discussion.
- 8.6\* The normal rules of debate shall be suspended to the extent necessary to enable the opposition priority business to be debated but shall otherwise have full force and effect.
- 8.7 If, at the opening or at any time before the close of the debate, the minority group which gave notice of the opposition priority business wish to move a formal motion, prior notice must be given in accordance with Rule 13.

#### **RULE NO. 9 - COMMUNICATIONS**

- 9.1\* Where communications are laid before the Council by the Chairman of the Council or the Chief Executive the meeting shall resolve without debate that these:-
- (i) be discussed with the minutes of any Committee containing a reference to the same subject matter; or
  - (ii) be referred to a Committee; or
  - (iii) be recorded in the minutes; or
  - (iv) be allowed to lie on the table.

#### **RULE NO. 10 - PRESENTATION AND DEBATING OF PETITIONS**

##### Presentation of Petitions

- 10.1\* In accordance with the Council's published Petition Scheme (attached at Section 9 of these Rules of Procedure) petitions with less than 1,000 valid signatures can be presented to the Council.
- 10.2\* At a meeting of the Council any member of the Council may present a petition, signed by persons other than members of the Council, 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. The member presenting the petition shall satisfy himself/herself that the petition is proper to be received.
- 10.3\* A member wishing to present a petition shall give notice of his/her intention to do so to the Chief Executive at least six clear working days before meeting at which he/she wishes to present it.
- 10.4\* The presentation of a petition shall be limited to not more than three minutes, and shall be confined to reading out or summarising the prayer 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. There will be no debate.

10.5\* Petitions shall be presented in the order in which notice of them is received by the Chief Executive.

Debating of Petitions

10.6\* In accordance with the Council's published Petition Scheme (attached at Section 9 of these Rules of Procedure) petitions with more than 1,000 valid signatures can be presented by the lead petitioner to the Council for debate.

10.7\* The presentation of the petition by the lead petitioner will be limited to not more than five minutes and shall summarise the content of the petition and highlight the course of action it wishes the Council to take.

10.8\* If the lead petitioner is unable to attend the Council Meeting to present their petition this will be debated by the Council in their absence.

10.9\* The Council will limit the debate on the petition to a maximum of 15 minutes and will close the debate with an agreed course of action.

10.10\* Petitions for debate will be taken in the order in which notice of them was received by the Chief Executive.

**RULE NO. 11 - CONSIDERATION OF ITEMS REFERRED DIRECT TO THE COUNCIL BY OFFICERS**

11.1\* Where the Council considers an item of business which has been referred direct to it by either the Chief Executive or any other Chief Officer pursuant to Rule No 21 the following procedure shall apply:-

- (a) the appropriate officer shall be requested to introduce any officer report presented to the meeting in connection with the item; and
- (b) thereafter the item may be disposed of in accordance with the Council's usual procedures with regard to motions and possible amendments thereto.

**RULE NO. 12 - CONSIDERATION OF RESERVED DECISIONS FROM COMMITTEES, RECOMMENDATIONS AND ITEMS REFERRED FROM COMMITTEES AND SUB COMMITTEES**

12.1\* The following procedure shall be observed for consideration of reserved decisions from Committees to which Council Procedure Rule 22 applies and recommendations and items referred from Committees and Sub-Committees which have arisen since the last ordinary meeting of the Council: -

- (i) Each reserved decision and each recommendation shall be dealt with separately and disposed of before moving on to the next;

- (ii) In the case of a reserved decision of the Planning Committee relating to the determination of an application for planning permission the following motions only may be proposed and seconded: -
  - either
    - (a) that the matter be referred back to the Planning Committee with a request that it reconsider its original decision; or
    - (b) that the reservation not be supported and that the original decision of the Planning Committee accordingly take effect.
- (iii) In the event of either motion being proposed and seconded, the alternative motion may be moved and seconded as an amendment to the original motion;
- (iv) No further amendments or alternative motions may be put;
- (v) In the case of a recommendation from a Committee or Sub-Committee, or in the case of any other decision of a Committee to which Council Procedure Rule No. 22 applies the recommendation of the Committee or the reserved decision, as the case may be, shall be formally moved by the Chairman of the Committee and seconded by the Vice-Chairman (which expression shall include any other members of the Committee moving or seconding the recommendation on his/her behalf);
- (vi) If the recommendation or decision is not in accord with their own views, the proposer and seconder of the formal motion shall be permitted to speak against the same in the debate, but the proposer shall not then have a right of reply to the debate.
- (vi) When a recommendation of a Committee is discussed, regard shall be had to the views and recommendations of any other Committee on the same subject, as identified in the agenda of the Council meeting;
- (viii) Where an item has been referred to the Council for decision by a Committee or Sub-Committee without any recommendation on the action to be taken, the item may be disposed of in accordance with the Council's usual procedure with regard to motions and possible amendments thereto; and

12.2\* The debate and decision of the Council on the subject matter of any reserved decision recommendation or item referred from a Committee or Sub-Committee shall preclude any further questions, comment or debate on the same subject matter during that meeting.

#### **RULE NO. 13 - NOTICE OF MOTIONS**

13.1\* Notice of every motion to be moved at an ordinary meeting of the Council other than a motion which, under Rule No 24, may be moved without notice, shall be given in writing, and be signed by the mover and seconder and delivered to the Chief Executive not later than noon on the day eight days before the meeting of the Council at which it is intended to be moved. The notice shall state for which meeting of the Council the notice is given.

- 13.2\* Written notice of any motion to be moved at an Extraordinary meeting of the Council signed by the proposer and seconder shall be delivered to the Chief Executive not later than noon at least two working days before that meeting (i.e. excluding the day of the meeting). The Chief Executive shall send a copy of the motion to each member on the day of receipt.
- 13.3\* The method of delivery of a Notice of Motion submitted under Rule Nos. 13.1 and 13.2 above shall be:-
- (i) by submitting an original in writing signed by the mover and seconder of the motion; or
  - (ii) by submitting a faxed copy showing the facsimile signature of the mover and seconder of the motion; or
  - (iii) by electronic mail which shall show the names of the mover and seconder of the Motion, together with the name and electronic mail address of the sender;
- and in the case of (ii) and (iii) above, shall be subject to verification to the satisfaction of the Chief Executive.
- 13.4\* The Chief Executive shall record the time and date at which every such notice is delivered to him/her. That record shall be open to the inspection of every member of the Council.
- 13.5\* Every motion shall be relevant to some matter in relation to which the Authority have functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of them.
- 13.6\* A motion shall only be moved by the member by whom notice has been given, or by a member authorised by such a member.

**RULE NO. 14 - QUESTIONS BY MEMBERS OF THE COUNCIL**

- 14.1\* Members of the Council may submit questions to the Chairman of a Committee at any meeting of the Council in accordance with the following procedure:
- (i) Notice of a question shall be given to the Chief Executive (or an appropriate officer) in writing or by electronic mail not later than noon on the day eight days before the date of the Council meeting;
  - (ii) if submitted by email this must be sent from the Members' official Newark & Sherwood District Council email address or one accordingly recognised and identified as being an official email address belonging to that Member;
  - (iii) the question (unless ruled out in accordance with Rule 14.2) shall be published with the summons for the meeting;
  - (iv) each question shall be taken as read and the relevant Committee Chairman will be invited to reply;

- (v) the Committee Chairman may refer the question to any other Member who is willing to undertake to answer it;
- (vi) the relevant Member may give an oral or written reply, unless a full reply cannot be given, but in any case a written reply will be sent to all Members as soon as practicable after the meeting, in addition to the responses to all questions being published as an appendix to the minutes for the meeting;
- (vii) the Member shall be entitled to put a single supplementary question provided that it is relevant to the subject matter of the original question;
- (viii) if considered expedient the relevant Member will circulate a written reply to any question at the meeting which will be taken as read;
- (ix) each question shall be put and answered without discussion.

14.2\* 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.

14.3\* A reference to any publication of the Council which contains the desired information, shall be a sufficient answer.

14.4\* A period not exceeding thirty minutes shall be allocated at each Council meeting for questions from Members of the Council and the public (under Rule 15) and no further questions shall be put once that time period has expired. Questions from Members of the Council will be time limited to 15 minutes where there are questions submitted from the public.

14.5\* Questions which have not been answered within the period referred to in 14.5 shall be referred to the relevant Member who shall arrange for a written reply to be sent to all Members of the Council.

14.6\* When a question is submitted in accordance with this Rule, significantly in advance of the deadline for submission, the Chief Executive will determine if it is more expedient to respond in writing if it is considered the question should not wait until the next scheduled Council Meeting.

#### **RULE NO. 15 – QUESTIONS BY THE PUBLIC**

15.1\* Members of the public resident in the District may submit questions to Council at Council meetings in accordance with the following procedure:

- (i) Notice of a question shall be given to the Chief Executive (or an appropriate officer) in writing or by electronic mail not later than noon on the day eight days before the date of the Council meeting;



- (ii) when submitting a question the questioner must provide their full name and address;
- (iii) the question (unless rejected under Rule No 15.4) shall be published with the summons for the meeting;
- (iv) each question shall be taken as read and the relevant Member will be invited to reply;
- (v) the relevant Member may give an oral or written reply, unless a full reply cannot be given, but in any case a written reply will be sent to the questioner as soon as practicable after the meeting, in addition to the responses to all questions being published as an appendix to the minutes for the meeting;
- (vi) if the questioner is in attendance at the meeting they will be entitled to ask a single supplementary question provided that it is relevant to the subject matter of the original question;
- (vii) there will be no discussion of the answers given;
- (viii) if considered expedient the relevant Member will circulate a written reply to any question at the meeting which will be taken as read.

15.2\* Every question shall be relevant to matters in relation to which the Council has powers or duties or which affects the area or the residents of the area.

15.3\* Questions shall be asked in the order in which they were received, except that the Chairman may group together similar questions.

15.4\* The Chief Executive shall not accept a question if it is considered that it:

- (a) is not about a matter for which the Council has a responsibility or which affects the area or the residents of the area;
- (b) is frivolous, defamatory, vexatious or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the previous 6 months; or
- (d) requires the disclosure of confidential or exempt information when being answered.

15.5\* A period not exceeding thirty minutes shall be allocated at each Council meeting for questions by the public and questions from Members of the Council (under Rule 14) and no further questions shall be put once that time period has expired, save that a minimum of 15 minutes will be reserved for questions by the public.

- 15.6\* Questions which have not been answered within the period referred to in 15.5 shall be referred to the relevant Member who shall arrange for a written reply to be sent to the questioner as soon as practicable with a copy to all Members of the Council.
- 15.7\* At any one meeting no person shall submit more than one question and no more than one question may be asked on behalf of one organisation provided that the Chairman may, in exceptional circumstances, waive this rule.
- 15.8\* When a question is submitted in accordance with this Rule, significantly in advance of the deadline for submission, the Chief Executive will determine if it is more expedient to respond in writing if it is considered the question should not wait until the next scheduled Council Meeting.

**RULE NO. 16: - PRESENTATION OF MINUTES FOR NOTING**

- 16.1\* The following procedure shall be followed when the delegated decisions of Committees and Sub Committees are presented for noting to the Council:-
- (i) the decisions will be presented by the Chairman of the appropriate Committee/Sub Committee in the order set out in the agenda;
  - (ii) after giving the Committee Chairman the opportunity to comment thereon, the Chairman of the Council will ask for questions or comments on the delegated decisions of the Committee page by page;
  - (iii) the Committee Chairman shall reply item by item. If the Committee Chairman defers an item to obtain further information, he/she shall give that answer in writing to the questioner as soon as practicable after the meeting and, in any event, prior to the next meeting of the Council. The response will, in addition, be circulated to all Members of the Council or published for information with the agenda for the following meeting of the Council.
  - (iv) after the Committee Chairman has replied to any question or comment on any page, there shall be no further debate on those decisions, except for any supplementary question arising out of the replies which the Chairman of the Council may allow.

**RULE NO. 17 – APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES AND ALLOCATION OF SEATS ON COMMITTEES AND SUB-COMMITTEES TO POLITICAL GROUPS**

- 17.1\* The Council shall at its annual meeting appoint such Committees as it is required by law and as it deems necessary to appoint for the ensuing year and the Chairman and Vice-Chairman of those Committees. It shall also appoint the Leader and Deputy Leader at its annual meeting.

- 17.2\* Subject to any statutory provisions in that behalf the Council may at any time appoint such other Committees, Sub-Committees or Working Parties as are necessary to carry out the work of the Council; or dissolve a Committee, Sub-Committee or Working Party; or alter its Chairmanship, Vice-Chairmanship or its membership. Subject to Rule 13, Notice of Motions, the Leader and/or Deputy Leader may be removed at any time during his or her term by a majority resolution of the Council.
- 17.3 Subject to any statutory provisions in that behalf a Committee may at any time appoint such other Sub-Committees or Working Parties and their respective Chairman and Vice-Chairman as are necessary to carry out the work of the Committee; or dissolve a Sub-Committee or Working Party; or alter its Chairmanship, Vice-Chairmanship or its membership.
- 17.4 Subject to Rule Nos. 17.2 and 17.3 Committees shall continue until the next annual meeting of the Council and shall retain their powers and membership, except as regards members who have not been re-elected in a year of ordinary election of members or have otherwise ceased to be members.
- 17.5 Subject to Rule No 17.2 Sub Committees and Working Parties shall continue until the first meeting of the appropriate Committee after the next annual meeting of the Council, or until that Committee has dissolved the Sub Committee or Working Party, except as regards those members who have not been re-elected in a year of ordinary election of members or have otherwise ceased to be members.
- 17.6 Whenever
- (a) the Council is required to review the allocation of seats on Committees between political groups; or
  - (b) the Council resolves to carry out such a review; or
  - (c) a Committee is required to review the allocation of seats on a Sub Committee between political groups; or
  - (d) a Committee resolves to carry out such a review;
- the Chief Executive shall submit a report to the Council or Committee (as the case may be), showing what allocation of seats would, in his/her opinion, best meet the requirements of Section 15(4) of the 1989 Act.
- 17.7 The Leader of the Council will be appointed ex officio as a member of the Economic Development, Leisure and Environment and Homes and Communities Committees and will be entitled to attend and speak at those committees. He or she will not be entitled to vote unless expressly appointed as a voting member of the committee. The Deputy Leader will be entitled to attend the Economic Development, Leisure and Environment and Homes and Communities Committees in an ex officio capacity in the absence of the Leader except where the Deputy Leader is already a member of that Committee.

**RULE NO. 18 - MEETINGS OF COMMITTEES, SUB COMMITTEES AND WORKING PARTIES**

- 18.1 The Council may fix the date, time and place of ordinary meetings of committees, Sub Committees and Working Parties.
- 18.2 If the Council do not fix the date, time, or place of an ordinary meeting of such a Sub Committee or Working Party, then the Committee or Sub Committee which appointed them may do so.
- 18.3 If the date, time or place of an ordinary meeting of such a Committee, Sub-Committee or Working Party has not been fixed by the Council or the appointing Committee or Sub-Committee (as the case may be), then that Committee, Sub-Committee or Working Party shall fix those details of the meeting which have not otherwise been fixed, provided that:
- (a) for the first ordinary meeting of any Committee, Sub-Committee or Working Party, the Chairman of the Council or, if a person has been appointed to preside in such a Committee, Sub-Committee or Working Party, that person, may fix any details which have not otherwise been fixed.
  - (b) for any other meeting of such a Committee, Sub-Committee or Working Party, the Chairman of the Council or the person appointed to preside in that Committee, Sub-Committee or Working Party after consultation (so far as practicable) with such persons as appear to him/her to be representative of the political groups to which have been allocated seats on the Committee, Sub-Committee or Working Party may cancel or change any of the details of place, date or time already fixed for a meeting of the Committee, Sub-Committee or Working Party other than one called under Rule No. 18.5.
- 18.4 The person appointed to preside at meetings of such a Committee, Sub Committee, or Working Party or his/her deputy, may call a special meeting of the Committee, Sub Committee or Working Party at any time after prior consultation with the leader of or the designated spokesman for each group normally attending such Committee, Sub Committee or Working Party.
- 18.5
- (a) a requisition for a special meeting of such a Committee, Sub Committee or Working Party, signed by at least two or one quarter of the total number of the voting members of such a Committee, Sub Committee or Working Party, whichever is greater, has been presented to the person appointed to preside at their meetings, and
  - (b) either he/she has refused to call a meeting or, without him/her so refusing, no special meeting has been called within seven days of the presentation of the requisition, then any two, or one quarter of the number, of the members of the Committee, Sub Committee, or Working Party, whichever is greater, may forthwith call a special meeting of the Committee, Sub Committee or Working Party.

- 18.6 If any person decides to call a special meeting of a Committee, Sub Committee or Working Party, he/she shall forthwith give notice that he/she has done so to the Chief Executive specifying the business proposed to be transacted.
- 18.7 The Chief Executive shall forthwith give notice to all members of the Committee, Sub Committee or Working Party and all persons entitled to receive their papers.
- 18.8 Any requisition under Rule No 19.5 may be presented by being left with the Chief Executive.

**RULE NO. 19 - PERSONS PRESIDING IN COMMITTEES, SUB COMMITTEES AND WORKING PARTIES**

- 19.1 The Council may appoint, from among the voting members, a person to preside at the meetings of a Committee, Sub Committee or Working Party, and a person to preside in the absence of the first person.
- 19.2 If any appointment possible under the previous paragraph is not made, such a Committee or Sub Committee may appoint, from among the voting members, a person to preside at the meetings of any Sub Committee or Working Party as appropriate appointed by them, or a person to preside in the absence of the first person, as the case may be.
- 19.3 If any appointment possible under the previous two paragraphs is not made, such a Committee, Sub Committee or Working Party at their first meeting after the annual meeting of the Council shall, from among their voting members, appoint a person to preside at their meetings, and may, in the same way, appoint a person to preside in the absence of the first person.
- 19.4 If the persons appointed under the previous paragraphs of this Standing Order are absent, a meeting of such a Committee, Sub Committee or Working Party shall appoint, from among the voting members present, a person to preside at that meeting.
- 19.5 If it is necessary for such a Committee, Sub Committee or Working Party to appoint a person to preside, the Chief Executive shall call on a member of the Committee, Sub Committee or Working Party to move that a voting member of the Committee, Sub Committee or Working Party shall take the chair.
- 19.6 If discussion arises, the Chief Executive shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting.
- 19.7 The motion, and any amendments, shall be put to the meeting in accordance with Rule No 28.5 (voting on appointments).

**RULE NO. 20 - ORDER OF BUSINESS IN COMMITTEES AND SUB COMMITTEES**

- 20.1 At least five clear days before every meeting of a Committee or Sub Committee, or as soon as the meeting is called, whichever is later, the Chief Executive shall send to every voting member and to every other person entitled to receive the papers of the Committee or Sub Committee a copy of the agenda for the meeting.

- 20.2 The agenda shall include
- (a) to receive apologies for absence;
  - (b) to approve as a correct record the minutes of the previous meeting in accordance with Rule No. 23;
  - (c) to receive declarations of interests from Members and Officers;
  - (d) to receive declarations of intention to record the meeting;
  - (e) all items of business which have been, or are deemed to have been, referred to the Committee or Sub Committee by the Council or by another Committee or Sub Committee, as the case may be;
  - (f) all reports submitted to the Committee or Sub Committee by the Head of the Paid Service or any Chief Officer;
  - (g) any item of business directed to be included by the person appointed to preside at the meetings of the Committee or Sub Committee; and
  - (h) any other item of business of which the requisite notice has been given to the Chief Executive by a member of the Committee or Sub Committee (whether voting or not), provided that no member (other than the person appointed to preside at meetings of the Committee or Sub Committee) may give notice of more than one item of business for any one meeting.
- 20.3 The requisite notice is seven clear days notice in writing before the date fixed for the meeting of the Committee or Sub Committee.
- 20.4 Subject to any directions given by the person appointed to preside at the meetings of the Committee or Sub Committee, the items of business shall be arranged in such order as the Chief Executive thinks will best ensure the effective despatch of business.

**RULE NO. 21 - REFERENCE OF ITEMS OF BUSINESS BY OFFICERS TO COUNCIL AND COMMITTEES**

- 21.1\* The Chief Executive or any other Chief Officer may refer items of business direct to the Council for decision after consultation with either:-
- (a) the Leader of the Council; or
  - (b) the Deputy Leader of the Council in the absence of the Leader;
  - (c) the Chairman of the Committee in whose remit the matter would normally fall or, in their absence, the Vice-Chairman;

and

- (d) the appropriate Committee or Sub Committee spokesman of the major opposition group.

21.2\* The "appropriate Committee or Sub Committee spokesman" for the purpose of this Standing Order shall be the spokesman for the Committee or Sub Committee within whose remit the item of business would normally fall.

**RULE NO. 22 - RESERVATION OF DECISIONS OF COMMITTEES AND SUB-COMMITTEES**

22.1 Any Committee or Sub-Committee, when making a decision within the scope of its delegated authority, shall be held to be exercising that authority and the decision shall be implemented accordingly unless:

- (a) It shall be resolved prior to making that decision that it is not exercising that authority, provided that the said resolution may not be reserved under Rule No. 22.1(b);
- (b) During the meeting at which the decision is made or before 5.00pm on the next working day:-
  - (i) Where the Committee or Sub-Committee comprises 10 or more members, any 3 members of the Committee or Sub-Committee, or
  - (ii) Where the Committee or Sub-Committee comprises 9 or less members, any 2 members of the Committee or Sub-Committee, or
  - (iii) In either case, any 13 members of the Council

may require the decision or part of it to be reserved to the next meeting of the Council (or in the case of a Sub-Committee to the Parent Committee if that next meets before the Council) by either notifying the Chairman of the relevant meeting, in writing, prior to the close of the meeting or by notifying the Chief Executive or his representative in writing or by e-mail before 5.00pm on the next working day."

Note "Members of the Committee or Sub-Committee" for the purposes of Rule 22.1(b) shall include any substitute Member who attended the Committee where the decision which is intended to be reserved was taken and who was present at the meeting when the decision was taken, but shall not include the ordinary Member for whom they were acting as substitute".

In any such event the said decision, or if only part has been reserved, that part, shall not be implemented unless and until it shall have been approved at a meeting of the Council or committee as appropriate, provided that the following decisions may not be reserved under this standing order: -

- (i) whether to exclude the public and press from the meetings
- (ii) whether (if the Chairman shall put this to the vote) to alter the order of business of a meeting
- (iii) to invite a member who is not a member of a committee or sub-committee to speak in accordance with the Access to Information Procedure Rules.
- (iv) on closure motions under standing order Rule No.24(13)(a)-(d) that the Committee proceed to next business, that the question be now put, that the debate be now adjourned or that the Council do now adjourn
- (v) to appoint a person to preside in the absence of the Chairman of Vice-Chairman under Rule No. 19.4.

22.2 The written notice or e-mail notification referred to in Clause 22.1(b) ante shall clearly set out the decision or the part of the decision which the members exercising the right of reservation require to be reserved and shall specify the names of the members who have exercised the right of reservation.”

22.3 Procedure Rules 22.1 (a) and (b) shall not apply in respect of decisions of the Licensing Committee.

22.4 In the case of decisions of the Planning Committee the right to reserve a decision to the Council under 22.1(b) above shall only be capable of being exercised where:-

- (i) information which, in the opinion of the Members requesting the reservation, is material to the determination of the application was not available to the Planning Committee when making its original decision; or
- (ii) the decision is contrary to Officer recommendation and the reasons put forward for approval/refusal are such that, in the opinion of the Members requesting the reservation, the Council may be at risk of maladministration or an award of costs at any subsequent inquiry or may otherwise be at risk of costs or legal challenge.

22.5 In the event of the right of reservation being exercised in respect of a decision of the Planning Committee, the Council may resolve only to either: -

- (i) to refer the matter back to the Planning Committee with a request that it reconsider its original decision.
- (ii) not to support the reservation in which event the original decision of the Planning Committee shall take effect.

22.6 A request for a reservation may be withdrawn at any time prior to the meeting to which it was reserved by written notice to the Chief Executive who shall only agree to withdraw the reservation after consultation with all Group Leaders and where the request to withdraw is signed by all the parties who requested that the decision be reserved.



- 22.7 The right to require a decision to be reserved under Council Procedure Rule 22.1(b) ante may only be exercised once in respect of the same decision and, for the avoidance of doubt, may not be exercised again in respect of any decision even where altered or amended when referred back to the relevant Committee under Council Procedure Rule 22.5(i)."

**RULE NO. 23 - MINUTES**

- 23.1 The person presiding shall put the question "that the minutes submitted to the meeting be approved as a correct record of that meeting".
- 23.2 No discussion shall take place upon the minutes, except upon their accuracy. 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 is disposed of, the person presiding shall sign the minutes.

**RULE NO. 24 - MOTIONS AND AMENDMENTS**

- 24.1 The following motions may be moved without notice at any meeting at which they would be in order:
- (a) to elect a Chairman of the Council, to appoint a Vice Chairman of the Council, or to appoint a person to preside at the meeting at which the motion is made;
  - (b) motions relating to the accuracy of the minutes;
  - (c) motions under Rule No 7.3 (change in order of business);
  - (d) motions extending the time limit for speeches;
  - (e) "that the Council proceed to the next business";
  - (f) "that the question be now put";
  - (g) "that the debate be now adjourned";
  - (h) "that the council do now adjourn";
  - (i) motions under Rule No 2.4 (suspension of Standing Orders without notice);
  - (j) motions in accordance with Section 100A(2) or (4) of the 1972 Act to exclude the public from a meeting where there is likely otherwise to be disclosures of exempt or confidential information;
  - (k) motions giving consent of the Council, Committee or Sub Committee where it is required under these Rules;

- (l) motions to refer a petition which has been presented to the Council to a Committee for consideration;
  - (m) motions to resolve the Council into Committee for the purposes of appointing:-
    - (i) the members, Chairman and Vice Chairman of Committees, Sub-Committees and Working Parties
    - (ii) representatives of the Council on outside bodies
  - (n) motions under Rule No 27 (prevention of disorderly conduct) that a named member "be not further heard", or "do leave the meeting;".
  - (o) motions and amendments under Rule No 12 (Reserved Decisions),
- 24.2\* On consideration of a report or a recommendation from a Committee, Sub-Committee or Officer, the adoption of the report or recommendation and any resolutions consequential upon that adoption may be moved without notice.
- 24.3 An amendment to a motion may be moved without notice, but shall be relevant to the motion. No amendment shall be moved to an amendment.
- 24.4 An amendment shall be relevant to the motion and shall be either:-
- (a) to refer the matter to a Committee, a Sub Committee or an Officer for consideration or reconsideration;
  - (b) to leave out words; or
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words; but such omission, insertion or addition shall not have the effect of simply negating the motion before the meeting.
- 24.5 With the consent of the meeting, signified without discussion, a member may
- (a) alter a motion of which he/she has given notice, or
  - (b) with the further consent of the seconder, alter a motion or amendment which has been moved and seconded, if (in either case) the alteration is one which could be made as an amendment or further amendment thereto.
- 24.6 With the consent of the seconder (if he/she is still present) and of the meeting, signified without discussion, the mover of a motion or an amendment may withdraw it. No member shall speak to such a motion or amendment after the mover has asked for consent for its withdrawal, unless such consent has been refused.

24.7 No motion to rescind or vary any resolution of the Council or a delegated decision, and no motion or amendment to the same effect as one which has been rejected within the previous six months by the Council or by a Committee or Sub Committee acting under a delegated authority, shall be proposed unless a notice of motion is given in respect thereof in writing and bearing the signatures of at least twelve members and the said Notice of Motion shall be delivered to the Chief Executive not later than noon on the day eight days before the meeting at which it is intended to be moved.

When any such motion or amendment has been dealt with, no similar motion or amendment may be proposed or set down within a further period of six months.

NOTE: For the avoidance of doubt, this rule does not apply to decisions of the Planning Committee where they are considering a new application which is identical to, virtually the same or similar to an application which it has received and determined within the previous six months”.

24.8 Where notice of a motion has been given for any meeting and it is not moved and seconded either by the members who gave the notice or by some other members on their behalf it shall, unless postponed by consent of the meeting, be treated as withdrawn and shall not be moved without fresh notice.

24.9 Where the consent of the Council, Committee or Sub Committee is required for anything, that consent may be given either

- (a) by the person presiding asking the meeting whether there are objections to the consent being given, and if no objection is raised, giving that consent; or
- (b) if objection is raised, or if the person presiding so chooses, by a motion moved, seconded and put to the meeting.

#### **RULE NO. 25 - RULES OF DEBATE (GENERAL)**

25.1 Unless otherwise stated the rules of debate in this Rule shall apply to all meetings of the Council, of any Committee and of any Sub Committee.

#### **Motions and Amendments**

25.2 A motion or amendment shall not be discussed unless it has been proposed and seconded.

25.3 When seconding a motion or amendment, a member may reserve his speech until a later period of the debate by declaring his/her intention to do so.

25.4 At meetings of Committees and Sub Committees a member may, with the consent of his/her seconder, alter a motion or amendment which he/she has proposed, if the alteration is one which could be taken as an amendment or further amendment.

- 25.5 Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, but notice of any number of amendments may be given.

Nevertheless the person presiding may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

- 25.6 If an amendment is lost, other amendments may be moved to the original motion. If an amendment other than one agreed by the proposer of the original motion is carried, the amended motion shall replace the original motion, becoming the substantive motion to which any further amendment may be moved. In that event the proposer of the successful amendment shall become the proposer of the substantive motion for the purpose of a right of reply under Rule No 25.12.

#### Speeches

- 25.7 If two or more members offer to speak, the person presiding shall call on one to speak.
- 25.8 When speaking, a member shall address the person presiding.
- 25.9 A member shall direct his/her speech strictly to the question under discussion, or to a personal explanation or a point of order under the provisions of paragraph 25.11.
- 25.10 Except where a motion or recommendation under Rule No 24(7) is under debate, no member shall bring forward anything which in the opinion of the Chairman is a substantial or persistent argument in favour of any course of action which within the preceding six months has been rejected by the Council.
- 25.11 A member may claim to speak on a point of order or in personal explanation in accordance with the following provisions and shall be entitled to be heard forthwith:-
- (i) Point of Order: A point of order shall relate only to an alleged breach of a Council procedure rule or statutory provision. The member raising the point of order shall indicate which Rule or statutory provision is relevant. Having done so, the member shall address the Chairman briefly on the point in the form of a question.

A member may not upon raising a point of order express differences of opinion with, or contradict, a speaker on the question before the meeting.

The ruling of the Chairman on a point of order shall not be open to discussion. The member against whom the point of order is raised shall sit until the Chairman has given his decision.

- (ii) Personal Explanation: A personal explanation shall be confined to some material part of a former speech by him/her in the current debate which he/she believes to have been misunderstood by a subsequent speaker.

A member may not, upon a personal explanation, otherwise comment upon or answer the speech of another member or seek to clarify or add to his former speech.

The ruling of the person presiding on the admissibility of a personal explanation shall not be open to discussion.

- 25.12 The mover of a motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on the amendment. The mover of an amendment shall have no right of reply to the debate on that amendment.

#### Ancillary Motions

- 25.13 When a motion is under debate, no other motion shall be moved except the following:

- (a) to amend the motion;
- (b) a closure motion under the next paragraph;
- (c) a motion under Rule No 27 (prevention of disorder);
- (d) a motion under Section 100A(2) or (4) of the 1972 Act (exclusion of the public).

- 25.14 The following closure motions shall be permitted during discussion of another motion ("the original motion"). They shall be moved by a person who has not yet spoken on the question before the meeting at the conclusion of a speech of another member. They shall be moved, seconded and put without discussion. If the motion is moved and seconded, then the person presiding shall proceed as follows:

- (a) "that the meeting proceed to the next business": if, in the opinion of the person presiding, the question before the meeting has been sufficiently discussed, he/she shall put the motion to the vote, but shall first allow the proposer of the original motion to speak briefly to the closure motion. If the closure motion is carried, the original motion shall be deemed withdrawn.
- (b) "that the question be now put": if the person presiding is of the opinion that the matter before the meeting has been insufficiently discussed, he/she may refuse to accept the motion; if he/she accepts the motion, he/she shall put to the vote forthwith the motion that the question be now put. If it is carried the proposer of the original motion shall be given a right of reply before that is put to the vote.

- (c) "that the debate be now adjourned": if the person presiding is of the opinion that the question has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she shall put the adjournment motion to the vote. If the person presiding is satisfied that the motion has been sufficiently discussed or that it can be sufficiently discussed on that occasion, he/she shall announce what further speakers he/she will call to conclude the debate.
- (d) "that the meeting do now adjourn": if the person presiding is of the opinion that the question has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she shall put the adjournment motion to the vote. If the person presiding is satisfied that the motion has been sufficiently discussed or that it can be sufficiently discussed on that occasion, he/she shall announce what further speakers he/she will call to conclude the debate.

**RULE NO. 26 - ADDITIONAL RULES OF DEBATE FOR COUNCIL MEETINGS**

- 26.1\* A member shall stand when speaking unless disabled from doing so.
- 26.2\* While a member is speaking, the other members shall remain seated and silent unless rising to a point of order or in personal explanation.
- 26.3\* Whenever the person presiding rises during the debate, a member then standing shall resume his/her seat, and the Council shall be silent.
- 26.4\* Immediately after any motion of which notice has not been given, or an amendment to any motion has been moved and seconded, it shall be put in writing, be signed by the proposer and seconder and be handed to the person presiding.
- 26.5\* Motions of which notice has been given shall be moved in the terms in which they are stated in the written notice. Any alterations of those terms shall be by way only of formal amendment.
- 26.6\* Subject to the discretion of the person presiding no speech shall exceed five minutes except that the proposer of a motion under Rule No 13.1 or 13.2 may speak for up to ten minutes. For the purposes of this paragraph a person who moves an amendment is not moving a motion, and the length of time allotted to the mover of the motion does not include any time permitted under a right of reply.
- 26.7\* A member who has spoken on any motion shall not speak again while it is the subject of debate, except:
- (a) to speak once, on an amendment moved subsequently by another member;
- (b) if his first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he spoke was carried;

- (c) to move a second or subsequent amendment of which he gave notice when he first spoke on the motion;
- (d) in exercise of a right of reply under Rule No 25.12 or 25.14.
- (e) on a point of order or by way of personal explanation under Rule No 25.11

**RULE NO. 27 - PREVENTION OF DISORDERLY CONDUCT**

- 27.1 If at a meeting any member, in the opinion of the person presiding, misconducts himself/herself by persistently disregarding the ruling of the person presiding, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the meeting, or by persisting in irrelevance, tedious repetition or unbecoming language whilst speaking, the person presiding or any other member may propose that the member named be not further heard on the question before the meeting. The motion, if seconded, shall be put and voted upon without discussion.
- 27.2 If, in the opinion of the person presiding, the member named continues his/her misconduct during the meeting after a motion under the foregoing paragraph has been carried, the person presiding shall either move "that the member named do leave the meeting" (in which case the motion shall be put and voted upon without a seconder or discussion) or shall adjourn the meeting for such period as he/she in his/her discretion shall consider expedient.
- 27.3 If a member of the public interrupts proceedings at any meeting, the person presiding shall warn him/her. If he/she continues the interruption, the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the person presiding shall order him/her to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for fifteen minutes or such period as shall seem expedient to him/her.
- 27.4 In the event of general disturbance in any part of the room where any meeting is being held which is open to the public, the person presiding shall order that part to be cleared and may adjourn the meeting for fifteen minutes or such period as shall seem expedient to him/her.
- 27.5 The powers conferred by this Rule are in addition to any other powers which the person presiding may lawfully exercise.

**RULE NO. 28 - VOTING**

- 28.1 Except where a requisition is made under the next paragraph or where Rule 2.9 applies, the method of voting at meetings of the Council, Committees and Sub-Committees shall be by show of hands.
- 28.2 If a requisition is made by the specified number of Members, before a vote is taken on any question, the following method of voting shall be adopted:

- (i) Leaders of the Political Groups on the Council, or their nominees, will be asked to indicate if they wish the votes of Members of their Political Groups present at the time of the vote to be taken en bloc and, subject to their agreement, the votes shall be taken accordingly;
- (ii) in the event of any of the Leaders of the Political Groups on the Council not agreeing to the votes of Members of their Political Group being recorded en bloc, the voting of Members of that particular Political Group shall be taken so as to show whether each Member of their Political Group gave his/her vote for or against that question, or abstained from voting;

provided that whichever of the methods of voting outlined in (i) and (ii) above is used, the names of the Members present at the time the vote was taken shall be listed in the Minutes of that meeting, with an indication as to whether they voted for or against or abstained from voting.

28.3 The specified number of members is:

- (a) one fifth of the members entitled to vote at the meeting, or
- (b) where the Council is divided into political groups, in the case of a meeting of the Council, the number of members of the second largest political group, or, in the case of a meeting of a Committee or Sub Committee, the number of seats on that body allocated to the second largest political group among the members of the Council, whichever is the less.

28.4 Where, immediately after a vote is taken at meetings any member so requires, there shall be recorded in the minutes of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.

28.5 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.

#### **RULE NO. 28a – RECORDED VOTE AT BUDGET MEETING**

28a.1 Immediately after any vote is taken relating to the budget and Council Tax setting at a budget decision meeting there shall be recorded in the minutes of the proceedings of the meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.



28a.2 "Budget decision" shall have the meaning prescribed in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.

**RULE NO. 29 - ATTENDANCE**

29.1 Every member attending a meeting of the Council, a Committee, Sub Committee or Working Party shall sign his/her name in the attendance book or on the attendance sheet provided for that purpose.

**RULE NO. 30 – DURATION OF MEETINGS**

30.1 Time Limit

If the business of the meeting (Council, Committees and Sub-Committees) has not been concluded three hours after the start of the meeting, the Chairman will indicate that time has expired and the Member speaking must immediately sit down. The Chairman will adjourn the meeting immediately unless a motion to continue the meeting is moved and seconded.

30.2 Motion to Continue

A motion to continue the meeting will be voted on without discussion. If the motion is passed, the meeting will continue for a further hour and the procedure in Rule 30.1 will be repeated. If the second motion to continue the meeting is passed, the meeting will continue for a further hour and the procedure in Rule 30.1 will again be repeated. This procedure will continue until it is resolved by a simple majority that the meeting be adjourned or the business is completed.

30.3 Business Not Dealt With

If, when the meeting is adjourned, there is business on the Agenda that has not been dealt with, it will be deferred for consideration at the next meeting of the Council, unless an extraordinary meeting is called under Rule 4.

**RULE NO. 31 – DISCLOSABLE PECUNIARY INTEREST**

31.1 Where a Member has a Disclosable Pecuniary Interest as defined by Regulations under the Localism Act 2011 they are required to leave the meeting during discussion and voting on the item in which they have a Disclosable Pecuniary Interest (unless a dispensation has been granted).

**RULE NO. 32 – PROTOCOL FOR CANCELLATION OF MEETINGS**

32.1 Where it is intended to cancel a meeting due to lack of business or to adjourn a meeting to a revised date by reason of severe inclement weather or other exceptional and/or disrupting circumstances on the proposed meeting date, the following procedure shall be followed before such meeting is cancelled or adjourned:-

- (i) The Head of Paid Service or an Officer acting on his or her behalf shall first consult and obtain the agreement of the Chairman of the Council or of the Committee which it is proposed to cancel or adjourn as the case may be.
  - (ii) The Head of Paid Service or an Officer acting on his or her behalf shall, further, consult the Leader of the Council together with the Leaders of all Opposition Groups so far as practicable before resolving whether or not to cancel or adjourn the meeting.
- 32.2 Where a meeting is cancelled rather than adjourned, at least one quarter of the Members of the relevant committee may submit a request in writing to the Head of Paid Service for it to be rearranged as soon as practicably possible, rather than the business of that meeting being deferred to the next scheduled meeting of the committee.
- 32.3 This rule shall apply to meetings of the Council, Committees and Sub-Committees but shall not apply to meetings of Working Parties where the Head of Paid Service or an Officer acting on his or her behalf in consultation with the Chairman of the Working Party shall have the discretion to cancel or adjourn meetings where appropriate.

#### **RULE NO. 33 – SUBSTITUTION OF MEMBERS AT MEETINGS**

- 33.1 The Policy & Finance Committee, Economic Development Committee, Leisure & Environment Committee and Homes & Communities Committee only shall have provision for substitute members.
- 33.2 For each Committee which has provision for substitute Members, the Council will at its Annual Meeting (or at an ordinary Council meeting in the event that a substitute Member resigns or otherwise ceases to hold office) appoint substitute Members.
- 33.3 For each Committee which has provision for substitute Members, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee, up to a maximum of two in respect of each group.
- 33.4 Substitute Members will have all the powers and duties of any ordinary Member of the Committee, but will not be able to exercise any special powers or duties exercisable by the person they are substituting. (For example they will not automatically be entitled to chair the meeting if acting as substitute for the Chairman).
- 33.5 Substitute Members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are substituting and where the ordinary Member will be absent for the whole of the meeting.
- 33.6 The Ordinary Member who cannot attend, the relevant Group Leader, the relevant Committee Chairman or relevant Opposition Spokesperson have the responsibility to make arrangements for the substitute to be present in the place of the Member who cannot attend and to notify the Proper Officer of the proposed substitution at least 24 hours before the meeting concerned. Substitution must be for the whole of the meeting. The attendance of substitute Members should be recorded in the minutes of the meeting.

- 33.7 Once the substitution has been made the substitute Member will assume all the powers and duties of the ordinary Member until after the close of the meeting for which the substitution has been effected and the ordinary Member shall not be entitled to exercise those powers and duties for the currency of the meeting for which the substitution has been made. With the exception of the Chairman of the meeting who, if present at the meeting, shall take the place of the substitute appointed by them and shall preside at the meeting.

**RULE NO. 34 - AMENDMENTS TO THE CONSTITUTION**

- 34.1 No motion to Council to make any significant change to the constitution shall be considered by the Council unless not less than 21 days prior notice has been given to the Proper Officer and the matter has first been considered by the Councillors' Commission or such body as may be constituted from time to time to consider and review the Council's constitutional arrangements provided that this rule shall not prevent a recommendation being made to the Council by the Councillors Commission (or such body as may be constituted from time to time to consider and review the Council's constitutional arrangements) to make changes to the constitution notwithstanding that such recommendation may be made less than 21 days prior to the Council meeting.

**RULE NO. 35 - SUB-COMMITTEES**

- 35.1 Notwithstanding the legislative provisions in the Local Government Act 1972, a Committee shall not be permitted to appoint a sub-committee carrying delegated powers on behalf of the Committee unless this has first been approved by the Council.

**RULE NO. 36 - WORKING PARTIES AND TASK & FINISH GROUPS**

- 36.1 Committees may establish working parties or task and finish groups to act in an advisory capacity and to make recommendations to the parent committee.
- 36.2 Where such a working party or task and finish group is established the Committee will be required to determine:
- (i) Its remit
  - (ii) Its duration and procedures for reporting back to the parent committee
  - (iii) Its membership
- 36.3 All working parties and task and finish groups shall be held in private unless an express resolution is passed to the contrary.
- 36.4 Where appropriate, the Committee will appoint a lead officer for the conduct of the working party or task and finish group's business.

**RULE NO. 37 - APPLICATION OF THESE RULES TO COMMITTEES AND SUB-COMMITTEES**

37.1 The following Rules shall apply to Committees and Sub-Committees:

1, 2.1, 2.2, 2.5, 6, 17.3, 17.4, 17.5, 17.6, 18, 19, 20, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32.3, 35 and 36.

**RULE NO.38 – REMOTE MEETINGS HELD BY VIRTUE OF THE CORONAVIRUS ACT 2020**

38.1 Wherever there is a conflict between this Rule and another Council Procedure Rule this Rule takes precedence in relation to any remote meeting. This Rule will have effect until 7 May 2021 subject to any amendments to legislation. This Rule should be read in conjunction with the Remote Meeting Protocol.

38.2 The requirement to hold an Annual Meeting is to be disregarded prior to 7 May 2021.

38.3 For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

- (i) “open to inspection” shall include for these and all other purposes as being published on the website of the council; and
- (ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

38.4 For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

- (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and
- (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

38.5 If the Chairman is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chairman shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

- 38.6 A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance;
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- 38.7 A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 38.6 above are not met. In such circumstance the Chairman may, as they deem appropriate;
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in 38.6 above to be re-established; or
  - (ii) count the number of Members in attendance for the purposes of the quorum and continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.
  - (iii) In relation to meetings of Planning Committee, the provisions of paragraph 14 of the Protocol for Members on Dealing with Planning Matters shall apply; any Member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter.
- 38.8 A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

- 38.9 A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 38.8 above are not met. In such circumstance the Chairman may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in 38.8 above to be re-established;
  - (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
  - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.
- 38.10 Unless a recorded vote is demanded, the Chairman will take the vote
- (i) through the use of an electronic voting system and voting in the Chamber or;
  - (ii) by the affirmation of the meeting if there is no dissent; or
  - (iii) the Chairman will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.
- 38.11 Where a Member is required to leave the meeting for any reason such as having a disclosable pecuniary interest, the Member will be required to disable their microphone and video whilst any discussion or vote takes place in respect of the item or items of business.

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## ACCESS TO INFORMATION PROCEDURE RULES

### 1. SCOPE AND DEFINITIONS

These rules apply to all meeting of the Council, its Committees and Sub-Committees and area Committees (if any), (together called “Meetings”). They summarise the public’s right to attend meetings and to inspect and copy documents, full particulars of which are contained in Part VA of the Local Government Act 1972. With the exception of paragraphs 17.3 to 17.7, these rules do not apply to Working Parties, Task & Finishing Groups and Commissioning Groups. They do not apply to site visits conducted by the Planning Committee. These shall not constitute “meetings” for the purposes of these rules”.

The “Proper Officer” for the purposes of these rules shall be the Head of Paid Service or, in his or her absence, the Deputy Chief Executive or the Monitoring Officer.

### 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.

### 4. NOTICES OF MEETINGS

The Council will give at least five clear days notice of any meeting by posting details of the meetings at the Council Offices, Castle House, Great North Road, Newark Nottinghamshire, unless the meeting is called at shorter notice, in which case a notice will be posted when the meeting is called.

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

The Council will make copies of the agenda and all reports which do not contain confidential or exempt information available for public inspection at the Council’s main offices at least five clear days before the meeting (unless called at shorter notice, in which event the documentation will be available when the meeting is called). If an item is added to the agenda later, the revised agenda will be given to inspection from the time the item is added to the agenda. Where a report which does not contain confidential or exempt information is issued after the agenda has been sent out, the designated officer shall make such a report available to the public as soon as the report is completed and has been sent to councillors. The Council will make a reasonable number of the agenda and of reports which do not contain confidential or exempt information available for use of members of the public present at the meeting.



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 Proper Officer 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, 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.

Also the Council will (subject to copyright of any person other than the Council) supply copies or extracts of any of the above on payment of such reasonable copying fees as may be required.

8. **BACKGROUND PAPERS**

8.1 **List of Background Papers**

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her 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 for four years after the date of the meeting, one copy of each of the documents on the list of background papers and (subject to the copyright of any person other than the Council) supply a copy or an extract on payment of such reasonable copying fee as may be required.

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 the Council Offices, Castle House, Great North Road, Newark, Nottinghamshire. These rules constitute that 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 **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.

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 ("Right to a Fair Trial") may be applicable. In such cases there is a presumption that the meeting will be held in public unless a partial or completely private hearing is necessary for one of the reasons specified in Article 6.

10.3 **Meaning of Confidential Information**

"Confidential information" means information given to the Council by a Government department on terms which forbid its public disclosure or information the public disclosure of which is prohibited by or under any enactment or by the order of a Court.

10.4 **Meaning of Exempt Information**

10.4.1 Exempt information means information falling within the following categories/ paragraphs under which the press and public can be excluded:-

- (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). (This includes contemplated as well as part or current activities).
- (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 or 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.

10.4.2 Information falling within Paragraph 3 above is not exempt information by virtue of that paragraph.

- (i) 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
  - (f) the Charities Act 2011
- (ii) It is recorded in the public file of any building society under the Building Societies Act 1986.

10.4.3 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.

10.4.4 Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 10.4.2 and 10.4.3 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.**

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

If the Proper 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. Such reports will be marked "Not for Publication". Also, where any report is excluded from the public on the basis that it contains exempt (rather than confidential) information, the report will be marked with the category of exempt information likely to be disclosed.

**12. DISORDERLY CONDUCT ETC**

The public's right of admission to meetings set out in the Rules above are subject to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

**13. RECORD OF DECISIONS**

After any meeting of a Committee or Sub-Committee, whether held in public or private, the Proper 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 and any alternative options considered and rejected at that meeting, any conflicts of interest declared and any dispensation granted.

**14. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

**14.1 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 Council and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:-

- (a) it contains exempt information falling within paragraphs 1 to 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser or assistant (if any).

Members may in certain circumstances be able to inspect a wider range of documents on a confidential basis if it is shown to be necessary to carry out their role as Councillors (see paragraphs 15.1(b) post)

15. **GENERAL RIGHTS**

15.1 In addition, the above rights of access to material and documents, set out in paragraph 14 above, all members of the Council shall have the following general rights:-

(i) to inspect any documents or have access to other information of the following descriptions:-

(a) any member of the Council or other member (whether voting or not) of any committee or sub-committee may have access to:-

(1) any document in the possession, or under the control of the Council which relates to any matter in relation to which a committee or sub-committee of which he/she is a member may discharge a function of the Council or advise the body which appointed them;

(2) any other recorded information, not in the form of a document, in the possession, or under the control, of the Council which is necessary for the proper discharge of his/her functions as a member of such a committee or sub-committee.

(b) any member of the Council may have access to any document or other recorded information in the possession of, or under the control of the Authority, access to which is necessary for the proper discharge of his/her functions as a member of the Council:

provided that;

(1) no person shall be entitled to inspect any document or have access to any information relating to a matter in which he/she has a disclosable pecuniary interest;

(2) a person may be refused the right to inspect a document within paragraph (a) (i) which is not necessary for him/her to inspect for the purposes of the proper discharge of his/her functions as a member of the committee or sub-committee in question, if there is good reason why such inspection should be refused;

(3) access to information not in the form of a document need not be given where the cost of providing the access is unreasonably high, or during such period as the giving of access would unreasonably disrupt the work of the Council.

- 15.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply, and in any case of information which is not in the form of a document, if the Proper Officer considers that access to any document or other information is not necessary for the proper discharge of the functions (as a member of the Council or as a member of a committee or sub-committee, as the case may be) of the person requesting such access, and there is good reason why access should be refused, he/she may refuse the person concerned access to the document or information in question.
- 15.3 Where a person inspects a document under the rights conferred by Section 100F of the 1972 Act or this paragraph, and the Council may lawfully make a copy of that document, he/she shall be entitled, on request, to be given a copy of that document provided that:
- (a) a reasonable charge shall be made for the copy unless the Proper Officer otherwise directs;
  - (b) a copy may be refused if the Proper Officer considers that it is impracticable to make a copy.
- 15.4 If any member of the Council or any other member of a committee or sub-committee is dissatisfied with any determination of the Proper Officer under Section 100F of the 1972 Act or under this paragraph, he/she may refer the question to the Council, who shall, after considering any representations that that person or the Proper Officer may wish to make, determine whether or not to uphold the Proper Officer's determination.
- 15.5 No member of the Council and no other member (whether voting or non-voting) of a committee or sub-committee shall have any claim by virtue of his/her position:
- (a) to enter any land or buildings occupied by the Council to which the public do not have access or to which members of the Council do not regularly have access except with the permission of the Chief Officer responsible for the services of the Council for which the land or buildings are occupied;
  - (b) to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised to do so by the Council;
  - (c) to exercise any other power of the Council;
  - (d) to issue any order with respect to any works which are being carried out by, or on behalf of, the Authority, or with respect to any goods or services which are being, or might be, purchased by the Authority.
- 15.6 The Proper Officer for the purposes of Section 100F (2) of the 1972 Act and for the purposes of this paragraph is the Chief Executive or, in his absence, The Deputy Chief Executive or the Monitoring Officer.

15.7 For the purpose of this paragraph a person has a disclosable pecuniary interest in a matter if, on the assumption that he/she were a member of the Council, and that the matter were to be considered by the Council, he/she would have to declare the interest under the Local Code of Member Conduct.

15.8 Where any information is given to any person (including a member of the Council or any other member of a committee or sub-committee) by the Council or by one of its employees in the course of transacting any business of the Council, and it is made clear (in whatever way) that the information is given in confidence, that person is not entitled to make that information public without the consent of the Council.

16. **NATURE OF RIGHTS**

Where the general rights set out in paragraph 15 above confer additional rights to those set out elsewhere in these Rules, paragraph 15 shall prevail. Moreover, such rights are additional to any other right a member may have.

17. **ACCESS TO MEETINGS BY MEMBERS**

17.1 Other than where prohibited by law or by reason of the nature of the business being transacted, a member of the Council shall be entitled to attend a meeting of any committee when that meeting is considering an item for which the press or public have been excluded, regardless of whether or not he/she is a member of the committee other than in exceptional circumstances.

This paragraph shall not entitle any member to attend a meeting of a committee, sub-committee or panel exercising functions of a quasi-judicial nature.

17.2 When a meeting of a sub-committee is considering an item for which the public and press have been excluded in accordance with the Local Government Act 1972, the following shall apply:-

(a) a member of the committee to which the sub-committee concerned reports, shall be entitled to attend, regardless of whether or not the member is a member of that sub-committee; and

(b) a member who is not a member of the committee to which the sub-committee reports, shall request the permission of the meeting to remain and shall state his/her reasons for the request based on his/her "need to know" and the person presiding at the meeting of the sub-committee shall put any such request to the meeting for consideration. The decision of the meeting shall be final.

17.3 In the case of attendance at meetings of Working Parties, the following shall apply:-

(a) a member of the Committee which has appointed a Working Party shall be entitled to attend meetings of that Working Party; and

(b) a member of the Council who wishes to attend a meeting of a Working Party and who is not a member of the Committee which appointed the Working Party shall make application to the Proper Officer and shall, in his/her application, state his/her reasons for wishing to attend based on his/her "need to know".

17.4 The Proper Officer shall be authorised to determine any application made under 17.3(b) above in accordance with general principles of law;

17.5 In the event of the Proper Officer refusing the request to attend, the member shall have a right of appeal to the Committee which appointed the Working Party and the decision of that meeting shall be final; and

17.6 If a motion under Council Procedure Rules No 13(1) or 13(2) has been referred by the Council to the Committee or Sub-Committee of which the proposer or seconder is not a member, the chairman of the Committee or Sub-Committee may invite the proposer to attend the meeting at which it is to be discussed, but only to assist the meeting with an explanation of the motion and answer questions. Such proposer shall not otherwise take part in the proceedings or vote.

17.7 Apart from the circumstances set out in paragraph 17.6 above, a member may not speak at a meeting of the Committee or Sub-Committee of which he is not a member, unless the Committee or Sub-Committee shall approve and he shall not vote on any business before the Committee or Sub-Committee.

18. **RIGHT OF MEMBERS TO REQUEST A REVIEW OF EXEMPT INFORMATION**

18.1 Any Member may make a written request to the Proper Officer that information which it has been resolved by the Council or any of its Committees or Sub-Committees should be treated as exempt information under paragraph 10.4 of the Access to Information Procedure Rules should be released into the public domain.

18.2 The written request shall clearly set out the reasons for the request including any material change in circumstances since the information was categorised as exempt and why the Member making the request considers that the need to treat the information as exempt no longer outweighs the public interest in disclosure. For the avoidance of doubt it shall not be a sufficient reason for such a request that the Member making the request disagreed with the original decision to treat the information as exempt, if there has been no relevant and material change in circumstances between that decision being taken and the request being made.

18.3 If the Proper Officer considers that there are substantive reasons to support a review of the original decision, he will refer the request to the Committee which resolved to treat the information as exempt. The request will be considered at the next available meeting of the Committee following the Proper Officers decision on the request.



- 18.4 If the Proper Officer determines that there are no substantive reasons to support a review of the original decision, the Member making the request shall have a right of appeal to the Committee which classified the information as exempt.
- 18.5 The Committee shall determine, by majority of those present and voting either:-
- (a) to support the decision of the Proper Officer in which event the decision shall be final and the Member making the request shall have no further right of appeal; or
  - (b) to support the Members request for the review of the classification of the information as exempt in which event the matter will be placed on the agenda for the next meeting of the Committee for a decision to be taken.
- 18.6 Where a request is considered under Paragraph 18.3 or 18.5(b) above, the Committee shall decide, by a majority of those present and voting, whether to continue to treat the information as exempt or whether to release it into the public domain.
- 18.7 The decision of the Committee shall be final and there shall be no right of reservation of the decision to Council.”

**FINANCIAL REGULATIONS**

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**1. GENERAL**

**1.1 Notice to All Employees**

- (i) These Financial Regulations provide the framework of controls and standards necessary to achieve the proper administration of the Council's financial affairs. Financial Regulations are designed to safeguard the interests of the Council, its Members and its employees. They apply to all Members, employees, and temporary and agency staff and to all transactions of the Council including those relating to Southwell Leisure Centre.
- (ii) All Members and officers have a 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.
- (iii) The Council expects the highest standards of financial probity from its officers and Members. The Section 151 Officer may report any breach of Financial Regulations to the Policy & Finance Committee or if sufficiently serious, direct to full Council. Any failure to comply with these Regulations may result in action being taken in accordance with the Council's disciplinary procedures or in the case of Members referred to the Standards Committee. If you have any doubt on their meaning or interpretation, it is advised that you contact the Section 151 Officer.**
- (iv) It is the responsibility of officers to ensure that they have the necessary knowledge of the Council's Financial Regulations to enable their duties to be undertaken to meet the requirements of these regulations.
- (v) These Financial Regulations supersede all previous versions.
- (vi) If after reading these regulations you require further guidance or clarification, or if you are not sure how best to comply with the regulations then please contact your Line Manager, Financial Services or the Head of Internal Audit.

**2. INTRODUCTION**

**2.1 Complementary Factors**

2.1.1 These Financial Regulations form part of the Constitution and are complementary to:

- (i) Any current or future legislation, and shall not be considered to over-ride any such legislation affecting the functions of the Council;
- (ii) The Council's Standing Orders;
- (iii) The Council's Contract Procedure Rules;
- (iv) Any EU Public Procurement Directives;
- (v) The Codes of Conduct for Members and Officers;

- (vi) The Information Technology Regulations (for all matters relating to Information Technology).
- (vii) The Council's Anti-Fraud Strategy.
- (viii) The Council's Guidance for Dealing with Irregularities.
- (ix) The Council's Whistleblowing Policy.
- (x) Appropriate Guidance Notes issued by the Section 151 Officer

2.1.2. The above documents shall be considered to have the force of financial regulations for all their related matters. This shall also include any related subsidiary regulations.

## 2.2 **Financial Implications of Proposals and Reports to Members**

2.2.1 No item having financial consequences shall be placed on a Council or Committee agenda without obtaining the Section 151 Officer's financial assessment and comments. Any report containing new proposals shall include an independent financial assessment by the Section 151 Officer.

2.2.2 In general, reports requiring comments of the Section 151 Officer shall be presented to the Financial Services Business Unit a minimum of 3 working days prior to the comments being required.

2.2.3 Where there are significant financial implications it is a requirement that the Financial Services Business Unit will be involved in the development of the proposals.

## 2.3 **Availability**

2.3.1 A copy of these Financial Regulations shall be made available to Members, Officers and the public at all reasonable times.

## 2.4 **Compliance**

2.4.1 Corporate Management Team and Business Managers shall be responsible for ensuring that these Financial Regulations are complied with and are available to all employees within their areas of responsibility.

## 3. **DEFINITIONS**

### 3.1 **Terms**

- (i) The term Council shall be deemed to include reference to Committees, Sub Committees or Officers acting in accordance with delegated authority on behalf of the Council.
- (ii) Where legislation and regulations are referred to in these Financial Regulations, they are deemed to refer to the latest statutory and regulatory requirements.
- (iii) The term Chief Executive relates to the Head of the Council's paid service.

- (iv) The term Section 151 Officer relates to the Director - Resources (the Responsible Financial Officer). This is a statutory officer appointed by Full Council to have responsibility for the financial affairs of the Council as required by Section 151 of the Local Government Act 1972.
- (v) The term Deputy Section 151 Officer relates to the officer nominated by the Section 151 Officer to undertake the Section 151 responsibilities in the absence of the Section 151 Officer.
- (vi) The term Director relates to Corporate Directors.
- (vii) The term Monitoring Officer relates to the officer appointed by the Council as required by the Local Government Housing Act 1989.
- (viii) The term Duly Authorised Officer relates to an officer with delegated authority from the relevant Business Manager.
- (ix) The term Head of Internal Audit relates to the officer appointed by the contractor in consultation with the Section 151 Officer.

#### **4. LEGAL RESPONSIBILITIES**

##### **4.1 Local Government Act 1972 Section 115 - Legal Responsibilities of Officers**

- 4.1.1 Officers employed by the Council have a legal responsibility under Section 115 of the Local Government Act, which states that:

“Every Officer employed by a Local Authority, whether under this Act or any other enactment, shall at all times during the continuance of his office, or within three months after ceasing to hold it, and in such manner as the Local Authority directs, make out and deliver to the Authority, or in accordance with their directions, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each”.

- 4.1.2 Every such officer shall pay all money due from him to an officer designated by the Section 151 Officer or in accordance with their directions.

##### **4.2 Local Government Act 1972 Section 117(1) & (2) - Disclosure by Officers of Pecuniary Interest in Contracts.**

- 4.2.1 Staff involved in contract and purchasing procedures shall be aware of the provisions of section 117(1) of the Local Government Act 1972 concerning the disclosure by officers of pecuniary interests in contracts. This provides that “if it comes to the knowledge of an officer employed whether under this Act or any other enactment by a Local Authority that a contract in which he has a pecuniary interest, whether direct or indirect, (not being a contract to which he is himself a party), has been or is proposed to be entered into by the Authority or any Committee thereof, he shall as soon as practicable, give notice in writing to the Authority of the fact that he is interested therein”. An indirect pecuniary interest for these purposes is as follows:

- (a) If the officer or any nominee of the officer is a member of a company or other body with which the contract was or is proposed to be made.
- (b) If the officer is a partner or is in the employment of a person with whom the contract is, or is proposed to be made.
- (c) In the case of married persons or partners, the interests of one partner, if known to the other, is deemed to be the interest of the other spouse.

**Appropriate officers will be required to complete a declaration form covering any related third party transactions on an annual basis.**

**The clause above shall also refer to contracts relating to Active4Today Ltd.**

4.2.2 Section 117(2) states that “an officer of a Local Authority shall not under colour of his office or employment, accept any fee or reward whatsoever, other than his proper remuneration”.

4.2.3 Any Officer who has any direct or indirect pecuniary interest in any contract, or is offered any fee or reward, whether or not it is accepted, shall notify the Chief Executive, who shall enter such details into a central register maintained for such purposes. Any person who fails to comply with Section 117(1) and (2) may render themselves liable to a fine.

4.2.4 Section 117(4) states that “References to a local authority shall include references to a joint committee appointed under part VI of the Act or any other enactment”.

**4.3 Local Government Act 1972 Section 151 - Officer Responsible for Financial Administration.**

4.3.1 Under Section 151 “every Local Authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers (who in accordance with the Local Government and Housing Act 1989 (Section 6 paragraph 3) must be a member of one or more of the Accountancy Bodies specified in the Act), has responsibility for the administration of those affairs”.

4.3.2 The Council has appointed the Director – Resources as the Section 151 Officer (the Responsible Finance Officer). Under the Accounts and Audit Regulations 2006, the Section 151 Officer is responsible for determining the accounting systems and the form of accounts and supporting records. This officer shall also ensure that all such determinations are observed, and that the accounts and supporting records are kept up to date.

**4.4 Local Government Finance Act 1988 Section 114 - Reporting under Part VIII: Responsibility of the Section 151 Officer.**

4.4.1 A requirement is placed upon the Section 151 Officer by Section 114(1) of the Local Government Act 1988 to make a report to the Council in certain circumstances where there is the possibility of an illegal payment, or of spending exceeding resources available.

- 4.4.2 Making a report falls under two Sections. Section 114(2) states that the Section 151 Officer is required to decide that an act or omission is or could be unlawful.
- 4.4.3 Under Section 114(2) the duty to send the report starts a “21 day clock” whereby the Council is required to hold a meeting within this time and until this is done, must refrain from the course of action reported.
- 4.4.4 Section 114(3) requires the Section 151 Officer to issue a report in cases of an unbalanced budget - real or potential. This report is also subject to the procedure described in 4.4.3 above.
- 4.4.5 In the absence of the Section 151 Officer the duties referred to at 4.4.1 to 4.4.4 shall be performed by the officer acting as the Deputy Section 151 Officer.

## 5. RESPONSIBILITIES/REGULATORY ROLES

### 5.1 Policy & Finance Committee

The Policy & Finance Committee is responsible for controlling the finances of the Council.

### 5.2 Section 151 Officer

- (i) Under Section 151 “every Local Authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers (who in accordance with the Local Government and Housing Act 1989 (Section 6 paragraph 3) must be a member of one or more of the Accountancy Bodies specified in the Act), has responsibility for the administration of those affairs”.
- (ii) Under the Accounts and Audit Regulations 2006, the Section 151 Officer is responsible (under the control and general direction of the Policy & Finance Committee and in accordance with the Accounts and Audit Regulations 2006) for the accounts and finances of the Council, including determining the accounting systems and the form of accounts and supporting records. This officer shall also ensure that all such determinations are observed, and that the accounts and supporting records are kept up to date.
- (iii) The Section 151 Officer shall have regard to any statutory guidance issued by the appropriate Secretary of State and professional guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- (iv) The Section 151 Officer shall advise the Council on all financial matters.
- (v) The Section 151 Officer shall present annually to the Council detailed estimates of the Council's income and expenditure for the following financial year and shall provide a risk assessment of the Council's proposed budget.



- (vi) The Section 151 Officer shall also present to the Audit and Accounts Committee, after the close of each financial year, a Statement of Accounts in accordance with the latest Accounts and Audit Regulations. The Accounts of the Council shall be submitted to the Council's External Auditor.
- (vii) Under the Accounts and Audit Regulations 2006, the Council is responsible for maintaining an adequate and effective system of Internal Audit covering financial and all other operations of the Council and also require any Officer or Member of the Council to make available such documents as appear necessary for the purpose of the audit together with such information and explanation considered necessary for that purpose. This function is discharged through the Section 151 Officer together with Corporate Management Team (CMT).
- (viii) The Section 151 Officer shall periodically present to the Policy & Finance Committee, budgetary control statements showing performance against the approved estimates of revenue expenditure and income. The appropriate Business Manager will report on any major variances from planned budget performance.
- (ix) Notwithstanding the information available on the on-line Financial Information System, the Section 151 Officer shall supply to Business Managers, by arrangement, such cost and other financial statements as may reasonably be required in the interests of financial control and general management. The production of additional financial and statistical information shall also be maintained, as considered necessary by the Section 151 Officer, to provide efficient overall management control.
- (x) The Section 151 Officer, in consultation with CMT, shall review the Financial Regulations periodically and shall have regard to their relevance and practical application in changing circumstances. A motion to add to, vary or revoke these Financial Regulations shall, unless the addition, variation or revocation has previously been considered by the Policy & Finance Committee, stand adjourned to the next meeting of the Council when the motion shall proceed whether or not it has been considered.

### 5.3 Internal Audit

- 5.3.1 The Council will comply with the current Accounts and Audit Regulations, the Public Sector Internal Audit Standards and the CIPFA Code of Practice for Internal Audit in Local Government and shall maintain an adequate and effective system of Internal Audit of the accounts and other operations of the Council.
- 5.3.2 The Head of Internal Audit shall be responsible for the operation of the internal audit function, agreed with the Section 151 Officer covering financial and all other operations of the Council and value for money studies as required, considering the efficient, effective and economic use of resources. The Head of Internal Audit shall periodically report to Corporate Management Team and the Section 151 Officer and will provide reports to the Audit and Accounts Committee on progress made concerning on-going investigations and reviews and audits completed.

5.3.3 The Section 151 Officer or his authorised representative shall have authority for the purpose of the Internal Audit function to:

- (i) Enter any Council premises or land at all reasonable times.
- (ii) Have access to all records, documents, files (including information held electronically) and correspondence relating to any financial and other business of the Council which the Section 151 Officer considers necessary to fulfil his duties under S151 of the Local Government Finance Act 1972. No record shall be removed by audit staff without notification to the appropriate Business Manager, or relevant senior officer. This authority also shall apply to all records, documents and files maintained by any partner of the Council and by Southwell Leisure Centre Trust.
- (iii) Require and receive such explanations as are necessary concerning any matter under examination, and
- (iv) Require any employee of the Council to produce cash, stores or any other Council property under his control.

5.3.4 Each Director or Business Manager is responsible for ensuring that action is implemented in response to Internal Audit's agreed recommendations in accordance with the agreed timescale. Where an Internal Audit recommendation is not accepted a written explanation and acceptance of the consequent risk must be provided by the Business Manager and reported to the Section 151 Officer. Such an explanation may be reported to the Audit and Accounts Committee.

5.3.5 The Section 151 Officer, or his nominated officer shall:

- (i) Approve any new systems for the maintenance of financial records, or records of assets or any changes to such systems.
- (ii) Be notified by Business Managers of any plans for transferring staff duties in order to allow for the examination of the implications as regards internal control (e.g. authorisation, separation of duties etc.)

#### 5.4 **Business Managers**

5.4.1 In addition to the general responsibilities described elsewhere in this document, Business Managers will be responsible for certifying on an annual basis the necessary requirements to enable the Section 151 Officer to complete the Council's Annual Governance Statement and Letter of Representation to the Council's External Auditor.

## 6. FINANCIAL MANAGEMENT

### 6.1 Financial Consultation

There will be consultation between Business Managers and the Section 151 Officer on any matters concerning the following:

- (i) Preparation and submission of estimates of Council expenditure and income.
- (ii) Preparation of estimates for any external body or partnership e.g. County Council, Government Departments etc., the purpose being the adequacy and accuracy of the estimates.
- (iii) It will be the responsibility of the relevant Business Manager to ensure that any report presented to a Committee or to the Council which has financial implications shall include the Section 151 Officer's observations (See Section 2.2).
- (iv) Proposals for and methods of financing specific expenditure not included in the approved estimates, together with means of approval for such expenditure where this is not otherwise stipulated.
- (v) Proposals to reduce or cancel income included in approved estimates.
- (vi) Applications, bids or submissions by the Council for grant aid or any external funding or spending power from outside bodies. Consultation must take place before submitting any such proposal to an outside body.
- (vii) Proposals to enter into any joint working arrangement with another local authority or other partner.

No financial matter under headings 6.1 (i) to (vii) above shall be concluded **without consultation with the Section 151 Officer**.

### 6.2 Financial Planning and Control

A major project, as defined by the Council's Corporate Management Team, cannot proceed until a project plan is submitted to CMT and approval is received, followed by political approval where appropriate.

#### 6.2.1 Process for Developing the Budget

The process for developing the budget is set out as part of the Budget Strategy reported to Policy & Finance Committee in September of each year.

## 6.2.2 **Budgetary Control**

- 6.2.2.1 Business Managers shall be responsible for monitoring and regulating the financial performance of their appropriate service throughout the financial year using the Council's online financial management system and performance information provided by the Section 151 Officer. Where budgets are delegated to Budget Holders they are charged with the same responsibility.
- 6.2.2.2 The Section 151 Officer shall provide performance monitoring information on a monthly basis.
- 6.2.2.3 Budget performance monitoring information shall be provided to the appropriate Committee on a regular quarterly basis.
- 6.2.2.4 Where it appears that the amount included under any head of the approved budget is likely to be exceeded or the budgeted amount of income under any head is unlikely to be reached then budget officers are required to find savings elsewhere in their budget. Variations over £10,000, where savings cannot be identified, to the Business Manager must consult with the Section 151 Officer and ultimately take a report to the Policy & Finance Committee.
- 6.2.2.5 The Section 151 Officer shall be entitled to receive from each Business Manager such information as he requires in relation to the annual amount of income achieved and expenditure incurred for inclusion in the Council's annual Statement of Accounts.
- 6.2.2.5 The Section 151 Officer shall report to the Audit and Accounts Committee on the accounts of each financial year as soon as is practicable, and in accordance with the Accounts and Audit Regulations applicable at the time.

## 6.2.3 **Capital Estimates**

- (i) New schemes must be accompanied by the appropriate Appraisal forms, and will normally be added to the uncommitted scheme list before proceeding to the committed Capital Programme.
- (ii) Each Committee may recommend capital schemes to Policy & Finance Committee for inclusion within the Council's Capital Programme.
- (iii) Prior to February of each year the Policy & Finance Committee shall consider the comprehensive capital estimates together with capital financing proposals and shall consult as appropriate with other Committees in accordance with the Council's Constitution.
- (iv) The Policy & Finance Committee shall consider any recommendations arising from consultation with Members and will submit recommendations to the Council for the approved Capital Programme for the following five years, or such other period as the Section 151 Officer advises.

- (v) The Council shall in March of each year, by simple majority, determine the Council's Capital Programme, having considered the proposals of the Policy & Finance Committee.
- (vi) Following approval of the Council's committed Capital Programme the appropriate Business Managers are authorised to incur expenditure in respect of all schemes included in the committed Capital Programme unless otherwise directed by the Policy & Finance Committee or Section 151 Officer.
- (vii) The Section 151 Officer is authorised to arrange the financing of the Capital Programme so as to maximise the resources available to the Council, having regard to the provisions of the Local Government and Housing Act 1989 or subsequent relevant legislation.
- (viii) The Section 151 Officer is authorised to make any necessary adjustments to the Capital Programme that arise at year-end due to slippage and report these retrospectively to the Policy & Finance Committee.
- (ix) Any under-spends identified within the approved committed Capital Programme revert to the centre and must be reported to the Policy & Finance Committee for consideration.
- (x) Any scheme involving matched funding that does not proceed will have any funding which has already been released returned to the central pot and must be reported to the Policy & Finance Committee for consideration.
- (xi) The Section 151 Officer will report periodically to the Policy & Finance Committee on any variations to the Capital Programme which have been identified.
- (xii) The Section 151 Officer is required to take all necessary steps to implement the committed Capital Programme and is authorised, in the event of slippage, to bring forward schemes from the following year provided that this does not increase the total commitment and that such changes are reported to the Policy & Finance Committee.
- (xiii) In the event of the Section 151 Officer or the Deputy Section 151 Officer not being available, the Chief Executive will determine how the delegated authority to bring schemes forward will be exercised.
- (xiv) No third party funding or grant aid may be accepted where matched funding is required until the source of the matched funding has been identified and approved by the Policy & Finance Committee.

#### **6.2.4 Capital Programme Monitoring**

- 6.2.4.1 The monitoring of the overall Capital Programme, with regard to the monitoring of funding, progress, variations, amendments etc. is the responsibility of the Section 151 Officer who can delegate to an appropriate working group.

6.2.4.2 Regular reports will be made to the Policy & Finance Committee on the overall progress of the Capital Programme.

6.2.4.3 It is the individual Business Manager's responsibility to exercise control over any capital schemes within their remit and to report any possible significant variations which may arise to the Section 151 Officer.

### 6.3 Variation of Estimates

#### 6.3.1 Virement - Revenue Expenditure

The object should be to avoid the transfer of estimates and this is best achieved by sound and detailed estimating together with the accurate coding of expenditure during the year in accordance with the provisions made.

Where it is desired to transfer funds between cost headings, the following procedure shall be adopted and the Section 151 Officer informed in every case, to effect the necessary amendments in the Council's Financial Management System:

- |   |  |
|---|--|
| (i) Between sub or detail codes within a particular main head   | Authorised by the relevant Business Manager. Undertaken by Financial Services.   |
| (ii) Between business units within a particular service area up to a cumulative limit of £25,000 within each financial year. Over this, prior Committee approval is required for amounts up to £50,000 and for amounts above this limit the approval of Policy & Finance Committee is required. | Authorised by the relevant Business Manager. Undertaken by Financial Services.   |
| (iii) Between Committees Areas  | Subject to the appropriate authorisation of the Section 151 Officer, Chief Executive and the approval of the Policy & Finance Committee. |

6.3.2 No virement shall be undertaken with the purpose of utilising additional income for expenditure purposes without the express consent of the Section 151 Officer. No virement shall be undertaken out of savings on payroll codes without the express consent of the Section 151 Officer.

6.3.3 There shall be no carry forward of any under-spending on budgets into the following financial year without the express authorisation of the Section 151 Officer. This includes budgets held on job codes. When considering any applications for carry forwards, the Section 151 Officer shall consider the overall budget position of the Council.

6.3.4 The Section 151 Officer is authorised to introduce additional restrictions on virements.

**6.4 Treasury Management**

6.4.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice 2011 as updated from time to time.

6.4.2 All matters relating to Treasury Management shall be subject to the supervision and control of the Section 151 Officer.

6.4.3 External Borrowing, and all other Treasury Management transactions, shall be undertaken in accordance with the CIPFA Treasury Management Code of Practice, Prudential Code and the rules and procedures laid down in the Council's Treasury Management Policy. The Treasury Management Manual shall be considered to be the Council's Financial Regulations for Treasury Management transactions and procedures.

**6.5 Bank Accounts and Cheques**

6.5.1 The Section 151 Officer shall arrange for such bank accounts to be kept as may be deemed necessary. The Section 151 Officer shall be responsible for the operation, supervision and control of those accounts. No member of staff shall arrange for a bank account to be opened without the express authorisation of the Section 151 Officer.

6.5.2 No direct debits from the Council's bank account must be set up without the prior approval of the Section 151 Officer.

6.5.3 Bank overdraft facilities and the amounts and conditions of bank charges shall be negotiated and agreed by the Section 151 Officer

6.5.4 The Officers authorised to sign cheques or transfer money on behalf of the Council, shall be limited to the Section 151 Officer, Deputy Section 151 Officer or such officers as authorised by the Section 151 Officer.

6.5.5 Any cheques exceeding £50,000 must bear two authorised signatures, at least one of which must be a manual signature.6.5.6 Where use is made of the on-line banking system for payments to be made out of any of the Council's bank accounts electronically, the requirements for authorisation of payments shall be of the same, or higher, standard as if a cheque payment is being made. The ability of individual post-holders to raise or authorise such payments is contained within the Council's Treasury Management Manual.

6.5.7 All unused cheques shall be held as "Controlled Stationery" and shall be held in a secure location.

6.5.8 No cheques are to be cancelled except by persons authorised by the Section 151 Officer.

- 6.5.9 Instructions for stopping cheques shall be notified to the Bank in writing and all preliminary telephone instructions in this connection shall be confirmed in writing immediately afterwards by the Section 151 Officer or Duly Authorised Officer.
- 6.5.10 No replacement cheques shall be issued until the Bank confirm that a stop has been placed on the original cheque. Confirmation received from the Bank regarding stopped cheques must be retained for a period approved by the Section 151 Officer.
- 6.5.11 All Giro credit balances shall be transferred by automatic transfer at regular intervals by officers authorised by the Section 151 Officer.
- 6.5.12 Bank accounts shall be reconciled with financial records and cashbooks at least once in each month and any discrepancies identified and appropriate action undertaken.
- 6.6 Procurement Cards**
- 6.6.1 The Section 151 Officer shall have the authority to approve requests for applications for procurement cards, including merchant category code blocks, monthly card limits and single transaction limits.
- 6.6.2 The Business Manager (Administrative Services) shall administer all applications for procurement cards. No officer shall apply for procurement cards other than through the Council's Business Manager (Procurement).
- 6.6.3 All procurement cards must be held securely. Card details and PIN numbers must not be disclosed other than for the purposes of using the card for payments. Cardholders may be held personally liable for any expenditure that they cannot account for.
- 6.6.4 On a monthly basis, a record of card purchases shall be maintained by individual cardholders and reconciled to the card statement provided by the card issuer. Business Managers shall approve the monthly record of card purchases and provide a copy to the Financial Services Business Unit for processing.
- 6.6.5 Any discrepancies between the card issuer statement and the cardholder's record of purchases must be promptly reported to the Business Manager Procurement.
- 6.6.6 Procurement cards shall only be used for authorised purchases relating to council business. Under no circumstances shall they be used for personal expenditure.
- 6.6.7 In all circumstances, every purchase with VAT will require a VAT receipt in order for the card statement to be accounted for correctly. Any items that do not include a VAT receipt will be charged fully to the revenue code.



**6.7 Controlled Stationery**

- 6.7.1 The term Controlled Financial Stationery refers to stationery which is sequentially pre-numbered to provide a sound audit trail, usually to record and process items of a financial nature, the use of which has to be regulated in order to ensure it is restricted to authorised Officers only.
- 6.7.2 Within the Council the primarily relates to cheques, income collection sheets, income receipts, petty cash books and car park tickets.
- 6.7.3 The Section 151 Officer may designate any item he considers appropriate to be controlled stationery.
- 6.7.4 Such stationery must be retained securely at all times and any issues from stock signed for.

**6.8 Retention of Financial Records**

- 6.8.1 All financial records, whether in written or printed form or stored electronically and all records supporting financial transactions in whatever form shall be retained in accordance with instructions issued by the Section 151 Officer, who shall determine the Council's retention requirements in accordance with relevant legislation and shall be responsible for the Council's Retention and Disposal Policy with respect to financial records.

**6.9 Authorised Signatory List**

- 6.9.1 CMT and Business Managers, in consultation with the Section 151 Officer will nominate authorised signatories for their service for the authorisation of orders, invoices, timesheets, overtime claims and contracts. The Section 151 Officer may authorise additional officers to undertake these duties.

**6.10 Taxation**

- 6.10.1 The Section 151 Officer is responsible for ensuring that adequate procedures are in place and adequate advice available for Business Units so as to ensure that the Council is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 6.10.2 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 6.10.3 All Business Managers will at all times conduct the financial arrangements of their Business Units, with regard to taxation issues, in accordance with advice or instructions issued by the Section 151 Officer, and shall provide any related information or documents upon request.

**7. EXPENDITURE RELATED REGULATIONS**

**7.1 Employers Records and Payments of Salaries and Wages**

7.1.1 Business Managers shall be responsible for promptly notifying the Business Manager Human Resources & Legal of all information required to maintain correct records for all employees of the Council in respect of service, including appointments, terminations, promotions (including 'acting up' allowances and honorariums), qualifying examination awards, sickness and absenteeism.

7.1.2 Memoranda to the Business Manager Human Resources & Legal in respect of 7.1.1 above shall be signed by the Business Manager or Duly Authorised Officer. The Human Resources Business Unit shall immediately forward such details to the Financial Services Business Unit to ensure that the correct payment of wages and salaries and other related items (including deductions) can be made.

7.1.3 Business Managers shall be responsible for arranging the submission of wages time sheets, staff salary data, overtime claims and claims for standby payments to arrive in the Financial Services Business Unit in accordance with the prescribed timescale.

7.1.4 Payment of wages/salaries shall only be made to:

- (i) Personnel included in the approved establishment for the service areas of the Council, or
- (ii) Approved temporary or casual personnel who have been properly notified to the Financial Services Business Unit.
- (iii) Appointments as authorised in sub-paragraph 7.1.6 below.

7.1.5 Business managers will be required to provide positive confirmation of current post holders prior to the payment of wages and salaries

7.1.6 Appointments other than those included in the approved establishment as amended from time to time shall be made in accordance with Human Resources Policies.

**7.2 Consultants**

7.2.1 Where a consultant is to be engaged, it is the responsibility of the person arranging the contract to determine whether or not payments are to be made to the consultant directly or to a personal service company (PSC). This is a limited company owned by the consultant and is commonly used to reduce tax and National Insurance liability. If payment is to be through a personal service company, advice must be sought from the S151 Officer and the Business Manager HR and Legal before any appointment is made.

**7.3 Travelling and Subsistence Claims**

- 7.3.1 All claims by Officers for payment of subsistence allowances, travelling and incidental expenses shall be submitted, duly certified by or on behalf of the Business Manager, on the Council's Envoy electronic expense system in accordance with a timetable specified by the Section 151 Officer.
- 7.3.2 The names of Officers authorised to certify claims shall be sent to the Section 151 Officer by each Business Manager. The Section 151 Officer will determine the controls, to be put in place for electronic systems.
- 7.3.3 The certification by or on behalf of the Business Manager shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council.
- 7.3.4 Un-receipted expenditure will only be considered for reimbursement at the discretion of the Section 151 Officer or his nominated officer where they are satisfied that the authorising officer has established that a receipt was not available.
- 7.3.5 Officers claims shall normally be submitted monthly, and any submitted more than six months after the expenses were incurred shall be paid only with the express approval of the Section 151 Officer. Business Managers shall ensure that all Officers using their own vehicles on Council business:
- (i) Hold a current full driving licence authorising them to drive the vehicle in question.
  - (ii) Have a current insurance policy, which indemnifies the Council against all third party claims (including those of passengers) arising out of the use of the vehicle in question on the Council's business.
  - (iii) Hold a current MOT certificate, where applicable, for the vehicle in question.
  - (iv) Have paid the appropriate road tax, where applicable, for the vehicle.

**7.4 Members Allowances**

- 7.4.1 Claims shall be undertaken in accordance with the Members' Allowance scheme approved by the Council on a form approved by the Section 151 Officer on the following basis:
- (i) Claims may be submitted at the end of each month.
  - (ii) Claims for all expenses and travelling in any financial year up to the end of January must be submitted to the Financial Services Business Unit by the 5th working day of March.
  - (iii) Claims for expenses and travelling during February and March must be submitted to the Financial Services Business Unit by the end of April.
- 7.4.2 The Member is wholly responsible for certifying the validity of the claim.

7.4.3 Further guidance concerning Members Allowances is given in the Members handbook and the latest scheme of Members Allowances approved by Council.

**7.5 Orders for Goods, Works and Services**

7.5.1 Each member of CMT and Business Manager shall be responsible for all official orders issued from their remit ensuring that:

- (i) The estimated costs are covered by an approved budget or other prior sanction.
- (ii) There is compliance with Standing Orders and Contract Procedure Rules, and procurement law and regulations concerning tenders and contracts.
- (iii) It can be demonstrated that the purchase represents value for money.
- (iv) Order values are not split to avoid having to comply with procurement rules.

7.5.2 All orders must be made through the Council's Financial Management system and must be in the name of Newark & Sherwood District Council and in a form approved by the Section 151 Officer. Wherever possible electronic orders should be raised in advance of the purchase, and the supplier advised of the relevant purchase order number.

7.5.3 Official orders must clearly show the nature and quantity of the materials, works or services required, and details of the agreed price (or estimated price), discounts and terms in relation to packing and delivery.

7.5.4 Official orders shall indicate that invoices/accounts are to be submitted to the Financial Services Business Unit quoting the relevant purchase order number unless expressly authorised by the Section 151 Officer.

7.5.5 Official orders and variations to orders shall be authorised only by:

- (i) Business Managers.
- (ii) Duly Authorised Officers, nominated by appropriate Business Managers detailed in a schedule supplied to the Section 151 Officer showing the financial limits to an Officer's authority and a specimen signature.

7.5.6 Official orders must be generated for all work, goods, and services to be supplied to the Council except:

- (i) No order shall be issued if the estimated value of the work or services exceeds the value where a tender process is required in accordance with Contract Procedure Rules (This value is £75,001). In this instance a formal tender process must be initiated in consultation with the Business Manager (Procurement).

- (ii) For periodic payments such as rents or rates, for petty cash purchases or such other exception as the Section 151 Officer may approve.
- (iii) Goods and services ordered by use of a Council Procurement Card.

7.5.7 Council orders shall not be used for personal or private purchases.

7.5.8 Business Managers or Duly Authorised Officers must review electronic purchase orders on a regular basis and cancel those that are no longer required.

## **7.6 Goods Received**

7.6.1 The system of checking goods received, or works done, against official orders shall be in accordance with instructions laid down by the Section 151 Officer and must be adhered to by all officers.

7.6.2 Where an electronic order has been raised, a Goods Receipt Note should be input to the Financial Management system as soon as the goods have been checked.

## **7.7 Invoices**

7.7.1 Where an invoice is not subject to an electronic order raised on the Council's Financial Management system, due to any of the circumstances outlined at 7.5.6, the invoice should be authorised for payment by one of the following:

- (i) SLT
- (ii) Business Managers
- (iii) Duly Authorised Officers, nominated by appropriate Business Managers detailed in a schedule supplied to the Section 151 Officer showing the financial limits to an Officer's authority and a specimen signature. Business Managers shall be responsible for promptly notifying the Financial Services Business Unit of amendments to Duly Authorised Officers.

7.7.2 Before certifying an invoice, the authorising officer shall be satisfied that:

- (i) The work, goods or services to which the invoice relates have been received, carried out, examined and approved.
- (ii) The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct.
- (iii) The relevant expenditure has been properly incurred, and is within the relevant estimate provision.
- (iv) Appropriate entries have been made in registers, inventories, stores records or stock books, as required, and
- (v) the invoice has not been previously passed for payment and is a proper liability of the Council.

- 7.7.3 Where any amendment is required to an invoice the supplier must be asked for an amended invoice or, alternatively, a credit note.
- 7.7.4 Business Units shall promptly forward any invoices received directly to the Financial Services Business Unit after ensuring that the appropriate purchase order has been goods received. The same Officer must not both authorise an order and certify that goods have been received or work done.
- 7.7.5 Invoices shall only be paid within the computer-based system timetable. Any invoices for which there is no purchase order and/or Goods Receipt Note on the Financial Management system cannot be paid (with the exception of those under circumstances detailed in 6.4.6) and the relevant Business Unit will be notified to correct the omission.
- 7.7.6 Business Managers are responsible for ensuring that all necessary data and authorisations are input to the Financial Management system to guarantee payment of commercial invoices within 30 days of receipt.
- 7.7.7 Copy invoices and orders substituted for the original document shall be clearly marked "copy" and initialled.
- 7.7.8 No payments made by the Section 151 Officer will be other than by use of official stationery or by approved electronic means.
- 7.7.9 The Section 151 Officer will be responsible for the deduction of any tax from payments to contractors under the provision of the Construction Industry Tax Deduction Scheme.
- 7.7.10 Any queries on invoices that cause delay in payment must be raised formally with the supplier. When the invoice is passed to the Financial Services Business Unit for payment the reason for delay must be provided.
- 7.8 **Petty Cash and Post**
- 7.8.1 **General**
- (i) Petty cash is only available under special circumstances. Procurement cards should be used.
  - (ii) Procedures for Petty Cash Imprest Accounts and Post shall be in accordance with instructions laid down by the Section 151 Officer. New or temporary accounts/floats shall not be raised out of income.
  - (iii) New or temporary accounts/floats can only be raised by Financial Services

### 7.8.2 Petty Cash Imprest Accounts

- (i) A Petty Cash Imprest Account is defined as a fund of cash from which incidental expenses are paid, which is topped up periodically from central funds. These transactions should be minor, routine transactions, where raising an official order and processing an invoice through the Creditor system would be neither realistic nor cost effective. This differs from a change float which is a sum of money used to provide change at the start of the day, which is deducted from the total at the end of the day when calculating the day's takings. A Petty Cash Imprest Account should be kept and accounted for separately to a change float.
- (ii) Holdings of Petty Cash shall be limited to amounts prescribed by the Section 151 Officer.
- (iii) Signatures of Petty Cash holders confirming the amounts held shall be obtained annually under year-end procedures and periodic management checks shall be made to verify petty cash holdings.
- (iv) Business Managers shall be responsible for ensuring the comprehensive recording of all petty cash disbursements, the custody of supporting documents and vouchers and the safe custody of all unused balances of petty cash.
- (v) Reimbursement of petty cash shall be obtained by the production of the appropriate voucher together with receipts to the Section 151 Officer for inclusion in the invoice payment system.
- (vi) Un-receipted expenditure will only be considered for reimbursement at the discretion of the Section 151 Officer or his nominated officer where they are satisfied that the authorising officer has established that a receipt was not available.
- (vii) Two people shall be involved in the preparation/authorisation of an imprest claim.
- (viii) The Petty Cash system must not be utilised for payments that should be processed through other systems (e.g. Members/Officers expenses) unless expressly authorised by the Section 151 Officer.
- (ix) On leaving the employment of the Council or otherwise ceasing to be entitled to hold a petty cash or other float an Officer shall account to the Section 151 Officer for the amount advanced to him, and a hand over certificate shall be completed.

### 7.8.3 Post

- (i) All post should be processed through the Business Mail process.
- (ii) The Business Mail process is not to be used for personal items of mail.

### 7.9 Right to Set Off

7.9.1 The Right to Set Off concerns the situation whereby the Council owes a person money, but where that person also owes money to the Council, and the Council sets off what is owed before paying the balance (if any) to the person.

7.9.2 Business Managers shall be responsible for ensuring that suitable arrangements are in place to consider the setting off of monies owed to the Council where applicable.

7.9.3 Set Offs shall be undertaken where:

- (i) The opportunity arises, subject to any statutory obligation upon the Council.
- (ii) The circumstances of the particular case justify such a course of action.

Each case must be considered on its own merits.

7.9.4 Officers undertaking set offs shall ensure that the course of action proposed has been evaluated by the Legal Section and the VAT Officer within Financial Services prior to it being undertaken.

7.9.5 No grant shall be offered to a third party where that person/entity is in debt to the Council, and such debt has become outstanding and in arrears, without the express consent of the Section 151 Officer.

## 7.10 **Contracts**

7.10.1 All contracts shall be made and administered in accordance with the Contract Procedure Rules.

7.10.2 Directors are responsible for notifying the names of Officers authorised to sign contracts and their authorisation limits to the Section 151 Officer. Any changes should be notified to the Financial Services, Procurement and HR and Legal Business Units.

## 8. **INCOME RELATED REGULATIONS**

### 8.1 **Responsibilities**

8.1.1 Business Managers shall be responsible for the collection, custody and banking of income received as due to the Council in accordance with the instructions issued by the Section 151 Officer.

8.1.2 The Accounts and Audit Regulations 2006 require that "Every Officer of the Council who pays money into a bank account of the Council, shall enter on a paying in slip, and on the counterfoil or duplicate thereof, particulars of such payment, including, in the case of each cheque paid in:

- (i) The amount of the cheque, and
- (ii) A reference (such as the number of the receipt given or the name of the debtor) which will connect the cheque with the debt or debts in discharge or partial discharge of which it was received.

**Where any cheque paid in was not received in discharge or partial discharge of a debt due to the Council, the Officer shall note the fact on the counterfoil or duplicate of the paying in slip.**



**8.2 General**

- 8.2.1 The rules for the collection of all income due to the Council shall be under the general control of the Section 151 Officer.
- 8.2.2 The records kept by each budget holder with regard to items of income shall be in such a form as may be agreed by the Section 151 Officer from time to time.
- 8.2.3 All payments received in cash on behalf of the Council shall be acknowledged by the issue of an official receipt. Such receipts shall only be valid if in the form of an official machine printed receipt, except where official manual receipt books are issued for prescribed purposes.
- 8.2.4 All income shall be collected and deposited intact without delay into the Council's bank account, as directed by the Section 151 Officer, on the same day as received wherever possible. Where appropriate, income shall be deposited under night-safe arrangements, including suitably secure safes on the Council's own premises, or held securely by another appropriate method approved by the Section 151 Officer. Where cash is held in secure safes on Council premises the Business Manager responsible for the service depositing the money shall ensure that sufficient insurance arrangements are in place.
- 8.2.5 No personal cheques are to be cashed out of Council funds.
- 8.2.6 All cheques, postal orders, money orders and postal drafts etc, received on behalf of and due to the Council shall be crossed "A/C Newark and Sherwood District Council" immediately on receipt unless they are already clearly marked with equivalent wording.
- 8.2.7 Post-dated cheques will only be accepted at the discretion of the Section 151 Officer.
- 8.2.8 The Section 151 Officer on receipt of details from Business Manager shall ensure that a record is maintained of all items of income due to the Council classified as "periodic income" for which fixed or varying charges apply. For this purpose the term "periodic income" shall mean any fee or charge receivable by the Council on a recurring basis one or more times in any one year.
- 8.2.9 Business Managers shall be responsible for notifying the Section 151 Officer of all items of miscellaneous income due to be paid to the Council.
- 8.2.10 Cash receipts over a value of £1,500 shall be reported to the Council's Anti Money Laundering Reporting Officer (the Section 151 Officer) who shall be responsible for taking the appropriate action. The Section 151 Officer may issue further arrangements in respect of anti-money laundering.
- 8.2.11 Instances where currency is identified as being forged shall be reported to the Section 151 Officer.

8.2.12 No online payment system must be set up without the prior approval of the Section 151 Officer.

8.2.13 All online payments must be in accordance with instructions issued by the Section 151 Officer.

### 8.3 **Cash Receipting**

8.3.1 Receipt books are controlled stationery and shall be retained securely.

8.3.2 Where Council income other than cheque payments, whether cash or otherwise, is passed from one employee to another, the receiving employee shall sign an appropriate form of receipt, which shall be retained by the Officer who passed the income.

8.3.3 Adequate details of receipts and specific records of cheques shall be kept which refer to the original debt.

8.3.4 Postal income shall be held securely, opened wherever possible in a secure environment, by a minimum of two officers, recorded on appropriate documentation, and promptly investigated in the event of discrepancies.

8.3.5 Change must not be given in the event of a cheque being received for a greater value than the debt outstanding.

8.3.6 Coin operated machines shall be emptied on a regular basis, with the income counted in a secure environment by a minimum of two officers, with a note of machine readings being taken (where applicable), with discrepancies being promptly investigated.

8.3.7 Change floats shall be issued and approved by the Section 151 Officer, be kept secure when not in use, checked prior to use, and deducted from the total at the end of the day when calculating the days takings. Unofficial floats must not be maintained.

8.3.8 Cashing up duties shall be undertaken by a minimum of two officers, in a secure environment away from public view, with the details being recorded on an appropriate daily return, with discrepancies being promptly investigated.

8.3.9 Further details concerning cash handling procedures are outlined in the Cash Handling Guidance notes which can be found in the Safety section on the Council's intranet.

### 8.4 **Debtor Accounts - Recovery, Amendment and Write-Off**

8.4.1 The Council shall submit invoices for rechargeable work within one month of the work being completed and appropriate documentation being received.

8.4.2 All arrangements for recovery of outstanding debts to the Council shall be made in accordance with instructions from the Section 151 Officer (this may include the debtor details being submitted to the Council's Legal Section or an outside collection agency suitably appointed by the Council).

8.4.3 Cancellation of Sundry Debtor accounts, whether in part or full, shall be authorised in writing by the relevant Business Manager or Duly Authorised Officer, on the basis of appropriate documentation prepared by the originator of the debt, which justifies the said cancellation.

8.4.4 The Section 151 Officer shall be authorised to write off debts owed to the Council in accordance with delegated authority contained in the Council's Constitution. Items in excess of the amount specified in delegated authority may only be written off by the Policy & Finance Committee.

## **8.5 Gifts and Hospitality**

8.5.1 The procedures to be adopted concerning gifts and hospitality being offered to an employee of the Council, shall be in accordance with guidance notes within the Employees Code of Conduct, Member Code of Conduct, or issued by the Councils Monitoring Officer or Section 151 Officer.

## **9. PROTECTION OF ASSETS**

### **9.1 Security**

9.1.1 The Section 151 Officer shall maintain an up-to-date asset register. The Section 151 Officer should be notified in any case where security is through to be defective or where it is considered that special arrangements may be needed.

9.1.2 Officers arranging legal contracts shall ensure that the legal documents are lodged with the Legal Section.

9.1.3 The Council's Legal Section shall be responsible for the safe custody of all legal agreements, leases etc, showing due dates for termination and for the review of "break clauses" as applicable and shall keep a register of all such legal agreements.

9.1.4 The Contract Officer is responsible for ensuring appropriate action is taken to meet the requirements of the relevant operative dates.

9.1.5 Each Business Manager shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc, under his control. He shall consult the Section 151 Officer (and, where necessary, the Business Manager Community Safety) in any case where it is considered that special security arrangements may be needed.

- 9.1.6 Maximum limits for cash holdings shall be agreed with the Section 151 Officer in accordance with insurance limits, and shall not be exceeded without his express permission.
- 9.1.7 Keys to safes, similar receptacles, cash offices, stock rooms and office keys must be held securely. The loss of any such keys must be reported to the Section 151 Officer immediately.
- 9.1.8 Each Business Manager shall be responsible for maintaining a secure record of key holders together with details of keys held in other locations. All keys held personally by individual officers must be signed out and signed back in again when they are no longer required to be held.
- 9.1.9 Any losses of either ID badges or building access cards must be reported immediately to the Business Manager Community Safety.
- 9.1.10 Any breaches in security shall be reported immediately to the Business Manager Community Safety.
- 9.2 Inventories**
- 9.2.1 Business Managers shall ensure that an inventory is maintained of all items, as approved, in a form approved by the Section 151 Officer.
- 9.2.2 The inventory shall give an adequate description of all movable plant and machinery, vehicles, and valuable, desirable and portable equipment belonging to Newark and Sherwood District Council. The inventory will be a permanent record and under no circumstances shall an item be deleted. Entries relating to items disposed of or transferred shall be annotated to that effect. The inventory should detail such identification marks as to enable the item to be easily identified i.e. model number, serial number, unique identification number etc.
- 9.2.3 All new inventory items purchased must be entered onto the inventory immediately and where relevant, the Insurance Officer notified.
- 9.2.4 Business Managers shall be responsible for maintaining an annual check of all items on the inventory. As part of the Annual Governance Statement process, Business Managers are asked in May each year to certify the accuracy and completeness of inventories. As such, there must be an inventory check undertaken of all items in time to complete this certification. This is a minimum requirement; in some instances a more frequent review may be appropriate.
- 9.2.5 All surpluses or deficiencies shall be properly documented and recorded as an amendment to the inventory and reported to the appropriate Director and Insurance Officer, subject to 9.2.6 below.
- 9.2.6 Surpluses or deficiencies in excess of £50 for any one item and £500 in total must be reported to the Section 151 Officer who may, at his discretion, order an investigation.

9.2.7 In connection with surplus inventory items with a value over £50:

- (i) Prior to disposal, the surplus item must be offered for internal use elsewhere in the Council. In this case both inventories should record the transfer.
- (ii) All disposals must be authorised by the appropriate Business Manager.
- (iii) The method of disposal shall be approved by the Section 151 Officer.
- (iv) All disposals must be properly documented.
- (v) The Insurance Officer shall be informed of all relevant disposals.

9.2.8 Any inventory item identified as being obsolete must only be disposed of on the authority of the appropriate Business Manager, after consultation with the Section 151 Officer.

9.2.9 No inventory item shall be subject to personal use by an employee without authorisation by the appropriate Business Manager. Any item removed for home working should be shown as such on the inventory or through an appropriate booking out mechanism.

9.2.10 Employees are responsible for inventory items allocated to them. Employees are also responsible for keeping a record if they loan inventory items to other officers.

### 9.3 Stores

9.3.1 Each Business Manager shall be responsible for the custody, control, ordering, issuing and recording of stocks and stores in his Department. The system in operation shall be subject to the express approval of the Section 151 Officer.

9.3.2 Business Managers shall arrange for a continuous and independent stocktaking of stores.

9.3.3 Stocktaking procedures shall be sufficiently regular and robust so as to ensure that stock is accurately recorded. This must include a stocktake at 31<sup>st</sup> March.

9.3.4 Following the stocktaking of stores, the following procedures shall apply:

- (i) Investigations shall be made into discrepancies to isolate and correct accounting errors. The results of any investigations including any reports must be sent to the Section 151 Officer at an early stage.
- (ii) Discrepancies still outstanding shall be presented to the appropriate responsible Director for comment and explanation.
- (iii) The Section 151 Officer shall have authority after receipt and consideration of the comments and explanations to make the necessary adjustments to the stores ledger, and may require an investigation and/or report to the Audit and Accounts Committee.

9.3.5 The Section 151 Officer shall be entitled to receive from each Business Manager such information as he requires in relation to stores for the accounting, costing and financial records, including a certificate of the value of stores held at the 31<sup>st</sup> March each year for submission at audit.

- 9.3.6 Prior to disposal, the Business Manager shall ensure that the Council has ownership of the asset. Surplus or obsolete materials, stores or equipment with an estimated value over £500 shall be disposed of by competitive tender or public auction, unless appropriate written approval is obtained from the Section 151 Officer who decides otherwise in a particular case. The proceeds of the sale of any asset should be paid directly to the Council without any deductions.
- 9.3.7 No stores item shall be subject to personal use by an employee.
- 9.4 **Insurance**
- 9.4.1 The Section 151 Officer shall be responsible for effecting adequate insurance cover, through an insurance company (or companies) or such other means approved by the Policy & Finance Committee for all assets, commitments and contingent liabilities in the performance and discharge of statutory or other authorised duties by the Council, its Members and Officers.
- 9.4.2 No officer shall arrange insurance other than through the Council's Insurance Officer.
- 9.4.3 Insurance requirements shall be actioned in accordance with the Council's Insurance Guide, which can be found in the Financial Services section of the intranet.
- 9.4.4 The Section 151 Officer shall carry out periodic reviews to ensure the maintenance of adequate insurance cover as above, and shall maintain a record of "risks" covered, the amount of cover and premiums due.
- 9.4.5 Business Managers shall be responsible for promptly notifying the Section 151 Officer of the extent and nature of new risks or of any variations concerning insurance cover required in respect of their own service area.
- 9.4.6 Business Managers shall be responsible for promptly notifying the Section 151 Officer of full details of all accidents or occurrences likely to lead to a proper claim on the Council.
- 9.4.7 Where any claim is received from a third party by any officer, this must be immediately forwarded to the Council's Insurance Officer.
- 9.4.8 The Section 151 Officer shall maintain a record of all insurance claims made against the Council.
- 9.4.9 No correspondence should be entered into in respect of any claim or other insurance matter except by the Council's Insurance Officer, without the express approval of the Section 151 Officer.
- 9.4.10 At no time should any officer or Member or any other person acting on behalf of the Council make an admission of liability on behalf of the Council without the express authority of the Section 151 Officer.

9.4.11 Any expenditure in relation to dealing with the settling or resisting of claims must be authorised by the Section 151 Officer or any other duly authorised officer prior to any expenditure being committed.

#### **9.5 Asset Management**

9.5.1 All matters relating to Asset Management shall be administered in accordance with the Council's Asset Management Plan.

9.5.2 The Section 151 Officer shall ensure that an Asset Register is maintained by the Council in accordance with the latest advice issued by the Chartered Institute of Public Finance and Accountancy.

9.5.3 It is the responsibility of the appropriate Director to ensure that Asset Management expertise is available to the Council.

9.5.4 The Asset Register shall include all assets of the Council valued in excess of £15,000.

#### **9.6 Management of Information**

9.6.1 Business Managers shall be responsible for maintaining the proper security and privacy of all information under their control including computerised files and for ensuring the Council acts in accordance with the Data Protection/Freedom of Information legislation.

9.6.2 Intellectual property (i.e. the generic term that includes inventions, creative writings, software and drawings) arising from the course of employment will belong to the Council.

#### **9.7 Motor Vehicles**

9.7.1 Council vehicles must not be used for private purposes, or hired or lent out, without the express approval of the appropriate Director who shall check with the Council's Insurance Officer that such use is covered by the Council's insurance policy. Records of any such use should be kept to ensure the driver of any such vehicle shall be known at all times. If there is any doubt that adequate insurance cover is in place, no such use of the vehicle shall be permitted.

9.7.2 Business Managers shall ensure that all Officers using Council owned vehicles hold a current full driving licence authorising them to drive the vehicle in question.

9.7.3 All Officers using Council owned vehicles are responsible for the security of the vehicle, whilst it is in their care.

9.7.4 Where a Council vehicle is to be taken home overnight to facilitate call-out, stand-by or other appropriate duties, Financial Services must be informed to ensure that taxation issues are managed appropriately.

**9.8 Reporting of Irregularities**

9.8.1 The reporting of irregularities shall be in accordance with the Council's Guidance for Dealing with Irregularities which is available in the Financial Services section of the Intranet.

**9.9 Whistleblowing Policy**

9.9.1 Each Business Manager shall be responsible for ensuring that their staff are aware of, understand and comply with the Council's Whistleblowing Policy which is available within the Council's Constitution.

**9.10 I.C.T. Systems**

9.10.1 All proposals for the acquisition, development, maintenance and use of computing facilities and systems shall conform with the Council's I.C.T. policies and strategies and the Employee Code of Conduct.

**10. EXTERNAL ARRANGEMENTS**

**10.1 Partnerships, Shared Services and Collaboration Arrangements**

10.1.1 No partnership or shared service arrangement shall be set up without taking into consideration the factors covered in 10.1 of these regulations.

10.1.2 Business Managers shall ensure that the appropriate approval is obtained prior to any negotiations being concluded in relation to work with external bodies.

10.1.3 The Section 151 Officer must be consulted on the financial implications of new partnerships or shared services arrangements and must approve that:

- (i) A scheme appraisal for financial viability in both current and future years has been undertaken.**
- (ii) Costs and income are provided for in the Council's budget.**
- (iii) Arrangements are in place for accurate accounting for cost and income.**
- (iv) Sufficient controls are in place for the successful operation of the partnership/shared service, including arrangements for sufficient access to financial and other records.**
- (v) Carry forward arrangements have been determined.**
- (vi) A formal risk appraisal has taken place and a management strategy devised.**
- (vii) An auditing, security and control regime has been established.**
- (viii) Appropriate arrangements are in place for the recovery of VAT.**

10.1.4 Financial performance of partnerships and shared services must be monitored and reported back to the Council as agreed.



10.1.5 These Financial Regulations also apply to all partnerships and shared services unless similar arrangements have been approved by the Section 151 Officer.

10.1.6 Where collaboration is agreed with an external partner, the relevant Business Manager is responsible for ensuring that all income due is invoiced and recorded promptly within the Financial Management system and that invoices for expenditure incurred in relation to the collaboration are received and recorded promptly.

10.1.7 Where an Officer is working for a Collaboration partner, the Financial Regulations of the partner body will apply.

## **10.2 External Funding**

10.2.1 No applications for external funding shall be made without prior consultation with the Section 151 Officer. Directors or Business Managers shall be responsible for providing the Section 151 Officer with the following information:

- (i) How the bid is compatible with the Councils aims and priorities.
- (ii) Whether the bid is for capital or revenue funding.
- (iii) Whether matched funding contributions are required from the Council and how these will be identified.
- (iv) Whether matched funding contributions are required from other organisations and how these amounts will be secured.
- (v) An exit strategy setting out how budgets will be adjusted after the external funding expires.
- (vi) Where the bid is for revenue funding, whether it is to support existing levels of activity or enhanced/new activities.
- (vii) Where the bid is for capital funding, whether an asset will be created and how this fits in with the Councils Asset Management Plan, how the ongoing maintenance of the asset will be funded and whether the asset can/will be disposed of at a later date.
- (viii) Details of ownership and insurance of the asset.

10.2.2 Business Managers shall be responsible for ensuring that:

- (i) The key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- (ii) Any funding received is used for the intended purpose and is notified to the Section 151 Officer.

10.2.3 The Section 151 Officer shall be responsible for:

- (i) Approving all external funding bids prior to application.
- (ii) Approving all interim and final claims for external funding once the bid has been accepted and is live.
- (iii) Ensuring that any funding received is properly recorded in the Council's accounts.

**10.3 Work for Third Parties**

10.3.1 No Officer should set up their own trading company to provide services to the Council without the prior approval of the Section 151 Officer and the Monitoring Officer.

10.3.2 Where works are to be provided to a third party, any contractual arrangement above £15,000 must be approved by the Section 151 Officer prior to being signed. This is regardless of whether the piece of work is a one off or on-going.

**10.3.3 Business Managers shall be responsible for ensuring that:**

- (i) A register is maintained of all contracts entered into with third parties.
- (ii) Any risks are minimised and such work is intra vires.
- (iii) Appropriate insurance arrangements are made.
- (iv) The Council is not put at risk from any bad debts.
- (v) No contract is subsidised by the Council.
- (vi) Wherever possible, payment is received in advance of the delivery of the service.
- (vii) The Business Unit has the appropriate expertise to undertake the Contract.
- (viii) All contracts are properly documented.
- (ix) Appropriate information is provided to the Section 151 Officer for final accounts purposes.

**11. DIRECTOR/OFFICER DELEGATIONS**

11.1 Director/Officer delegations will be in accordance with the latest Scheme of Delegation as approved by Council.

**12. CONTRACT AND WINDFALL SAVINGS**

12.1 Unless specific agreement with the Section 151 Officer is obtained, contract savings and windfall savings (i.e. unanticipated income or unanticipated savings on expenditure including any figure relating to previous years) will revert to General Balances.

**13. FAILURE TO COMPLY WITH FINANCIAL PROCEDURE RULES**

13.1 Failure to comply with the Financial Procedure Rules:

- Is a breach of the Code of Conduct for Officers that is covered by the Council's Disciplinary and Dismissal Policy.

13.2 Councillors must report any apparent breach of the Financial Procedure Rules to the Chief Executive. Officers must report apparent breaches to an appropriate Chief Officer or the S151 Officer. The Chief Officer (where this isn't the S151 Officer) should report breaches of these Rules to the S151 Officer and the Monitoring Officer.

**Revised: February 2018**

**Next revision due: February 2020**

**A BRIEF GUIDE TO CONTRACT PROCEDURE RULES (July 2019 revision)**

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All costs stated in these Contract Procedure Rules are exclusive of VAT, staff costs and fees.

**A BRIEF GUIDE TO CONTRACT PROCEDURE RULES**

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability and deter corruption. They are designed to safeguard the interests of the Council, its Members and its employees. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

These rules should be read in conjunction with the Council's Financial Regulations and Purchasing Card Procedure (as appropriate).

They apply to all activities of the Council, and where the Council is a lead authority in any joint procurement, shared service, partnership or collaborative arrangement.

All Officers (including temporary or agency workers) and Members must comply with these Contract Procedure Rules for all relevant contracts (see Rule 5 Relevant Contracts). They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. Any breaches will be considered to be a disciplinary matter.

In accordance with the Constitution, Council shall have the power to make amendments from time to time to these Contract Procedure Rules.

If, after reading these Contract Procedure Rules, you require further guidance or clarification, or you are not sure how best to comply with the Rules, then please contact your Line Manager, the Business Manager – Financial Services or Welland Procurement.

Terms used in this document are defined in the Definitions Appendix at the end of this document.

## **SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES**

### **1. BASIC PRINCIPLES**

1.1 All purchasing and disposal procedures must:

- (i) Achieve [Value For Money](#) for public money spent
- (ii) Be consistent with the highest standards of integrity
- (iii) Ensure fairness in allocating public contracts
- (iv) Comply with all legal requirements
- (v) Ensure that [non-commercial considerations](#) do not influence any contracting decision
- (vi) Support the Council's corporate and Business Unit vision and priorities

### **2. OFFICER RESPONSIBILITIES**

#### **2.1 Contract Officers**

2.1.1 Contract Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules, Financial Regulations, Standing Orders, Officers Code of Conduct and with all UK Government legislation and European Union binding legal requirements. Contract Officers must ensure that any agents, [consultants](#) and contractual partners acting on their behalf also comply. It is the responsibility of officers to ensure that they are aware of and fully understand these requirements.

2.1.2 Prior to any procurement exercise, Contract Officers must:

- (i) Check the Council's register of recurring contracts to see if a suitable corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to
- (ii) Advise Welland Procurement of their intention to let or re-let a contract with a Total Value in excess of £75,000 a minimum of six months in advance of placing an advertisement to invite tenders

During any procurement exercise, Contract Officers must:

- (iii) Keep relevant records
- (iv) Seek and follow all necessary legal, financial and professional advice
- (v) Be able to demonstrate the achievement of [Value for Money](#)

2.1.3 When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Contract Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal and HR advice before proceeding with inviting tenders or quotations.

## 2.2 Chief Officers

### 2.2.1 Chief Officers must:

- (i) Ensure that their staff (including temporary and agency staff) comply with these Contract Procedure Rules and are suitably trained
- (ii) Ensure that details of all current contracts are recorded on the Council's corporate register of recurring contracts
- (iii) Ensure that all completed contracts are passed to legal for safe keeping
- (iv) Ensure that any Contract Procedure Rules exemptions provided for under Rule 4 are duly recorded using the form on the [Procurement Intranet Pages](#)

## 3. PROCUREMENT OPTIONS

- 3.1 Officers need to consider what procurement method is most likely to achieve the purchasing objectives, in consultation with Welland Procurement.
- 3.2 For all procurements of Goods, Services or Works with a total value BELOW the relevant EU Goods & Services threshold an **Open** tender procedure must be used. Advice must be sought from the Welland Procurement.
- 3.3 For all procurements with a total value ABOVE the relevant EU threshold for either Goods/Services or Works, Contract Officers must consult with Welland Procurement before making a final decision on the appropriate procurement method.
- 3.4 For purchasing where there is no on-going commitment the Council's purchasing cards should be used where possible. Such purchases will be ad hoc and with no time bound commitment. Anything other than this must be referred to Welland Procurement.
- 3.5 Regardless of the procurement option used, all EU/UK legislation must be adhered to and all statutory guidance in respect of this legislation.
- 3.6 Where it is a Capital Programme scheme, the recommendation in the Council's guidelines on project management must be adhered to.
- 3.7 Welland Procurement must be consulted prior to commencing any procurement process using framework agreements including those established by the Crown Commercial Service (CCS) or other Public Sector Buying Organisations (PSBOs), where the requirement is valued over the OJEU threshold or otherwise high risk or complex. The terms and conditions of contract applicable to any CCS or PSBO framework agreements, including the requirement to undertake competition between providers, must be fully complied with.

### 3.8 Collaborative Procurement Arrangements

- 3.8.1 In order to secure [Value for Money](#), the Council may enter into collaborative procurement arrangements. The Contract Officer must consult the Section 151 Officer, the Business Manager - Legal and Welland Procurement where collaborative procurement arrangements are proposed with another local authority, government department, statutory undertaker or Public Sector Buying Organisation.
- 3.8.2 In order to allow the development of joint procurement, shared services, partnerships or collaborative arrangements, the Section 151 Officer shall have delegated authority to permit the use of the Contract Procedure Rules of a local authority partner. The Contract Officer must also consult with Welland Procurement and the Business Manager - Legal to ensure compliance with all legal requirements.
- 3.8.3 All purchases made via a Public Sector Buying Organisation (PSBO) (e.g. ESPO, YPO, CCS) are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the EU threshold must be let under the [EU procedure](#), unless the PSBO has satisfied this requirement already by letting their contract in accordance with the [EU procedure](#) on behalf of the Council and other eligible users.

### 3.9 Private Finance Initiatives

- 3.9.1 Contracts entered into concerning Private Finance Initiatives shall be undertaken in accordance with relevant legislation. The Contract Officer shall refer to the Legal Business Unit and the Section 151 Officer prior to a contract being entered into concerning Private Finance Initiatives.

### 3.10 [Framework Agreements](#)

- 3.10.1 Welland Procurement must be consulted prior to commencing any process which could lead to the use of a [framework agreement](#).
- 3.10.2 [Framework agreements](#) must only be used where the Council is either a named participant or where the Council is considered a recognisable class of contracting authority under the terms of the framework agreement.
- 3.10.3 Contracts based on [framework agreements](#) may be awarded by either:
- (i) Applying the terms laid down in the [framework agreement](#) (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
  - (ii) Where the terms laid down in the [framework agreement](#) are not precise enough or complete for the particular call-off, by holding a mini competition.

Advice must be sought from Welland Procurement.

#### 4. EXEMPTIONS

- 4.1 **The Contract Procedure Rules must be followed. This is to ensure open and transparent competition and protect the Council from any undue risk of challenge of anti-competitive behaviour.**
- 4.2 Where the total lifetime value of a proposed contract is likely to exceed the [EU threshold](#), a Chief Officer has no delegated powers and no exemption can be applied for.
- 4.3 For Supplies and/or Services contracts where the total lifetime value is below the EU threshold, an exemption to all or part of the requirements under section 9.1.1 may be granted with the written approval of the Council's Section 151 Officer. For Works contracts with an estimated total value below the EU threshold, an exemption to all or part of the requirements under section 9.1.1 may be granted with the written approval of the Council's Chief Executive and the Section 151 Officer. Any application for exemption is required to demonstrate valid reasons for not going through an open competition process together with a risk assessment.
- 4.4 Any contract entered into through collaboration with other Local Authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required. However, advice must be sought from Welland Procurement.
- 4.5 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, approval must be sought from the Section 151 Officer, or in the event of his absence the Deputy Section 151 Officer or in his absence, the Chief Executive or the relevant Business Unit Manager. Where this situation arises a report must be sent to the next Policy & Finance Committee to support the action taken.
- 4.6 All exemptions, and the reasons for them, must be recorded using the Contract Procedure Rules Exemption form which is available from the Business Manager – Financial Services. Exemptions shall be detailed by the Contract Officer and signed by the relevant Director and Section 151 Officer and a copy sent to the Business Manager – Financial Services for subsequent recording and monitoring.
- 4.7 The use of e-procurement technology does not negate the requirement to comply with all elements of these Contract Procedure Rules, particularly those relating to competition and [Value for Money](#).
- 4.8 Competitive tenders are not required in any of the following circumstances:
- (i) EU contracts or framework agreements may be modified without a new procurement procedure only in clearly defined situations as provided for under Regulation 72 of the Public Contracts Regulations 2015.



- (ii) The work to be executed or goods or materials to be supplied or the services to be provided constitute an extension of an existing **below EU threshold** contract provided that such an extension has received approval by the Section 151 Officer. Welland Procurement must be consulted and must be satisfied that the extension is in accordance with procurement legislation.
- (iii) The work to be executed or the goods or materials to be supplied consists of repairs to or the supply of parts to existing proprietary machinery or plant by the manufacturers or their agents. The Welland Procurement must be consulted and be satisfied that [Value For Money](#) is being achieved.
- (iv) The estimated expenditure is less than £10,000 provided that the appropriate Chief Officer shall take reasonable steps to secure the order at the most competitive price.
- (v) The purchase is by or at public auction, including online auction facilities (e.g. eBay) and the total value of the procurement is below the prevailing EU threshold.

## 5. RELEVANT CONTRACTS

5.1 All relevant contracts must comply with these Contract Procedure Rules. A relevant contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- (i) The supply or disposal of goods
  - (ii) The hire, rental or lease of goods or equipment
  - (iii) The delivery of services, including (but not limited to) those related to:
    - (a) The recruitment of non direct employees/agency staff
    - (b) Land and property transactions\* (also covered by [Financial Regulations](#))
    - (c) Financial and consultancy services
- \*(these are exempt from the EU Rules and corresponding UK Regulation)

5.2 Contracts for the sale of land and property must be conducted in accordance with these Contract Procedure Rules or a process approved by the Section 151 Officer and with the approval of the Policy & Finance Committee.

5.3 Relevant contracts do not include:

- (i) Contracts of employment which make an individual a direct employee of the Council
- (ii) Treasury management deals for borrowing or investment which will be dealt with in accordance with the latest Treasury Management Strategy approved by Council.

## SECTION 2: COMMON REQUIREMENTS

### 6. STEPS PRIOR TO PURCHASE

6.1 The Contract Officer must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance contained on the Welland Procurement website, by:

- (i) Ensuring there is sufficient time to complete the purchase process
- (ii) Appraising the need for the expenditure and its priority
- (iii) Assessing the feasibility of the proposed order/tender
- (iv) Ensuring there is sufficient budget
- (v) Assessing and managing risks identified with the procurement process; financial risks should be assessed in consultation with the Section 151 Officer
- (vi) Considering which procurement method is most likely to achieve the purchasing objectives in consultation with Welland Procurement
- (vii) Consulting users as appropriate about the proposed procurement method, contract standards, contract performance (refer to Rule 19) and user satisfaction monitoring
- (viii) Preparing a robust specification of requirements
- (ix) Consulting, where appropriate, with a suitable Technical Officer(s) Drafting the terms and conditions that are to apply to the proposed contract. Consultation must take place with legal services prior to the terms and conditions being finalised
- (xi) Setting out these matters in writing per Rule 7. Records
- (xii) Considering project management arrangements, including [nominating a suitable officer to manage the contract once awarded](#)
- (xiii) Considering the requirements for [construction contracts](#)
- (xiv) [Considering how the procurement of above EU threshold public Services contracts may improve the economic, social and environmental well-being of the District in order to demonstrate compliance with the Public Services \(Social Value\) Act 2012. Well-being considerations must be relevant and proportionate to the subject matter of the contract and enforceable within the constraints of existing EU legislation.](#)
- (xv) Confirming that there is Member or delegated approval for the expenditure and the purchase accords with the approved scheme of delegation as set out in the Constitution

### 7. RECORDS

7.1 Where the [total value](#) of the procurement is less than £75,000, the Contract Officer must ensure an appropriate audit trail exists in the form of written &/or electronic records to evidence that the procurement process has been carried out in compliance with the Council's Contract Procedure Rules and secures Value for Money.

7.2 Where the [total value](#) of the procurement exceeds £75,000 the Contract Officer must record and keep:

- (i) Documented work undertaken pre tender as detailed in Rule 6. Steps prior to Purchase
- (ii) The method for obtaining bids and the basis for the selection of tenderers
- (iii) Any contracting decision and the reasons for it
- (iv) Any exemption under Rule 4 together with the reasons for it including a copy of the exemption form. See 4.5
- (v) The award criteria in descending order of importance
- (vi) Tender documents sent to and received from candidates
- (vii) Pre-tender market research
- (viii) Supporting documentation relating to tender examination
- (ix) Clarification and post-tender clarification (to include minutes of meetings)
- (x) The contract documents
- (xi) Post-contract evaluation and monitoring
- (xii) Written records of communications with candidates and with the successful contractor throughout the period of the contract
- (xiii) Contract monitoring undertaken during the life of the contract

7.3 All hard copy and electronic records relating to procurement activities including but not limited to tendering procedures and contracts must be retained by the Contract Officer in accordance with the Council's Retention & Disposal Policy and Retention and Disposal Schedule (Contracts & Tendering).

7.4 Business Unit Managers must supply the Business Manager – Financial Services with such information as is required to populate a central contracts register.

7.5 All signed contracts must be passed to the Business Manager – Legal Services for safekeeping.

7.6 The tender record log must be kept by the Business Manager - Democratic Services. A copy must be kept by the Contract Officer.

## **8. ADVERTISING**

### **8.1 Identifying and Assessing Potential Candidates**

8.1.1 Contract opportunities must be advertised in accordance with the provisions of rule 9.1.1 and in consultation with Welland Procurement.

8.1.2 Contract Officers are responsible for ensuring that all candidates for a relevant contract are suitably assessed. The assessment process shall establish that the potential candidates have sound:

- (i) Economic and financial standing
- (ii) Technical ability and capacity to fulfil the requirements of the authority.

The only exception to this process is direct purchases where the goods are received prior to payment being made.

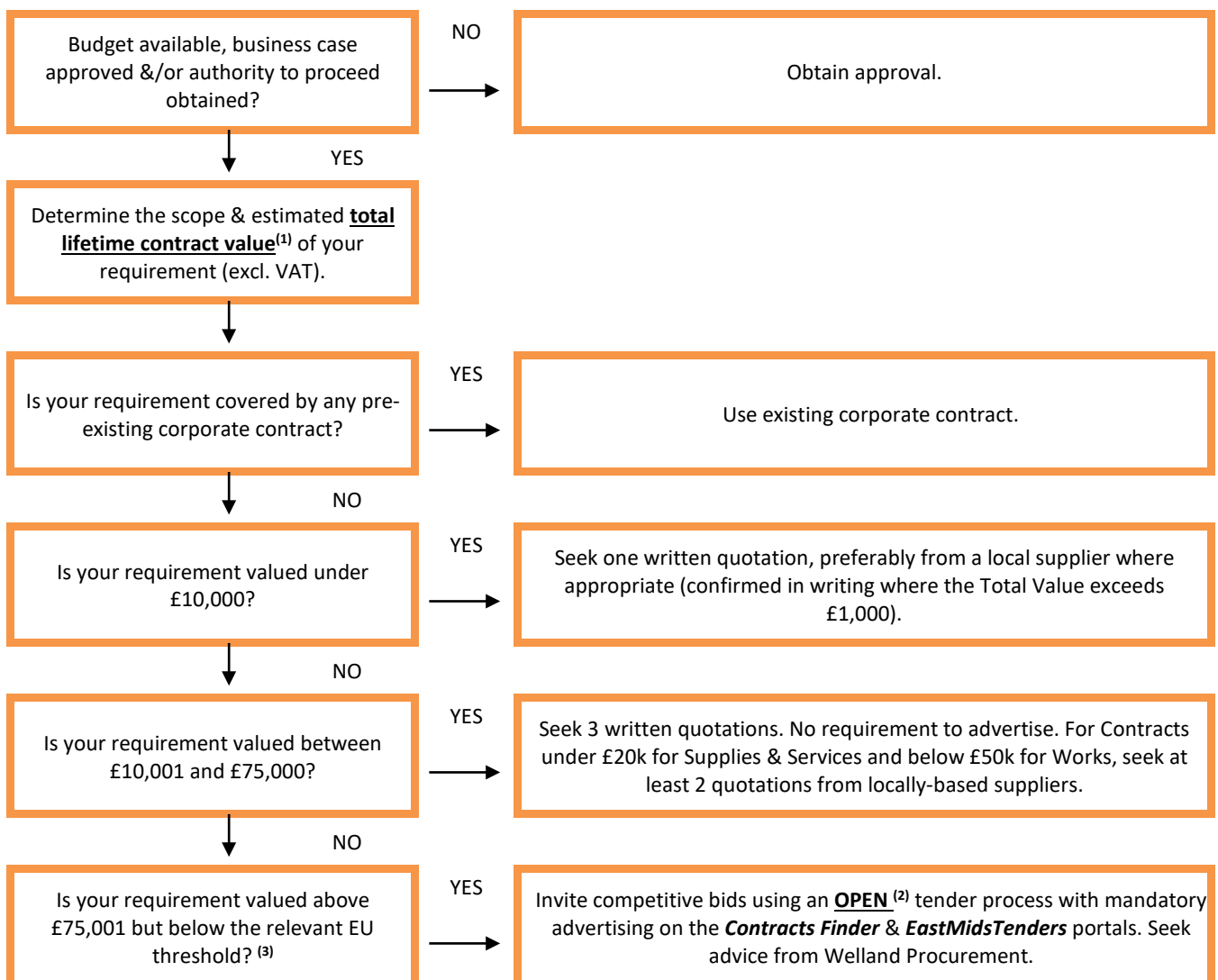
Suppliers/Contractors engaged to deliver Services and Works contracts with a total value in excess of £250,000 should be subject to financial assessment which may include but should not be limited to an Equifax commercial credit check in order to assess their financial viability.

**SECTION 3: CONDUCTING PURCHASE AND DISPOSAL**

**9. COMPETITION REQUIREMENTS: PURCHASE, DISPOSAL & PARTNERSHIPS**

**9.1 Purchasing – Competition Requirements**

9.1.1 Where an option to proceed with a competitive procurement exercise has been chosen, the following flow chart will determine the appropriate procedure to use.





<sup>(1)</sup> When calculating the total lifetime value of a contract to appoint a consultant, ALL potential phases of work must be considered.

<sup>(2)</sup> The use of a RESTRICTED tender process with a separate pre-qualification stage is not permitted under the Public Contracts Regulations 2015 for **Supplies, Services and Works** contracts if the total value is under £181,302. However, the RESTRICTED tender process can be used for Works contracts above £181,302.

<sup>(3)</sup> The EU thresholds applicable from 01/01/2018 to 31/12/2019:-

- Supplies & Services contracts: £181,302
- Works contracts: £4,551,413
- Light Touch Regime for Health, Social, Education and certain other Service Contracts: £615,278

9.1.2 The Contract Officer must calculate the total value of the contract, taking into account what scope there might be for expansion on the initial requirements.

9.1.3 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirement, Contract Officers must consult with Welland Procurement for further guidance.

9.1.4 A Contract Officer must not enter into separate contracts nor select a method of calculating the total value in order to circumvent the application of these Contract Procedure Rules or to evade EU thresholds.

9.1.5 A Contract Officer may choose to go out to tender following the procedures laid out in the flowchart at 9.1.1 above, for an amount less than that specified. However, all other relevant contract procedure rules must still be followed and the advice of Welland Procurement should be sought.

## 9.2 Assets for Disposal

9.2.1 Prior to disposal the surplus asset must be offered for internal use elsewhere in the Council.

9.2.2 Assets for disposal with an estimated total value of over £500 must be disposed of by competitive tender or public auction (including online auction facilities such as eBay) unless written approval is obtained from the Section 151 Officer for a different method of disposal to be used. The method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the Section 151 Officer.

9.2.3 The Contract Officer must ensure that any regulations relating to safe and proper disposal are followed.

### 9.3 Providing Services to External Purchasers

9.3.1 Where works are to be provided to a third party, any contractual arrangement above £15,000 must be approved by the Section 151 Officer prior to being signed. This is regardless of whether the piece of work is a one off or on-going.

### 9.4 Collaborative and Partnership Arrangements

9.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these Contract Procedure Rules. If in doubt, Contract Officers must seek the advice of the Business Manager - Legal and Welland Procurement.

### 9.5 The Appointment of Consultants to Provide Services

9.5.1 Contract Officers must seek the advice and guidance of Welland Procurement prior to commencing any procurement process which could lead to the appointment of consultants.

9.5.2 [Consultants](#), including technical and management consultants, shall be selected and commissions awarded in accordance with the procedures detailed within these Contract Procedure Rules and as outlined in the flowchart under Rule 9.1.1.

9.5.3 The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided (inclusive of ALL potential phases of work and associated costs) and shall be subject to completion of a formal letter or contract of appointment.

9.5.4 Records of consultancy appointments shall be maintained in accordance with Rule 7.

9.5.5 Consultants shall be required to provide evidence of, and maintain professional indemnity [insurance](#) policies to the satisfaction of the relevant Chief Officer after consultation with the Section 151 Officer or in his absence the Deputy Section 151 Officer for the periods specified in the respective agreement and any subsequent liability.

9.5.6 All consultancy appointments should clearly stipulate that the copyright in any report or other work or information created as a result of the contract shall be assigned by the contractor to the Council absolutely with full title guarantee.

9.5.7 It is the responsibility of the person arranging the consultancy contract to determine whether or not payments are to be made to the consultant's employer, to the consultant directly or to a personal service company (PSC). This is a limited company owned by the consultant and is commonly used to reduce tax and National Insurance liability. If payment is to be to the contractor personally or through a personal service company, advice must be sought from the S151 Officer and the Business Manager – Human Resources OD before any appointment is made.

**10. PRE-TENDER MARKET RESEARCH AND CONSULTATION**

10.1 The Contract Officer responsible for the purchase:

- (i) Should seek advice from Welland Procurement
- (ii) May consult potential suppliers prior to the issue of the invitation to tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, **provided** this does not prejudice the objective selection of any potential candidate, but;
- (iii) Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential candidates or distort competition. This applies to all contracts and is especially relevant in the case of software contracts.

**11. CONTRACT AWARD CRITERIA**

11.1 The Contract Officer must define award criteria that are appropriate to the purchase and designed to secure an outcome giving demonstrable [Value for Money](#) for the Council. The basic criteria shall be:

- (i) 'Most economically advantageous tender', where considerations other than price also apply, or;
- (ii) 'Lowest price' where payment is to be made by the authority
- (iii) 'Highest price' if payment is to be received

If the first criterion is adopted a whole life costing approach is applicable and must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

The extent and weighting of these sub criteria must be decided, declared and documented prior to first advertising the contract opportunity.

The Contract Officer shall ensure the weighting of non-financial criteria within a proposed contract ensures equal treatment of all potential contractors and does not preclude, or give undue preference to, any contractor, and that all dealings with contractors are undertaken on a fair and equitable basis.

11.2 Award criteria must not include:

- (i) [Non-commercial considerations](#)
- (ii) Matters that discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement

## **12. INVITATIONS TO TENDER/QUOTATIONS**

12.1 The Invitation to Tender or Quotation shall state that no tender will be considered unless it is received by the date, time and conditions stipulated in the Invitation to Tender or Quotation.

12.2 The conditions applying to Invitations to Tender shall include the following:

- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers or descriptions contained in bills of quantities, including details of workmanship, health and safety and quality.
- (b) The relevant British, European or International standards that apply to the subject matter of the contract in order to describe the required quality.
- (c) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose)
- (d) A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
- (e) Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
- (f) A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance, including any non-financial criteria.
- (g) Where written tenders are to be received, notification that tenders must be enclosed in a securely sealed plain envelope or container which bears the word 'tender' followed by the subject to which it relates (but no other name or mark indicating the sender) and the date and time by which tenders must be returned and marked for the attention of the 'The Chief Executive'.
- (h) Tenders received by fax or other electronic means (e.g. e-mail) will be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Section 151 Officer and the Business Manager - Legal.
- (i) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with; in particular, whether the overall price prevails over the rates in the tender or vice versa.

12.3 All invitations to tender or quotations must specify the terms and conditions of contract that will apply (see Rule 18).



12.4 The invitation to tender or quotation must state that the Council does not bind itself to accept the lowest tender, or any tender (after the application of financial and non-financial criteria).

12.5 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Should questions arise during the tendering period which in the Council's judgement are of material significance then Contract Officers must write to all tenderers to explain the nature of the question and our formal reply.

### **13. SHORTLISTING**

13.1 Shortlisting is illegal in tenders below the EU Services Threshold. All tenders below the applicable threshold, whether for goods, works or services, must follow an open procedure, meaning that all tenders must be evaluated, subject to any grounds for exclusion. These may include any specified minimum technical or professional requirements.

13.2 Under an EU procedure that allows shortlisting, this must be based on the published selection criteria and weightings which must have regard to the financial and technical standards relevant to the contract.

### **14. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**

14.1 Candidates must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of tenders. The EU procedure lays down specific time periods (see guidance on the [Welland Procurement website](#)).

14.2 All tenders that are submitted in writing must be marked for the attention of and returned to the Chief Executive.

14.3 Tenders received by electronic means must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Section 151 Officer and the Business Manager - Legal.

14.4 Tenders not received by the specified time and date must not be considered unless the conditions detailed under 14.11 prevail.

14.5 Tenders that do not comply with the requirements of 12.2 must be rejected and recorded as such on the Tender Log Sheet.

14.6 The Business Manager - Democratic Services shall be responsible for the safekeeping of tenders until the appointed time of opening. Each tender must be:

- (i) Suitably recorded so as to subsequently verify the date and precise time it was received;

- (ii) Adequately protected immediately on receipt to guard against amendment of its contents;
  - (iii) Recorded immediately on receipt in the Tender Record Log.
- 14.7 The Chief Executive must ensure that all tenders are opened at the same time when the period for their submission has ended. When written tenders are received these must be opened in the presence of a Chief Officer and one officer representing the Chief Executive. The Contract Officer or his or her representative must be present, but may not open the Tenders. Where the [total value](#) is more than the [EU threshold](#), one officer must be the Section 151 Officer or his representative. Tenders above the EU threshold must only be received via an electronic tendering system.
- 14.8 Upon opening, a summary of the main terms of each tender must be recorded in the Tender Record Log, i.e. significant issues that are unique to each tender submission and were not stated in the tender invitation documents such as tender sum, construction period, etc. If it is not possible to determine the total value of a bid from a bidder's Form of Tender for the purpose of recording it on the Tender Record Log, then the officers in attendance are required to initial all key tender documents in blue ink. The Tender Record Log must be signed by two officers, one on behalf of the Chief Executive.
- 14.9 The tender record log must be in a form approved by the Monitoring Officer and the Section 151 Officer.
- 14.10 Following tender opening, all tenders must be promptly passed to the Contract Officer responsible for evaluation.
- 14.11 Treatment of Late Tenders:
- (i) Any tender received after the specified date and time must not be considered, unless the Chief Officer with the approval of the Section 151 Officer and the Business Manager - Legal consider that circumstances warrant it, such as where there is evidence of posting in time for delivery by the due date and time in the normal course of post delivery (Note: in this instance, the other tenders must not have been opened). Appropriate supporting documentation must be maintained to substantiate the Chief Officer's decision.
  - (ii) Under no circumstances must any late tender be considered after the other tenders have been opened.
  - (iii) Any tender submitted after the specified date and time must be returned promptly to the tenderer by the appropriate Chief Officer unless accepted in accordance with 14.11 (i).
  - (iv) Any tender excluded from the tender opening process may be opened to enable it to be returned promptly but no details of the tender shall be disclosed.
- 14.12 The Contract Officer must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of Tenders.

**15. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION**

- 15.1 Providing clarification of an invitation to tender to potential or actual candidates or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted but must not be conducted such as to distort competition. Where a clarification is of general relevance to the procurement process, the information must be provided to all candidates.
- 15.2 Except when following specific procedures, negotiation is not allowed under the EU Rules or UK Regulations. Clarification is allowed and if required please seek the advice of Welland Procurement.
- 15.4 Where clarification results in a fundamental change to the specification or contract terms (as agreed by Welland Procurement and the Business Manager - Legal on an individual basis), the contract must not be awarded but re-tendered.

**16. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING CANDIDATES**

- 16.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of quotations, tenders and the identity of Candidates must be preserved at all times and information about one candidate's response must not be given to another candidate.
- 16.2 Tenders shall be promptly examined for adequacy, completeness (including Health and Safety competence) and accuracy by the Contract Officer and/or appropriate Technical Officer.
- 16.3 Tenders must be evaluated and contracts awarded in accordance with the award criteria. During this process, Contract Officers shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily. Where there are significant differences, these must be reported to the appropriate Chief Officer and the Section 151 Officer immediately.
- 16.4 The arithmetic in compliant tenders must be checked. If arithmetical errors or discrepancies are found which would affect the tender figure (in an otherwise successful tender), they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 16.5 If the tenderer withdraws, or fails to confirm their tender within 10 working days or such period as agreed, the next tender is to be examined and dealt with in the same way. Any exception to the above procedure may only be authorised by the Business Manager - Legal or the Section 151 Officer, after consideration of a suitable report prepared by the Contract Officer, or the Technical Officer who examined the tender.

16.6 All unsuccessful tenderers shall be notified promptly and in accordance with the contract conditions, EU and English law.

**16.7 For contracts with a total value above the [EU threshold](#):**

16.7.1 The Contract Officer must contact Welland Procurement who will be responsible for drafting all such notifications.

**16.8 For contracts with a total value below the [EU threshold](#):**

16.8.1 Contract award is notified simultaneously to all bidders. Unsuccessful bidders are provided with their scores and those of the successful bidder for each award criterion and also a brief summary of the relative strengths and weaknesses of their bid. Templates for this purpose and further advice appear on the Welland Procurement website under <http://wellandprocurement.org.uk/newark-and-sherwood-district>.

**17.0 INCOME GENERATING CONTRACTS**

17.1 Contracts generating income shall only be entered into if the relevant Chief Officer is satisfied that:

- (i) The relevant power to provide a service (for a service contract) and the resources and time required have been properly identified and the proposed contract is in the best interests of the Council;
- (ii) Where the income is to be generated by the granting of a concession, e.g. the opportunity to an external provider to provide an income generating service at a Council event and the estimated value of the concession is:
  - (a) below £10,000 then a minimum of three potential concessionaires should be invited to make offers to the Council
  - (b) above £10,000 then the opportunity should be advertised in accordance with the flowchart under Rule 9.1.1.  
and the offers submitted should be evaluated to assess which offer is most economically advantageous to the Council.

17.2 The terms of any contract shall be clearly set out in writing.

**SECTION 4: CONTRACT AND OTHER FORMALITIES**

**18. CONTRACT DOCUMENTS**

**18.1 Relevant Contracts**

18.1.1 All relevant contracts shall be in writing in a form approved by the Business Manager - Legal or their nominated representative.

18.1.2 All relevant contracts, irrespective of value, shall clearly specify:

- (i) What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done) per the specification, bills of quantity or descriptions supplied as part of the tender process
- (ii) The provisions for payment (i.e. the price to be paid and when). The Public Contracts Regulations 2015 require that every contract a contracting authority enters into must provide that payment will be made to the contractor no later than 30 days from the date from which the relevant invoice is regarded as valid and undisputed. This provision also applies to a sub-contract awarded by the contractor and also any sub-sub-contract which the sub-contractor in turn awards
- (iii) The time, or times, within which the contract is to be performed
- (iv) The provisions for the Council to terminate the contract.
- (v) The address at which the works or services are to be undertaken
- (vi) A right of access by the Council to relevant documentation and records held by the Contractor or on their behalf, for monitoring and audit purposes if relevant.
- (vii) [Whistleblowing Policy](#)
- (vii) GDPR requirements relevant to the handling of personal data, its use, storage and disposal during the term of the contract and up to the end of the applicable statutory period of limitation of a contractor's liability.

18.1.3 Additional contractual requirements must include where relevant:

- (i) [Assignment requirements](#)
- (ii) [Nominated sub contractors and nominated supplier requirements](#)
- (iii) [Liquidated damages](#) requirements
- (iv) Any [insurance](#) requirements
- (v) [Health and safety](#) requirements
- (vi) Ombudsman requirements
- (vii) Data protection requirements
- (viii) That charter standards are to be met
- (ix) Equality and Diversity legislation requirements
- (x) Freedom of Information Act requirements
- (xi) [Consultants](#) requirements
- (xii) [Cartels and anti collusion requirements](#)
- (xiii) Necessity for security to be provided.
- (xiv) Business continuity arrangements
- (xv) Disability Discrimination Act requirements
- (xvi) Equalities requirements
- (xvii) Safeguarding requirements

18.1.4 The formal advice of the Business Manager - Legal must be sought for the following contracts:

- (i) Where the [total value](#) exceeds £75,000 or involves the purchase of application software
- (ii) Those involving leasing arrangements
- (iii) Where it is proposed to use a supplier's own terms
- (iv) Those that are complex in any other way

**18.2 Contract Formalities**

18.2.1 Agreements shall be completed as follows:

<u>Total Value</u>	Method of Completion	By
Below <u>EU threshold</u>	Signature	Please refer to list of officers authorised to sign contracts
Above <u>EU threshold</u>	Advice must be sought from the Business Manager - Human Resources, OD & Legal as to whether the contract should be signed or sealed	Please refer to list of officers authorised to sign contracts  Also see Rule 18.3

18.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Business Manager - Legal, after consultation with the Section 151 Officer.

18.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind the company.

**18.3 Sealing**

18.3.1 Where contracts are to be sealed they must be forwarded to Legal Services for entry in the Seal Register and the affixing and attesting of the Seal. They must be accompanied by the relevant Council or Committee authority.

18.3.2 Contracts shall be sealed in accordance with the Council's Constitution.

**18.3.3 Advice must be sought from the Business Manager - Legal whether a contract should be sealed when:**

- (i) The Council may wish to enforce the contract more than six years after its end; or
- (ii) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- (iii) There is any doubt about the authority of the person signing for the other contracting party, or
- (iv) The total value exceeds the EU threshold.

**19. BONDS AND PARENT COMPANY GUARANTEES**

19.1 The Contract Officer, when assessing the contractor's financial viability, shall consider whether the Council requires security for due performance of the contract.

- 19.2 The Contract Officer must consult the Section 151 Officer about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and the [total value](#) exceeds the [EU threshold](#).
- 19.3 Where security is considered to be appropriate and required, the Contract Officer, in consultation with the appropriate officers, shall specify in the tender the nature and amount of the security to be given. This as a minimum shall be at least 10% of the total value of the contract.
- 19.4 The security shall be obtained by the contractor in a format, and from an institution or bank approved by the Section 151 Officer.

**20. PREVENTION OF CORRUPTION AND COLLUSION**

- 20.1 The Contract Officer must comply with the Officer's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Contract Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 20.2 below.
- 20.2 The following clause must be put in every written Council contract:

*"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:*

- a) Offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or*
- b) Commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972, or*
- c) Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.*

*Any clause limiting the Contractor's liability shall not apply to this clause."*

- 20.3 The Contract Officer and/or Technical Officer shall undertake periodic reviews of tenders submitted by successful tenderers to consider the potential for tenderer collusion and cartels.
- 20.4 All Officers, Members, potential and existing contractors must be made aware of the Council's [Whistleblowing Policy](#).

**21. DECLARATION OF INTERESTS**

- 21.1 If it comes to the knowledge of a Member or an employee of the authority that a contract in which he or she has a personal or prejudicial interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer.
- 21.2 Such written notice is required irrespective of whether the interest is direct or indirect. Interests are defined in the Members and Officers [Codes of Conduct](#).
- 21.3 A shareholding in a body less than a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not an interest for the purposes of these Contract Procedure Rules.
- 21.4 The Monitoring Officer shall maintain a record of all declarations of interests notified by Members and Officers.
- 21.5 The Monitoring Officer shall ensure that the attention of all Members is drawn to the National Code of Local Government Conduct.

**SECTION 5: CONTRACT MANAGEMENT**

**22. MANAGING CONTRACTS**

- 22.1 Contract management should be proportionate to the total value, risk and complexity of the contract.
- 22.2 Contract Officers must follow the procedures set out in these Contract Procedure Rules as well as the good practice guidance on contract management available on the Welland Procurement Portal.

**23. RISK ASSESSMENT**

- 23.1 A risk register must be prepared for all contracts with a total value over the [EU threshold](#) to ensure that identified contract risks are managed by named Officers over the lifetime of the contract.
- 23.2 For all contracts with a potential value under the EU threshold, Contract Officers must, where appropriate, undertake risk assessments and, for identified risks, ensure contingency and risk mitigation measures are in place.



## 24. CURRENCY OF CONTRACT PROCEDURES

### 24.1 Monitoring and Review

24.1.1 During the life of the contract, the Contract Officer must closely monitor and address the following areas:

- (i) Performance
- (ii) Compliance with specification and contract
- (iii) Cost
- (iv) Any [Value for Money](#) requirements
- (v) User satisfaction
- (vi) On-going economic and financial standing of the supplier/contractor. Periodic Equifax commercial credit reports are to be sought for all suppliers/contractors linked to major programmes and projects being delivered by the Council with a total value in excess of £250,000 and for the duration of the contract.
- (vii) On-going technical ability and capacity of the supplier/contractor
- (viii) On-going risk assessment & risk mitigation

24.1.2 Contract Officers must keep management aware of progress, so that any required corrective action can be taken promptly.

24.1.3 Appropriate supporting documentation shall be maintained to substantiate the monitoring undertaken.

24.1.4 In respect of construction contracts:

- (i) The Contract Officer shall report progress to the Capital Monitoring Group on a regular basis and in an agreed format.
- (ii) Where there is any unforeseen specification adjustments which occur during the construction phase, the Contract Officer must seek to find savings within the total project budget and advise SLT to ensure they agree the savings are realistic. Alternatively, they must seek additional funding via a report to Policy & Finance Committee where the amount is in excess of delegated authority.
- (iii) Where savings cannot be found the Contract Officer must advise SLT as soon as practicable.
- (iv) The Section 151 Officer must be kept informed of any additional costs and potential savings. The Section 151 Officer will report these to Policy & Finance Committee.

24.1.5 All contracts which have a value higher than the relevant [EU threshold](#), or which are high risk, are to be subject to periodic formal review with the contractor.

24.1.6 A risk register should be established for all contracts exceeding the EU threshold to ensure that contract outcomes are fully delivered.

## **24.2 Certificates/Interim Payments**

- 24.2.1 No certificate of work performed on a contract shall be raised prior to the signing of the contract, subject to compliance with appropriate contract conditions. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.
- 24.2.2 Interim payments to contractors shall only be made by the Section 151 Officer or his nominated officer on receipt of an approved form of certificate signed by an authorised officer.
- 24.2.3 Where a performance bond is required for a contract, no payment is to be made until the bond has been received. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.
- 24.2.4 Any contractual retention monies shall be deducted from payments in accordance with contract conditions.

## **24.3 Variations to the Contract**

- 24.3.1 EU contracts or framework agreements may be modified without a new procurement procedure only in clearly defined situations as provided for under Regulation 72 of the Public Contracts Regulations 2015.
- 24.3.2 In the case of contracts with a total value below the EU threshold, permissible grounds for amendment include the following:
- (i) Any variations made to the contract in accordance with the terms of the contract.
  - (ii) Variations approved and authorised by the Contract Officer together with the appropriate Business Manager.
  - (iii) Major variations (which result in the value of the contract increasing by more than 20% of the original contract sum or £50,000, whichever is the lesser) shall require the prior approval of the Contract Officer, or if appropriate, the Policy & Finance Committee or Council
- 24.3.3 Concerning construction contracts, variations to the contract shall only be made on approved forms.
- 24.3.4 The Contract Officer shall inform the Section 151 Officer and the Policy & Finance Committee of substantial variations likely to result in over or under-spends.

## **24.4 Extensions of Time/ Contract Completion**

- 24.4.1 The Contract Officer shall ensure that extensions of time concerning constructional contracts are considered in accordance with the terms of the Contract.

24.4.2 The Contract Officer shall take due regard to actual contract progress, all appropriate supporting documentation, and all other extenuating circumstances when considering an extension of time.

24.4.3 Extensions of time shall only be awarded on the issue of approved forms by the Contract Officer.

24.4.4 The Contract Officer shall ensure that the procedures for contract completion are in accordance with the terms of the contract.

24.4.5 Approved forms shall be used for indicating contract completion by the Contract Officer.

#### **24.5 Price Fluctuations**

24.5.1 The Contract Officer shall ensure that the basis of price fluctuations, where applicable, is appropriate and properly detailed in the tender/contract documentation and shall take advice from the Section 151 Officer or his nominee.

24.5.2 The Contract Officer shall ensure that any price fluctuations are valid, in accordance with the terms of the contract, and correctly included in interim valuations where appropriate.

#### **24.6 Contractual Claims**

24.6.1 The Contract Officer shall ensure that the calculation of sums due to the contractor for loss and/or expense claims is in accordance with the terms of the contract.

24.6.2 The Contract Officer shall take due regard to all appropriate supporting documentation when considering a contractor's contractual claim.

#### **24.7 Cancellations (including Determinations)**

24.7.1 The Contract Officer must refer any attempt to cancel a contract or any situation where the right to cancel a contract might arise, to the Legal Section for advice before any acknowledgement or notice is issued.

24.7.2 Cancellations shall only be made in accordance with the terms of the contract, or in conjunction with offences made under the Bribery Act 2010 or section 117(2) of the Local Government Act 1972

#### **24.8 Liquidations and Bankruptcies**

24.8.1 The Contract Officer shall ensure that all actions taken in the event of a contractor liquidation or bankruptcy are in accordance with the conditions of contract.

24.8.2 For construction contracts, the Contract Officer shall:

- (a) Notify the Monitoring Officer immediately.
- (b) Secure the site in question

- (c) Ensure that outstanding works are completed as soon as possible
- (d) Ensure that the remaining work is undertaken in the most economic, effective and efficient manner
- (e) Ensure that appropriate claims are lodged with the receiver/liquidator
- (f) Ensure that the appropriate bondsperson is notified
- (g) Ensure appropriate [insurance](#) is obtained

24.8.3 The Contract Officer shall take advice from the Monitoring Officer and Section 151 Officer of the procedures to be followed in the event of a liquidation or bankruptcy and ensure that such procedures are adhered to in the event of such a situation occurring.

#### **24.9 Final Accounts**

24.9.1 The Contract Officer shall ensure that final account and certificate procedures are in accordance with the terms of the contract.

24.9.2 The Contract Officer shall ensure that final accounts submitted by the contractor are complete and accurate.

24.9.3 The final payment shall not be made until the Section 151 Officer has given approval following consideration of the final account and supporting documents.

24.9.4 The Section 151 Officer (or his authorised representative) shall have right of access to, and examination of, sites and supporting documentation at various stages of work, in conjunction with such explanations as required. Such visits shall be undertaken, and documentation reviewed, with an appropriate Technical Officer or the Contract Officer.

#### **25. POST CONTRACT PROCEDURES**

##### **25.1 Recovering Liquidated and Ascertained Damages**

25.1.1 The Contract Officer shall ensure that liquidated and ascertained damages are calculated whenever unauthorised delay occurs on contracts.

25.1.2 Liquidated and ascertained damages shall be promptly deducted in accordance with the terms of the contract. The Section 151 Officer shall be promptly notified of the existence of liquidated damages.

##### **25.2 Post Contract Reporting**

25.2.1 The Contract Officer shall ensure that, where appropriate, accurate and timely management information is provided at the completion of the contract.

25.2.2 Where the [total value](#) of the contract exceeds the [EU threshold](#), the Contract Officer must make a written report to the relevant Chief Officer considering:

- (i) If weaknesses in control procedures have occurred;
- (ii) That corrective action, where necessary, has been taken;

- (iii) To what extent the original objectives of the contract have been achieved.

## SECTION 6: DEFINITIONS

**Agent:** A person or organisation acting on behalf of the Council or on behalf of another organisation.

**Award Criteria:** The criteria by which the successful quotation or tender is to be selected (see further Rules 11 and 12.2f).

**Award Procedure:** The procedure for awarding a contract as specified in Rules 9, 11 and 16.

**Best Value:** The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by [Value for Money](#).

**Bond:** An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.

**Candidate:** Any person who asks or is invited to submit a quotation or tender.

**Chief Executive:** Relates to the Head of the Council's Paid Service

**Chief Officer:** Relates to the Chief Executive, Deputy Chief Executive and Directors.

**Code of Conduct:** The code regulating conduct of Officers as set out in the Council's Constitution.

**Committee:** A committee that has power to make decisions for the Council, including a joint committee with another local authority.

**Constitution:** The constitutional document approved by the Council which:

- Allocates powers and responsibility within the Council and between it and others
- Delegates authority to act to Committees and Officers
- Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

**Contract:** Any agreement between the Council and any other party, which is intended to be legally binding. The term therefore applies to all contracts, together with all orders placed on behalf of the Council.

**Contractor:** Any company, partnership, sole trader, individual, local or public utility used in connection with the supply of goods, materials, professional or technical services, or for the supply of works.

**Consultant:** Someone employed to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.

**Contracting Decision:** Any of the following decisions:

- Withdrawal of invitation to tender
- Whom to invite to submit a quotation or tender
- Shortlisting
- Award of contract
- Any decision to terminate a contract.

**Contract Officer:** The officer designated by the Chief Officer to deal with the contract in question.

**Council:** Deemed to include reference to Committees or an officer acting in accordance with delegated authority on behalf of the Council,

**Deputy Section 151 Officer:** Relates to the officer formally designated to act as deputy to the Section 151 Officer

**EU Procedure:** The procedure required by the EU where the [total value](#) exceeds the [EU threshold](#)

**EU Threshold:** The contract value at which the EU Public Procurement Directives apply at the time the contract is advertised.

**Financial Regulations:** The financial regulations specifying responsibilities for financial matters detailed in the Council's Constitution.

**Framework Agreement:** It is an agreement between one or more 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. Used in the case of repetitive purchases to choose suppliers who, when required will be able to meet the Council's purchasing needs. A framework does not include a commitment by the purchaser to guarantee a volume of work to a supplier. Framework agreements may be used in conjunction with any procedure. If the total value of all call offs over the life of the framework lifetime is estimated to be above the relevant EU threshold then the EU rules governing advertising and awarding the contract must be applied as if it were a contract.

**Gateway Review:** A formal evaluation of the project at the conclusion of a Key stage to determine whether or not the project should proceed to the next stage.

**High Risk:** A high-risk purchase is one that presents the potential for substantial exposure on the Council's part if it were to fail or go wrong, as determined by the Business Manager - Community Safety.

**High Value:** A high-value purchase is where the value exceeds the EU threshold values.

**Invitation to Tender:** Invitation to tender documents in the form required by these Contract Procedure Rules.

**Line Manager:** The Officer's immediate superior or the Officer designated by the Chief Officer to exercise the role reserved to the line manager by these Contract Procedure Rules.

**Monitoring Officer:** Relates to the Officer formally designated under Section 5 of the 1989 Act (designation and reports of Monitoring Officer) or, if that person is unable to act owing to absence or illness the person nominated as his/her deputy under Subsection 7 of that Act.

**Nominated Officer:** Relates to an officer given appropriate delegated authority by the Chief Officer.

**Nominated Suppliers and Sub-contractors:** Those persons specified in a main contract for the discharge of any part of that contract.

**Non-Commercial Considerations:**

- a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
- b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.
- c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.
- d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').
- e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.
- f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.
- g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.
- h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.

Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be [non-commercial considerations](#) to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.

**Parent Company Guarantee:** A contract that binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.

**Procurement Intranet Pages:** The suite of guidance documents, together with a number of standard documents and forms, which support the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet.

**Welland Procurement:** The Officer charged with providing strategic direction and advice to secure [Value for Money](#) in the Council's procurement activities.

**Quotation:** A quotation of price and any other relevant matter (without the formal issue of an invitation to tender).

**Relevant Contract:** Contracts to which these Contract Procedure Rules apply (see Rule 5).

**Section 151 Officer:** Relates to the designated Responsible Financial Officer. This is a statutory post appointed by full Council to have responsibility for the financial affairs of the Council as required by Section 151 of the Local Government Act 1972.

**Shortlisting:** The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.

**Standards:** Set by professional bodies in respect of technical, engineering, environmental and quality issues.

**Technical Officer:** Relates to an appropriate officer with detailed technical knowledge of the contract in question

**Tender:** A Candidate's proposal submitted in response to an invitation to tender.

**Tender Record Log:** The log maintained by the Business Manager - Democratic Services to record details of Tenders

**Total Value:** Please refer to the Public Contracts Regulations 2015 Part 2 (6) Methods for calculating the estimated value of a procurement. When calculating the total value of a contract to appoint a consultant, ALL potential phases of work must be considered.

**TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246):** Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting-out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to



the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

**Unforeseeable emergency:** Urgency in this instance is defined as circumstances beyond the Council's control, and not due to a lack of expeditious action being taken internally

**Value for Money:** Value for Money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

**Whole Life Costing:** Whole cost of ownership including acquisition costs, operational costs and end life costs.

**HYPERLINK INFORMATION:**

**CONSTRUCTION CONTRACTS**

- (i) The contract officer shall ensure that necessary action is taken to initiate appropriate contract details (such as drawings, costings etc).
- (ii) A brief, suitably authorised and approved by appropriate officers, shall be initiated, where appropriate, prior to the tender stage, which supports the project appraisal process.
- (iii) Where appropriate, a project team should be set up to ensure that all necessary processes relating to project appraisal have been considered and undertaken.

**ASSIGNMENT**

Every formal contract either for the execution of work, or the supply of goods or materials, or the provision of services, shall contain a provision that :

The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of this contract without the written permission of the Council. Sub-letting of any part(s) of the work, except to the extent permitted in writing by the Council, shall be prohibited.

**NOMINATED SUB-CONTRACTORS AND NOMINATED SUPPLIERS**

Tenders for sub-contracts to be performed, or services to be provided, or goods or materials to be supplied by nominated sub contractors or nominated suppliers, shall be invited in accordance with the methods prescribed in Rule 12.

Tenders shall be administered by the Contract officer in accordance with the arrangements prescribed in the Contract Procedure Rules

The Contract Officer shall consider the requirement for a method statement to be included in the contract, which considers the extent to which nominated sub-contractors or suppliers are used and how they are chosen.

### **LIQUIDATED DAMAGES**

Contracts which are estimated to exceed £75,000 in value or amount and which are for the execution of works (or for the supply of goods, materials or services by a particular date or series of dates), or which are for a lesser value if appropriate, shall provide for liquidated damages.

Liquidated damages shall be assessed by the Contract Officer in conjunction with the appropriate Technical Officer if applicable. Such damages shall be determined on a relevant and suitable basis, which is properly substantiated by appropriate supporting documentation.

Where liquidated or ascertained damages are not considered to be appropriate within a contract by the Contract Officer, the approval of the appropriate Chief Officer and Section 151 Officer must be obtained.

The requirement for liquidated or ascertained damages for contracts estimated to be £75,000 or less is at the Contract Officer's discretion, bearing in mind the risk that delays in the completion of small value contracts could result in the delay of more important contracts.

**INSURANCE** (employers' liability, public liability insurance, professional liability/indemnity where appropriate)

In connection with the carrying out of all works, irrespective of value, the contractor shall indemnify the Council and provide such insurance as may be required under the conditions of the contract. This shall, as a minimum, indemnify the Authority against injury and damage to persons and property. The minimum value for any one occasion or series of occasions arising out of one event shall be based upon:

- (a) Circumstances relevant to the particular contract in question, or
- (b) A minimum value periodically determined by the Section 151 Officer

The Contract Officer shall ensure that the appropriate insurance documents have been submitted by the contractor in conjunction with the contract conditions.

The Contract Officer shall ensure that the adequacy of the submitted insurance documents is confirmed by the Council's Insurance Officer.

The Contract Officer shall ensure that insurance cover is maintained throughout both the period of the contract and the maintenance period (where appropriate).

## HEALTH AND SAFETY

Contracts must include the requirements of work and safety management as per the guidance issued by the Risk and Resilience Section

The Contract Officer shall consider the Health and Safety aspects of all relevant contracts in conjunction with the Business Manager - Community Safety.

The Contract Officer shall refer to the Council's Health and Safety guidance for Officers regarding the Control of Contractors where appropriate.

The Contract Officer shall supply to the contractor all necessary Health and Safety information.

In connection with the carrying out of all works, irrespective of value, the contractor shall provide to the Council Health and Safety details as may be required by Statute and under the conditions of the contract.

The Contract Officer shall ensure that the appropriate Health and Safety details have been submitted by the contractor in conjunction with the contract conditions.

The Contract Officer shall ensure the adequacy of the submitted Health and Safety documents, in conjunction with the appropriate Technical Officer as appropriate.

## WHISTLEBLOWING POLICY

The Contract Officer shall ensure that contract documents include the Council's [Whistleblowing Policy](#).

**The contract documents shall state that the Contractor shall ensure that staff employed by the Contractor (including sub-contractor staff where appropriate) are aware of the Council's Whistleblowing Policy and the arrangements to be followed in the event of them having any concerns and wishing to make a disclosure.**

## CARTELS AND ANTI COLLUSION

The Contract Officer shall ensure that contract documents include a declaration of non-collusion, which is a fundamental term of the contract. This declaration should cover collusion with associated or affiliated companies or subsidiaries as well as unrelated competitors.

The Contract Officer shall ensure that the contractor is aware that it is a requirement that a list of all affiliates and subsidiaries is included as part of the tender return.

There shall be a clear statement within the contract documents that:

- While returned documents will be treated in the strictest confidence, they will be made available to Trading Standards Departments, the Office of Fair Trading and other appropriate regulators where appropriate;
- The Public Register of Restrictive Agreements will be consulted where appropriate.

The Contract Officer shall ensure that a signed declaration of non-collusion is received from each contractor invited to tender.

#### **ENGAGEMENT OF CONSULTANTS**

It shall be a condition of the engagement of any consultant (not being an officer of the Council) who is to be responsible to the Council for the supervision of a contract on its behalf (which may include aspects such as design and preparation of a specification), that in relation to that contract he shall:

- (i) Comply with these Contract Procedure Rules and the Council's Financial Regulations as though he were an officer, subject also to the proviso that any modification or changes to the Council's procedures (to be followed in inviting and opening tenders) be approved in advance by the responsible Contract Officer, through whom all liaison with the Council shall occur.
- (ii) At any time during the carrying out of the contract, produce to the Monitoring Officer, Section 151 Officer, or the Contract Officer, or their authorised representative(s), on request, all records maintained by him in relation to the contract.
- (iii) On completion of a contract, pass all such records to the appropriate Contract Officer; and;
- (iv) In connection with building construction or engineering schemes, appropriate "as built" drawings shall be handed over to the authority within six months of completion.

All consultants shall be engaged using, where appropriate, standard terms and conditions set by the appropriate professional body. Payment shall be in accordance with agreed schedules of service and scales of fees, or lump sum fees, modified as necessary to reflect individual circumstances.

The Contract Officer shall ensure that any consultants engaged hold appropriate professional indemnity [insurance](#), the extent of which shall be at the discretion of the Contract Officer dependent upon the complexity, scope and value of the scheme.

Ownership of intellectual property shall remain with the Authority at all times.

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## OFFICER EMPLOYMENT PROCEDURE RULES

### 1 Purpose

These Rules deal with the appointment and dismissal of staff.

### 2 Appointment, Dismissal and Disciplinary Action

Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act as the Head of Paid Service or by an officer nominated by him.

### 3 Provisions Relating to Head of Paid Service, Chief Officers, Deputy Chief Officers and Assistants for Political Groups

Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:-

- (a) the officer designated as the Head of Paid Service
- (b) A statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts)
- (c) A non-statutory chief officer within the meaning of section 2(7) of the 1989 Act
- (d) A deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) A person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

### 4 Council Approval of Appointment of Head of Paid Service and Council Approval of Dismissal of Head of Paid Services, Chief Finance Officer and Monitoring Officer

Where a Committee, Sub-Committee or Officer is discharging, on behalf of the authority, the function of the appointment of an Officer designated as the head of the authority's paid service the authority must approve that appointment before an offer of appointment is made to him.

Where a Committee or Sub-Committee or Officer is discharging, on behalf of the authority the function of dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer or Monitoring Officer the authority must approve that dismissal before notice of dismissal is given to him.

5 Member Involvement in Appeals

Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:-

- (a) another person against any decision relating to the appointment of another person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of that member of staff.

6 Disciplinary Action Against Head of Paid Service, Monitoring Officer or Chief Finance Officer

1. In the following paragraphs:-

- (a) "the 2011 Act" means the Localism Act 2011;
- (b) "chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) "independent person" means a person appointed under section 28(7) of the 2011 Act;
- (d) "local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
- (e) "the Panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) "relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) "relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

4. In paragraph 3 "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issues in accordance with paragraph 3 in accordance with the following priority order:-
  - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
6. An authority is not required to appoint more than two relevant independent person in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:-
  - (a) any advice, views or recommendations of the Panel;
  - (b) the conclusion of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## 7 Procedure for Recruitment and Appointment

### (i) General Provisions Relating to Recruitment and Appointment

#### (a) Declarations:

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.



(b) Seeking Support for Appointment:

- (i) the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) no Councillor will seek support for any person for any appointment with the Council.

(ii) Recruitment of Head of Paid Service and Chief Officers

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

(a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as it 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 (l) to be sent to any person on request.

(iii) Appointment of Head of Paid Service

(a) The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a panel of Members of the Council.

(iv) Appointment of Chief Officers

(a) "Chief Officers" means those Officers specified in the Council's Constitution namely the Chief Executive, Deputy Chief Executive and Directors. Chief Officers will be appointed by a panel of Members. The panel has delegated authority to make such appointments other than in the case of the Head of Paid Service where the appointment must be approved by the Council.

(v) Appointments below Chief Officer

(a) Appointments below Chief Officer shall be the responsibility of the Head of Paid Service or relevant Chief Officer

(b) In the case of Deputy Chief Officers, Chief Officers may consult members on such appointments, but are not required to do so.

(vi) Other Appointments

- (a) **Officers below Deputy Chief Officer.** Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Chief Officer to whom the Officer will report or his/her nominee. Such appointments must not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

(vii) Disciplinary Action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer, Chief Finance Officer and other Chief Officer(s) 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, without a review of such suspension first taking place.
- (b) Councillors will not be involved in the disciplinary action against any officer other than a Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although 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 resulting in dismissal only.
- (c) Deputy Chief Officers will be subject to the same disciplinary procedures as apply to other members of staff.

(viii) Dismissal

- (a) Councillors will not be involved in the dismissal of any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although 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.

8 Statement of Pay Policy

A statement of the Council's pay policy will be published annually.

## **NEWARK & SHERWOOD DISTRICT COUNCIL'S PETITION SCHEME**

### **Introduction**

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. A petition is defined as a communication in writing or using an electronic facility, which is signed by the appropriate number of qualifying people. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to the Chief Executive, Newark & Sherwood District Council, Castle House, Great North Road, Newark, Notts. NG24 1BY.

Petitions can be presented to a meeting of the full Council. These meetings take place within an annual cycle of meetings, details of which can be found at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk). If you would like your petition to be presented to a full Council Meeting please contact your local Councillor asking them to present it on your behalf or contact Democratic Services on 01636 655243 or [committees@newark-sherwooddc.gov.uk](mailto:committees@newark-sherwooddc.gov.uk) at least 10 working days before the Council meeting.

If your petition has received 1,000 signatures or more from people that live and/or work in the District then this will trigger a debate at full Council. If this is the case contact will be made with the lead petitioner to discuss options for enabling this to take place.

### **What are the guidelines for submitting a petition?**

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. The subject should be relevant to some matter in relation to which the Council has functions or which affects the area or its inhabitants. It should also state what action the petitioners wish the Council to take; and
- the name and address (including postcode) and signature of any person supporting the petition.

Signatures are only valid for people who live, work or study within the District. In the case of an e-petition submitted via the Council's website or an alternative platform, a signature is not required but a valid email address, name, address and postcode must be supplied by each of the petitioners. Further details about e-petitions are given later in this petition scheme.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not

identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

If you want to submit a petition to a specific meeting of the Council then you need to ensure that we receive a completed petition with details of the petition subject matter, number of signatures and your contact details 10 working days before the meeting to enable it to be submitted and included on the summons for the meeting.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

The Council's Monitoring Officer will decide as to whether or not the guidelines referred to above have been met and therefore whether a petition should be accepted.

#### **What will the Council do when it receives my petition?**

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take. If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures will apply.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

#### **How will the Council respond to petitions?**

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter

- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by a committee of the Council whose remit includes the matters referred to in the petition
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

If your petition is about something that a different Council is responsible for or over which the Council has no direct control (for example rail services or a hospital) we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other organisation, but could involve other steps. In any event we will always notify you of the action we have taken.

### **Full Council Debates**

If a petition contains more than 1,000 signatures it will be scheduled for debate by the full Council. This means that the issue raised in the petition will be discussed at a meeting at which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser or the Councillor acting on their behalf will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors. If the petition organiser indicates they wish to present the petition at the meeting but they are unable to attend the meeting, the Council will continue to debate the petition without presentation. The Council may exercise their discretion to limit the debate to a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

The Council may consider there to be a more expedient way in which to deal with a petition which contains more than 1,000 signatures. If this is the case, the lead petitioner will be notified accordingly.

### **Presentation of Petitions at Full Council**

Your petition may not have the requisite number of signatures to trigger a Council debate. However, your petition can still be presented to a meeting of the full Council. When you are satisfied that your petition meets all of the criteria you should contact your local Ward Councillor or appropriate Member to make arrangements for the submission of the petition to the next full Council Meeting. Democratic Services can also approach the relevant Councillor on your behalf.

The Member being asked and wishing to present the petition should satisfy themselves that the petition meets the guidelines for petitions as set out in this Scheme and notify the Chief Executive, prior to the full Council meeting that they intend to present the petition. They have a maximum of

3 minutes in which to present the petition to the full Council meeting. The petition organiser does not have a right to present the petition to the full Council meeting and there will be no debate.

### **E-Petitions**

The Council welcomes e-petitions which are created through our website [www.newark-sherwooddc.gov.uk/epetitions](http://www.newark-sherwooddc.gov.uk/epetitions). For these the petition organiser must provide us with their name and address (including postcode) and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe up to a maximum of 12 months. When you create an e-petition it will take up to 5 working days before it is published on the website. This is because we have to check that the content of your petition before it is published online. If we feel that we cannot publish your petition for some reason we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the website.

When an e-petition has closed for signature it will automatically be submitted to Democratic Services. In the same way as a paper petition, you will receive an acknowledgment within 10 working days. You can see all the e-petitions currently available on the website [www.newark-sherwooddc.gov.uk/epetitions](http://www.newark-sherwooddc.gov.uk/epetitions). When you sign the e-petition you will be asked to provide your name, postcode and a valid email address.

### **What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request a review of the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The relevant committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.