

# Chapter 9 – Rules, Codes and Protocols

## Part 1

### Article 14 – Finance, Contracts and Legal Matters

#### 1. Financial management

- 1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in this Chapter and any guidance issued by the Chief Finance Officer.

#### 2. Contracts

- 2.1 Every contract made by the Council will comply with the Contract Standing Orders set out in this Chapter.

#### 3. Legal proceedings

- 3.1 The Assistant Director of Law and Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Director of Law and Governance and/or the Chief Executive considers that such action is necessary to protect the Council's interests.

#### 4. Authentication of documents

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director of Law and Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council or Cabinet has given requisite authority to some other person.

#### 5. Common Seal / Electronic Seal of the Council

- 5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director of Law and Governance. A decision of the Council or Cabinet, of a Committee or Sub-Committee, a Committee of Cabinet or a Cabinet Member, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Assistant Director of Law and Governance should be sealed or are required by the provisions of the Procurement Code to be sealed. The adding of the Common Seal will be witnessed by the Chief Executive or Assistant Director of Law and Governance or some other person authorised by him/her.

## Part 2 – Contract Procedure Rules

### 1. Introduction and Definitions – Purpose of the Contract Procedure Rules

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
- (a) Furthers its corporate objectives
  - (b) Uses its resources efficiently
  - (c) Purchases quality goods, services and works, consistent with the priorities of the Council and which provide value for money
  - (d) Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- 1.3 These Contract Procedure Rules are made in accordance with the requirements of section 135 of the Local Government Act 1972.
- 1.4 These Contract Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Procurement Guide.
- 1.5 In these Contract Procedure Rules the following words and phrases have the following meaning:
- (a) PCR – means the Public Contracts Regulations 2015
  - (b) PCR Threshold – means the financial threshold above which PCR apply, as set out in Rule 7.4 below
  - (c) Finance Procedure Rules – means the Finance Procedure Rules set out in the Council's Constitution as updated from time to time
  - (d) Find a Tender – means the advertising platform for notices above the PCR Threshold
  - (e) LTR services (Light Touch Regime services) – means services as defined under Schedule 3 of the Public Contracts Regulations 2015 being services to which the Light Touch Regime applies
  - (f) Procurement Guide – means the Council's Procurement Guide as updated by the Head of Procurement Service from time to time

- (g) Responsible Officer – means an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council
- (h) Scheme of Delegation – means the Scheme of Delegation set out in the Council's Constitution as updated from time to time
- (i) E-tendering System – means the web-based system which enables the electronic despatch and receipt of Tender documents

## **2. General Principles – Application and Compliance with Contract Procedure Rules**

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in Rule 2.3.
- 2.3 These Contract Procedure Rules do not apply to:
  - (a) Employment contracts
  - (b) Contracts relating solely to interests in land
  - (c) Contracts for retention of legal counsel, legal services or the appointment of expert witnesses in legal proceedings
  - (d) Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies

## **3. General Principles Applying to All Contracts**

- 3.1 All purchases however small shall be made or evidenced in writing.
- 3.2 Standard contract clauses shall be used in all contracts of a value of £25,000 or more. The standard contract clauses are issued by Legal Services and can be found on the intranet.
- 3.3 As a minimum, all contracts of a value of £25,000 or more shall include clauses which set out:
  - (a) The works, supplies (goods), services, material, matters or things to be carried out or supplied
  - (b) The time within which the contract is to be performed
  - (c) Quality requirements and/or standards which must be met
  - (d) Requirements on the contractor to hold and maintain appropriate insurance

- (e) What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
- (f) Requirements on the contractor to comply with all relevant equalities and health and safety legislation

3.4 That the Council shall be entitled to terminate the contract and recover its losses in the event that the contractor, its employees or anyone acting on its behalf does anything improper to seek to influence the Council to give the contract to any person, or as to the circumstances in which a contract may be given, or any contract or commits an offence under the Bribery Act 2010 or section 117(2) Local Government Act 1972, or commits any fraud in connection with any Council contract. All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Procurement Guide.

3.5 All contracts of a value of £25,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

#### **4. Regulatory Context**

4.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:

- (a) All relevant statutory provisions
- (b) The relevant PCR principles, which are defined in the Council's Procurement Guide
- (c) The Council's Constitution including these Contract Procedure Rules, the Council's Finance Procedure Rules and Scheme of Delegation
- (d) The Council's Procurement Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, the PCR will take precedence, followed by other applicable UK legislation, then the Council's Constitution, the Council's Procurement Guide and guidelines, policies and procedures.

#### **5. Responsibilities of Directors, Assistant Directors and Responsible Officers**

5.1 Each Director shall:

- (a) be responsible for the purchasing undertaken by his/her Directorate
- (b) be accountable to the Cabinet for the performance of his/her duties in relation to purchasing
- (c) comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegation

- (d) appoint in writing an Assistant Director who shall be an authorised signatory in respect of commissioning related to that Service, subject to Rule 8 below, and who will be responsible for ensuring the correct carrying out of purchasing duties (Rule 5.3 below) of Responsible Officers within that Service
  - (e) take immediate action in the event of breach of these Contract Procedure Rules, by reporting this breach to the Corporate Director Resources and Place Delivery who will review the breach and if it is serious will report this to the Standards and Audit Committee
- 5.2 A Responsible Officer is an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.
- 5.3 A Responsible Officer's duties in respect of purchasing are to ensure:
- (a) compliance with all Regulatory Provisions and integrity of the tender process
  - (b) compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest (including gifts and hospitality) affecting any purchasing process
  - (c) that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
  - (d) that the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings
  - (e) compliance with the Council's decision-making processes
  - (f) that all contracts of a value of £25,000 or more are included on the Council's Contract Register which is maintained by Procurement Services
  - (g) that that proper records of all contract award procedure, waivers/exemptions and extensions are maintained, with separate files for each purchase of a value of £25,000 or more
  - (h) that value for money is achieved
  - (i) that advice is sought from the Corporate Director Resources and Place Delivery as to whether adequate and appropriate security (such as a bond or guarantee), is to be taken to protect the Council in the event of non-performance, and in the case of tenders, such security to be required as part of the tender process
  - (j) that appropriate advice is sought and followed from Legal Services, Finance and Procurement Services
  - (k) that the Council's Document Retention Policy is complied with
  - (l) that for tenders above £75,000 a financial evaluation is or has been made of the financial standing of tenderers as advised by the Corporate Director Resources and Place Delivery

- (m) that all reports seeking Cabinet approval to award a contract shall include a statement from the Responsible Officer that in their opinion, the tender process has been fair and transparent and in compliance with the relevant PCR Rules, UK legislation and these Contract Procedure Rules, or alternatively shall include a statement from the Responsible Officer which clearly sets out any anomalies that have occurred. In respect of contracts for which Cabinet approval is not required (for example, contracts under £500,000) the Responsible Officer will ensure that a similar statement is included on the relevant file

- 5.4 In considering how best to procure works, supplies and services Directors, Assistant Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and eprocurement / purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.
- 5.5 It is a disciplinary offence to fail to comply with these Contract Procedure Rules and the Council's Procurement Guide. All employees have a duty to report breaches of Contract Procedure Rules to their Director.
- 5.6 Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the relevant Director.

## **6. Scheme of Delegation**

- 6.1 Council purchasing may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other Officers if expressly allowed to do so in the Scheme of Delegation. If allowed then the delegation should only be to Officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the Officer delegating the task and notified to the relevant Director.
- 6.2 Officers shall, where appropriate, be informed by their Director of the extent of any delegated authority and the financial thresholds set out in the Finance Procedure Rules and Contract Procedure Rules and Scheme of Delegation will apply.

## **7. Financial Thresholds and Procedures**

- 7.1 The table below sets out the general Rules applying to the choice of purchasing procedure for contracts at the stated threshold values.
- 7.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities should be advertised by way of a public notice.
- 7.3 The public notice referred to at Rule 7.2 may take the form of a notice or advertisement in an electronic format, on an easily accessible website or other electronic media and/or in the press, trade journals or Find a Tender (the latter being required where the PCR Threshold applies). The Responsible Officer may choose to place one or more public notices in different media.
- 7.4 Table setting out financial thresholds and procedures

Total value	Type of contract	Procedure to be used
Under £25,000	supplies and services	At least one written quote in advance
£25,000 to £74,999	supplies and services	At least three written quotes in advance
£75,000 to £214,904**	supplies and services	Competitively advertised tender, in accordance with advice from Procurement Services, Legal Services and Finance
Over £214,904**	supplies and services	<p>PCR Rules apply – full competitive process following advertisement in Find a Tender for supplies and non-LTR services*.</p> <p>For contracts relating to LTR services above the £663,540 (inclusive of VAT) threshold, certain mandatory requirements will apply under PCR. For contracts falling below £663,540 (inclusive of VAT) there is a presumption in favour of advertising and a competitive process</p> <p>Either of the above are to be carried out in accordance with advice from Procurement Services, Legal Services and Finance</p>

\* For the purposes of PCR, LTR services are defined separately and PCR apply to a different degree

\*\* The PCR Threshold for supplies and services or relevant threshold in force at the time under the regulations. When calculating the estimated value of the contract to determine whether the PCR regulations apply, the contract value estimation shall be inclusive of VAT.

Total value	Type of contract	Procedure to be used
Under £25,000	works	At least one written quote in advance
£25,000 to £499,999	works	At least three written quotes in advance
£500,000 to £5,372,609**	works	Competitively advertised tender in accordance with advice from Procurement Services, Legal Services and Finance

Total value	Type of contract	Procedure to be used
Over £5,372,609**	works	PCR apply – full competitive process with tenders following Find a Tender advertisement, and in accordance with advice from Procurement Services, Legal Services and Finance
** PCR Threshold for works or relevant threshold in force at the time under the regulations. When calculating the estimated value of the contract to determine whether the PCR regulations apply, the contract value estimation shall be inclusive of VAT.		

Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the PCR to services contracts.

The relevant Chief Officer/Director shall define the level of advice and service which Responsible Officers will be required to seek from the Procurement Service or other third party, having reference to specified financial thresholds, and will publish this in a scheme which he or she will update from time to time.

7.5 Where contracts are of a type and value which means that they are subject to the PCR Rules then there are six types of PCR procedures available. These are the open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership and negotiated procedure without prior publication. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of PCR procedure must be sought in the first instance from Procurement Services and if required from Legal Services

7.6 For contracts of £25,000 and above there are requirements to publish notices on Contracts Finder. Officers will ensure advice is obtained from Procurement Services.

## 8. Financial Thresholds and Processes for Approval and Execution of Contracts

8.1 Subject to the Finance Procedure Rules and provisions within the Council's Constitution regarding key decisions, Officers must obtain approval to proceed to tender, approval to award a contract, and approval in respect of any waivers or extension, in writing from:

- (a) Cabinet or a Cabinet Member having the delegated power (referred to below as the Delegated Cabinet Member) to do so, for contracts at or above a value of £500,000
- (b) a Director acting in conjunction with the Cabinet Member who holds the relevant portfolio, up to a contract value of £500,000, the power to be exercised personally by the Director and Cabinet Member and not his/her delegate where the value exceeds £350,000
- (c) a Director up to a contract value of £500,000 the power to be exercised personally by the Director and not his/her delegate where the value exceeds £350,000

- (d) An Assistant Director up to a value of £350,000 the power to be exercised personally by the Assistant Director and not his/her delegate
- (e) a Director or Assistant Director where:
  - (i) the Delegated Cabinet Member has been consulted by means of a written report; and
  - (ii) the written report sets down the nature of the contract, the tenders received and a recommendation as to the course of action proposed; and
  - (iii) the Delegated Cabinet Member has signified in writing his/her approval to the course of action proposed

8.2 All applications for approvals to proceed to tender must be:

- (a) Fully documented
- (b) Append a commissioning report (a "Stage 1" report) in an approved format to be submitted in advance to either the Cabinet, Cabinet Member or to the relevant Director or Assistant Director in accordance with Rule 8.1 above and which shall set out the following:
  - (i) an appropriate and proportionate business case setting out the commissioning need and costings
  - (ii) a draft specification detailing the quality required that is proportionate to the priorities of the Council
  - (iii) appropriate project management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004) and proposed project management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed procurement
  - (iv) appropriate contract management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004), arrangements for post-contract evaluation, and proposed contract management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed contract
  - (v) confirmation from Legal Services, Procurement Services and Finance that they have been consulted and agree with the commissioning report in so far as it relates to those respective fields

- (vi) confirmation that the requirements of Rule 5 above has been or will be met
  - (c) In addition to the above, where the application is for the approval to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application must also include written authorisation from the Corporate Director Resources and Place Delivery, provided that such authorisation is compliant with the requirements of the Public Contract Regulations 2015, and which will set out one of the following grounds for the authorisation:
    - (i) it is known (not assumed) that only one supplier can meet the requirement
    - (ii) Continuity of knowledge or synergy with previous work is an overriding consideration
    - (iii) The Council has received an unsolicited proposal that contains ideas or concepts in respect of which the intellectual property is owned exclusively by the proposed single tenderer, that the Council wishes to use because it meets immediate needs
    - (iv) The Council urgently needs to meet its statutory obligations
  - (d) In addition to the above, in cases where an officer preparing a Cabinet Report seeking approval to proceed to tender also makes a recommendation that Cabinet delegated the authority to make the subsequent decision to award a contract, the rationale for this should be made clear to Cabinet to allow them to make an informed decision to so delegate. Officers should word any request for a delegation of authority such that Cabinet members are "asked to consider" whether the delegation should be given, so that Cabinet may actively decide whether or not to grant it having regard to the rationale provided.
- 8.3 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Procedure Rules ensure, in particular, that:
- (a) the appropriate approvals, including approval to proceed to tender and approval to award the contract, have been obtained to authorise that decision; and
  - (b) where appropriate, a standstill period complying with PCR is incorporated into the final award process
- 8.4 Any contracts valued at £150,000 or above shall be executed as a deed. All other contracts may be signed by Officers with appropriate delegated authority.
- 8.5 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the appropriate Director or his delegate.
- 8.6 In the case of major projects and complex procurements – for example, involving the procurement of frameworks or use of the competitive dialogue, innovation partnership or the competitive procedure with negotiation, the relevant Director and Assistant Director

should follow advice from Procurement Services, Legal Services and Finance as to whether:

- (a) a project specific scheme of delegation should be sought and approved by Cabinet – for example, delegating powers of approval to a Delegated Cabinet Member – at the beginning of the commissioning process in order to ensure timely approvals at key stages of the procurement process
- (b) a proportionate gateway review process should be utilised

8.7 In conjunction with Finance Procedure Rules, in the case of a civil emergency brought about by events unforeseeable by, and not attributable to the Council, and requiring an immediate response in order to protect the Council or its residents, the relevant Director may, upon receiving the consent of the Chief Executive and upon notifying the Corporate Director Resources and Place Delivery, where it is strictly necessary:

- (a) authorise the entry into contracts above £750,000 on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 8.2 above) to be submitted by the Director or the relevant Assistant Director to Cabinet at either the next available Cabinet meeting or the Cabinet meeting following, and
- (b) authorise the entry into contracts up to £750,000 on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 8.2 above) to be submitted by the relevant Assistant Director or Responsible Officer to the Director as soon as practicable.

## **9. Calculating the Contract Value**

9.1 The starting point for calculating the contract value for the purposes of these Contract Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).

9.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of PCR and/or these Contract Procedure Rules.

9.3 The PCR cover contracts which, individually, are below the stated PDR threshold but which constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the PCR where they envisage that they may require repeat purchases and/or purchases of a similar type.

## **10. Principles Underlying Tendering Processes and Tender Evaluation**

10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure that the following is secured:

- (a) Sufficient time is given to plan and run the process
- (b) Equal opportunity and equal treatment

- (c) Openness and transparency
- (d) Probity
- (e) Outcomes which deliver sustainability, efficiency and cost savings (where appropriate).

## **11. Submission and Opening of tenders**

- 11.1 An Invitation to Tender shall be issued by the Council for all service or supply contracts over £75,000 or works contracts over £500,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.
- 11.2 All invitation to Tenders (including invitation to quote for Procurements exceeding £25,000) shall be issued and received utilising the Council's e-tendering system. Tenders will be retained unopened until after the date and time specified for receipt of tender in the invitation to tender. In exceptional circumstances (in agreement with the Head of Procurement service tenders may be (received electronically, to which Rule 11.3 shall apply).
- 11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:
- (a) addressed to the email address as notified in the Invitation to Tender
  - (b) in the format specified in the Invitation to Tender
  - (c) stored in a secure mailbox controlled by Procurement Services, which requires a code or other appropriate security measure, to open it
  - (d) retained unopened until after the closing date and time specified for receipt of tender
- 11.4 No tender received after the closing time and date specified for receipt of tenders shall be accepted or considered by the Council unless the relevant Director in consultation with the Head of Procurement Service is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply, and the other tenders have not been opened.
- 11.5 Tenders shall be opened by the relevant Director or nominee working in conjunction with Procurement Services after the closing date and time specified for receipt of tenders in the invitation to tender.
- 11.6 If it is necessary that the period of time for submitting tenders be extended, this should be communicated to all tenderers in writing in a fair and equal manner.

## **12. Evaluation of Quotes and Tenders**

- 12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenderers.
- 12.2 Tenders subject to the PCR shall be evaluated in accordance with the PCR Rules.

- 12.3 Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents best value for money or where the contract value exceeds the PCR threshold on the basis of the most economically advantageous tender to the Council and not on the basis of lowest price.
- 12.4 Tenders received in an incomplete form must be evaluated in accordance with the Invitation to Tender documents as set out in the Procurement Guide.

### **13. Waivers**

- 13.1 The requirement for the Council to conduct a competitive purchasing process for contracts in excess of £25,000 may be waived in the following circumstances:
- (a) for contracts which are not subject to the PCR, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury, damage to property or breach of the Council's statutory obligations and duties, or
  - (b) subject to the Public Contracts Regulations 2015 at the discretion of the relevant Director who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing
- 13.2 A Responsible Officer who seeks a waiver of Contract Procedure Rules, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Procedure Rules is set out in the Council's Procurement Guide.
- 13.3 All waivers from these Contract Procedure Rules must be:
- (a) Fully documented
  - (b) Subject to a written report in an approved format to be submitted in advance in accordance with Rule 8.1 (Approval) to Cabinet, Cabinet Member or to the relevant Director or Assistant Director. The report shall include reasons for the waiver which demonstrate that the waiver is genuinely required
  - (c) Subject to written approval in advance (in the approved format) in accordance with Rule 8.1 (Approval) by Cabinet, the Cabinet Member or the relevant Director, Assistant Director, Section 151 Officer or Procurement Service who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
  - (d) where the waiver is being sought in order to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application for approval will be brought in accordance with Rule 8.2 above
- 13.4 Notice of award of all contracts with a value of £25,000 or above must be published on Contract Finder.
- 13.5 All decisions on waivers must take into account:

- (a) Probity
- (b) Best value/value for money principles

13.6 For contracts subject to the PCR, any waiver from the requirement for competition must meet the conditions set out in the PCR in addition to the general requirements above.

13.7 A waiver shall not be applied for reasons of poor contract planning.

## **14. Extensions to Existing Contracts**

14.1 Where extensions to existing contracts are made, the extensions must be determined in accordance with the contract terms or agreement of the parties, for a specified period and made in accordance with the principles set out in the Council's Procurement Guide and the Public Contracts Regulations 2015 as applicable. Extension of existing contracts shall include modification and variation of contracts.

14.2 Any extension must be:

- (a) Fully documented
- (b) Subject to a written report in an approved format to be submitted in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or the relevant Director or Assistant Director. The report shall include reasons for the extension which demonstrate that the need for the extension is genuinely exceptional
- (c) Subject to written approval in advance (in the approved format) in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or by the relevant Director or Assistant Director, who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional.

14.3 Any extension must take into account:

- (a) Probity
- (b) Best value/value for money principles

14.4 For contracts subject to PCR, any extension must meet the conditions set out in Regulation 72 of the Public Contracts Regulations 2015 in addition to the more general requirements set out above.

## **15. Purchasing Schemes (including Framework Agreements)**

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Procurement Guide.

15.2 Responsible Officers must check in advance that:

- (a) The Council is legally entitled to use the Purchasing Scheme
- (b) The purchases to be made do properly fall within the coverage of the Purchasing Scheme

- (c) The establishment and operation of each Purchasing Scheme is in compliance with the PCR (where they apply) and meets the Council's own requirements

## **16. Review and Changes to these Contract Procedure Rules**

- 16.1 These Contract Procedure Rules shall be reviewed and updated on a regular basis. Save in the case of revisions to the PCR Thresholds in Rule 7, amended Contract Procedure Rules shall be agreed and adopted by the Council by resolution following the consideration of a Cabinet Report brought by the Section 151 Officer and Corporate Director Resources and Place Delivery in consultation with the Assistant Director of Law and Governance and Head of Procurement Service. Revisions to the PCR Thresholds shall be dealt with in accordance with the Scheme of Delegation.

## Part 3 – Finance Procedure Rules

### Introduction

The Council controls many millions of pounds of public money. These Financial Procedure Rules aim to ensure that the Council manages its affairs with the highest standards of financial integrity and accountability expected by the taxpayers who fund our services.

The Local Government Act 1972 (Section 151) requires that the Council appoints a suitably qualified person to be responsible for the proper administration of the Council's financial affairs. In Thurrock Council, the responsible financial officer is the Corporate Director Resources and Place Delivery. The Local Government Finance Act 1988 (Section 114) prescribes that the responsible financial officer "must make a report if he considers that a decision has been made or is about to be made involving expenditure which is unlawful or which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency to the authority".

Any reference to the Corporate Director Resources and Place Delivery in these Financial Procedure Rules includes his or her nominated deputy, except for the making of a report under section 114 of the Local Government Finance Act 1988.

These Financial Procedure Rules are made to regulate the Council's financial administration and control processes. They set out the standards to:

- ensure that the Council's resources are used wisely and for the purposes intended
- ensure best practice for dealing with financial matters
- improve value for money, service delivery and customer satisfaction
- secure the financial standing of the Council

The Financial Procedure Rules aim to maintain an appropriate balance between managing risk sensibly, innovation and meeting the Council's statutory duties and corporate objectives.

These regulations apply to all employees, Members of the Council and others acting on the Council's behalf (there are separate regulations applicable for Schools). Directors are responsible for bringing the regulations to the attention of all staff, ensuring the necessary training is given and monitoring compliance. All Budget Holders must have access to a copy of these Financial Procedure Rules.

The Rules themselves are not of any use unless all of us understand them and adhere to them in our everyday work.

If we knowingly fail to comply with the regulations, this constitutes misconduct and may result in disciplinary action.

The Council's Financial Procedure Rules set out the control framework in seven key areas:

- Roles and responsibilities (Section 1)
- Financial planning (Section 2)
- Financial management (Section 3)

- Risk and opportunity management including insurance (Section 4)
- Control of resources and asset management (Section 5)
- Financial administration (Section 6)
- External arrangements (Section 7)

The Financial Procedure Rules are supplemented by further guidance notes. Issued by the Corporate Director Resources and Place Delivery, they act as further guidance for the implementation of financial procedures by officers acting on behalf of the Council.

The Financial Procedure Rules should be used in conjunction with:

- The rest of the Council's Constitution, including Contract Procedure Rules and the Code of Conduct.
- Agreed Schemes of Delegation (including financial delegation)
- The Council's Whistle Blowing Policy
- The Audit Protocol
- The IT Security Policy
- Departmental Guidance and Procedure Notes
- The Council's Document Retention Policy

If anyone is in doubt about the application of Financial Procedure Rules or any of these documents, please seek advice from your Group Finance Manager or the Corporate Director Resources and Place Delivery.

The Financial Procedure Rules may be revised from time to time by the Corporate Director Resources and Place Delivery provided that no such revision may affect the powers of the Cabinet, Cabinet Members, Committees or Sub-Committees without the approval of the Council and that any such revision must be reported to the Cabinet and the Standards and Audit Committee as soon as practicable.

## **1. Section 1 – Roles and Responsibilities**

1.1 Sound financial planning, management and administration are essential in order to:

- Plan and maintain the effective use of resources to achieve agreed service standards.
- Comply with legal and corporate accounting requirements.
- Provide accurate and complete accounts that demonstrate accountability to the public.
- Ensure the appropriate use and security of financial and physical assets.

- Help the Council conduct its affairs in an efficient, effective and economic manner.

The key areas of responsibility, and associated specific financial procedure Rules, are set out below.

### **Roles and Responsibilities**

- 1.2 Members and officers of the Council shall carry out the roles and responsibilities as set out below.

#### **Members**

- The Council sets the overall policy and Budget framework.
- The Council approves the Financial Procedure Rules.
- The Cabinet and Overview and Scrutiny Committees monitor the achievement of policies and objectives within the resources allocated.
- The Cabinet monitors financial performance and service performance and makes changes, within the policy and Budget framework to ensure the Budget is met or met within the limits determined by the Council, including the agreed reserves strategy.
- The Standards and Audit Committee seeks assurance on behalf of the Council that the control environment and governance of the Council are sound and operating well and aims to ensure the Council's ethical governance arrangements are sound and operate well

#### **The Chief Executive**

- Provides strategic management and establishes a framework for management direction, style and standards.
- Secures a process for resource allocation that ensures due consideration of national and policy and corporate priorities.
- Ensures arrangements are in place to monitor and manage the performance of the Council.

#### **The Corporate Director Resources and Place Delivery (Section 151 Officer)**

- Ensures the co-ordination and integration of service planning, financial planning, asset management, value for money and corporate governance
- Co-ordinates the development of the Council's Local Code of Corporate Governance
- Ensures that the Council's financial arrangements secure the proper stewardship and control of all public funds.
- Provides financial advice and support so that resources are managed effectively in delivering the Council's services.

- Sets corporate financial management standards and agrees with Directorates detailed procedures to meet these standards.
- Ensures that there is an adequate internal audit service to the Council.
- Approve financial systems or proposals to introduce new processes or systems (including IT systems) to ensure sound financial controls.

### **Directors**

- Establish clear accountabilities for all managers that include objectives of and responsibility for systems and information.
- Ensure all their staff understand and comply with Financial Procedure Rules, Contract Procedure Rules, Council policies and Directorate departmental instructions.
- Identify the short, medium and long term financial implications of policy, legislative requirements and service standards.
- Plan and maintain the effective use of resources to achieve agreed service delivery standards within the agreed Budgets set by Council.
- Achieve and demonstrate value for money for commissioned and provided services.
- Take or recommend actions where necessary to stay within agreed Budgets set by the Council.
- Clearly understand the consequences of a lack of financial control.
- Ensure that all employees understand and have access to a copy of the Council's Anti-Fraud and Corruption Strategy and associated guidance.
- Ensure that Budget Holders have effective procedures for safeguarding the Council's resources.
- Operate processes to check that established controls are in place and evaluate their effectiveness.

### **Directors' Board**

- Take an overview of overall performance, including financial performance.
- Decide or recommend management and/or policy action across the Council to ensure the Council remains within its Budget and Medium Term Financial Strategy.

### **Assistant Directors and Budget Holders**

- Determine the appropriate level of control within their areas of responsibility in accordance with advice and guidance provided by the Corporate Director Resources and Place Delivery, their Directors and the Council's auditors.

- Ensure all their staff understand and comply with Financial Procedure Rules, Contract Procedure Rules, Council policies and Directorate departmental instructions.
- Monitor compliance within these regulations, policies and instructions.
- Identify the short-, medium- and long-term financial implications of policy, legislative requirements and service standards.
- Plan and maintain effective use of resources to achieve agreed service delivery standards within the agreed Budgets set by Council.
- Achieve and demonstrate value for money for commissioned and provided services.
- Take or recommend actions where necessary to stay within agreed Budgets set by the Council.
- Clearly understand the consequences of a lack of financial control.
- Ensure that all employees understand and have access to a copy of the Council's Anti-Fraud and Corruption Strategy and associated guidance.
- Ensure that Budget Holders have effective procedures for safeguarding the Council's resources.
- Operate processes to check that established controls are in place and evaluate their effectiveness.

### **All Employees**

- Have a responsibility for following Financial Procedure Rules, Contract Procedure Rules, Code of Conduct, Council policies and Directorate instructions.
- Ensure Council resources are only used in carrying out the business of the Council.
- Help the Council achieve open and honest administration by supporting approved fraud prevention strategies and avoiding potential conflicts of interest.
- Assist the Council's audit processes.
- Keep accurate and comprehensive records to support the transactions undertaken on the Council's behalf.

### **Internal Audit Services**

- Provide advice to management on the operation of financial controls to prevent things going wrong and investigate any suspected irregularities.
- Conduct independent reviews of Directorate internal control arrangements.

### **External Audit**

- Report on whether the Council's accounts and statements present a true and fair view of the Council's financial position.
- Carry out agreed ad hoc projects.

### **Financial Advice**

- 1.3 The advice of the Corporate Director Resources and Place Delivery must be sought regarding any matter which could materially affect the finances or financial systems of the Council before any commitment is made.
- 1.4 Directors shall ensure the early and continuous involvement of the Finance and Legal functions in proposals leading to reports to Members and in particular large, complex or sensitive proposals. The Corporate Director Resources and Place Delivery and the Monitoring Officer must be given a minimum of at least 5 working days (except in the case of an emergency) to provide comments for inclusion in any report to Members.

The Section 151 Officer and/or the Monitoring Officer have the right to withdraw any report where notice has not been given or the full financial and/or legal implications cannot be provided in the timescale available.

- 1.5 Any amendments to approved financial systems or proposals to introduce new processes or systems (including IT systems) must be agreed in advance with the Corporate Director Resources and Place Delivery. Internal Audit must be informed of and involved as appropriate in all changes to systems of internal control before they happen in order that advice can be provided.

### **Employees Responsibilities**

- 1.6 Under no circumstances must employees use Council resources or assets for their personal benefit.
- 1.7 Employees must not allow any personal debt owed to the Council to become unmanaged. Personal debt includes, but is not limited to, rent arrears, Council tax arrears, arrears arising for leaseholder agreements with the Council, employee loan arrears or employee leasing arrangements. Where any such arrears have been accrued prior to employment with the Council and are still outstanding, employees should undertake to clear those arrears within an agreed and reasonable period of time.
- 1.8 Employees must report to their Director any occasions where they believe that Financial Procedure Rules, Contract Procedure Rules, Council policies or Directorate instructions are not being followed, or where Council resources are at risk. Provided employees act in good faith, they will be fully supported when reporting under this regulation and/or the Council's Whistle Blowing Policy. The relevant Director shall ensure the Corporate Director Resources and Place Delivery is notified immediately in order to agree any investigative action considered appropriate.

## **Internal and External Audit**

- 1.9 To fulfil their responsibilities, Internal and External Auditors have the right to automatic and full access to all records (however held) relating to any transaction carried out on or behalf of the Council and to any of the Council's premises or land. They may seek and obtain any explanations they need to conduct their work, or require any employee to produce Council assets under their control, wherever located.
- 1.10 All audit reports must be considered and responded to in accordance with the agreed Internal Audit and External Audit Protocols.

Once agreed, recommendations must be implemented within the timescales agreed with the auditors or any alternative timescales agreed with the auditor.

The Chief Internal Auditor can report independently direct to the Chief Executive, any Director, the District Auditor, the Cabinet, any Cabinet Member, the Council or any Committee of the Council on matters concerning fraud, management or financial control.

## **2. Section 2 – Financial Planning**

A Medium Term Financial Strategy and Budgets are needed so that the Council can plan, monitor and control the way resources are allocated and spent to meet the Council's objectives and to secure value for money. Budgets reflect Council priorities and give authority to Budget Holders to incur expenditure to meet service standards and targets.

In order to ensure a consistent approach across the Council, the Corporate Director Resources and Place Delivery shall determine the detailed form and procedures relating to the development of the Medium Term Financial Strategy, revenue and capital Budgets by the issue of standard formats (including timetables, information requirements and challenge processes). Directors and Assistant Directors shall prepare their reports to these standards.

### **Medium Term Financial Strategy and Budget Preparation (Capital and Revenue, including the Housing Revenue Account)**

- 2.1 Detailed processes for the preparation of the Medium Term Financial Strategy (including Directorate Medium Term Financial Strategies), revenue and capital Budgets shall be issued by the Corporate Director Resources and Place Delivery. These will take into account:
- The need for Directors to demonstrate value for money, efficiency and effectiveness in current services and proposals for change.
  - The service impact on national and local policy priorities, including statutory requirements.
  - Policy choices available to the Council, including the implementation of statutory requirements.
  - The risk and opportunities in implementing changes.
  - The impact of proposals in the medium term.

- Exit strategies related to one-off or time limited funding.
- 2.2 Directors and Assistant Directors shall prepare annual revenue and capital Budgets as part of their Medium Term Financial Plan as directed by the Cabinet acting on the advice of the Corporate Director Resources and Place Delivery. Budget Holders must provide additional information when requested by the Corporate Director Resources and Place Delivery, in order to complete Government and statistical returns.
- 2.3 The Corporate Director Resources and Place Delivery shall collate the revenue and capital estimates and present them to Cabinet as part of the Budget and Medium Term Financial Strategy process prior to submission to the Council for approval.
- 2.4 Directors and Assistant Directors in accordance with the format and guidelines issued by the Corporate Director Resources and Place Delivery for the submission of new schemes and for the review of the ongoing programme, shall undertake an annual review of the medium term capital programme and consequential revenue implications for inclusion in the Medium Term Financial Plan as directed by the Cabinet on the advice of the Corporate Director Resources and Place Delivery. The annual review shall take account of:
- The ongoing need for a scheme and programmes.
  - An assessment of cost predictability – that is, total scheme costs, including land, works, fees and all associated costs.
  - The need for a risk based contingency within the available resources or where no risk assessment is carried out or contingency of 10-15% is provided for. Such a contingency should not be used for changes in specification.
  - An assessment of time predictability i.e. a realistic assessment of the phasing of capital expenditure and income over financial years.
  - The revenue implication of the capital programme to be met within Directorate Budgets.
  - Implications for the Council's VAT Partial Exemption Limit.
- 2.5 Detailed guidance for the preparation of the Capital Programme including the need for a full project appraisal shall be issued by the Corporate Director Resources and Place Delivery to include:
- The need for a scheme or programme of works against the Council's priorities and available resources.
  - An assessment of cost predictability – that is, total scheme costs, including land, works, fees and all associated costs.
  - The need for a risk based contingency within the available resources or where no risk assessment is carried out or contingency of 10-15% is provided for. Such a contingency should not be used for changes in specification.
  - An assessment of time predictability – that is, a realistic assessment of the phasing of capital expenditure and income over financial years.

- The revenue implications of the capital programme.
- Implications for the Council's VAT Partial Exemption Limit.

2.6 Capital Expenditure shall only be incurred in accordance with the approved Capital Programme. The Corporate Director Resources and Place Delivery shall be responsible for defining whether expenditure is classes as Capital or Revenue.

2.7 All Capital Receipts shall be pooled unless otherwise agreed by the Cabinet, for example, to meet contractual obligations or reduce any set aside of capital receipts or where legislation requires a different approach.

### **Reserves and Provisions**

2.8 The Corporate Director Resources and Place Delivery is responsible for recommending to the Cabinet and Council the adequate level of unallocated General Fund and Housing Revenue Account (HRA) Reserves, the Reserves Strategy and any limitations or conditions on the use of such unallocated reserves. His or her recommendations shall be based upon:

- The assessment of the robustness of the Budget and adequacy of reserves under Section 25 of the Local Governance Finance Act 2003.
- The projected level of reserves for the year and in the medium term compared to a risk assessment based on the Budget risk register and the corporate risk register.
- An ongoing assessment of the above.

2.9 The Corporate Director Resources and Place Delivery is responsible for recommending to the Cabinet and Council on the adequate level of specific provisions and earmarked reserves. Such recommendations shall also include the decision-making and authorisation processes for the use of those provisions and reserves.

2.10 Directors shall only propose the use of earmarked reserves and provisions for the purpose of such reserves or provisions, unless otherwise agreed by the Cabinet after taking advice from the Corporate Director Resources and Place Delivery.

2.11 Directors with the Responsible Budget Holder shall review and certify annually all their relevant earmarked reserves and provisions following guidance provided by the Corporate Director Resources and Place Delivery.

## **3. Section 3 – Financial Management**

3.1 Sound financial management is important in order to ensure:

- Council objectives are secured within the Budgets agreed by the Council.
- The Council achieves value for money.

### **Revenue Budget Management**

3.2 Directors and Assistant Directors must formally allocate responsibility for all their individual Budgets to Responsible Budget Holders who must monitor and manage expenditure,

income and risk in the context of amounts allocated. Any potential variations must be brought to the attention of line managers so that appropriate action can be identified and taken.

3.3 Assistant Directors must ensure that Responsible Budget Holders:

- Are aware of their responsibilities, cash limits and levels of service delivery which they have to monitor.
- Receive adequate support and training to carry out their financial responsibilities.
- Complete a Registration of Responsible Budget Holder record, to certify their understanding of Financial Procedure Rules and Contract Procedure Rules.
- Comply with the Council's standards of financial management.

3.4 Assistant Directors and Budget Holders must regularly monitor (at least monthly but more frequently where necessary) actual income and expenditure against that Budgeted, for all Budgets for which they are responsible and ensure that all Budget targets are achieved. As part of such monitoring, Assistant Directors and Budget Holders must:

- Project likely future income and expenditure in order to identify immediately any potential over or under spends.
- Take corrective action without delay and, if action beyond their authority is required, report to their line manager immediately.
- Report any actual or projected material variances from income and expenditure Budgets to Corporate Finance, including any impact on future years.

3.5 Where supplementary accounting records are maintained, Assistant Directors and Budget Holders must reconcile these to the Council's main accounting systems, or bank statements, on a regular basis (at least monthly but more frequently where necessary). If, with the approval of the Corporate Director Resources and Place Delivery, a Directorate uses a financial system other than the Council's corporate financial system, the Director and the Group Finance Manager of that Directorate must ensure that financial information from their system is regularly and accurately transferred to the Council's corporate financial system.

3.6 In an emergency Directors may take any reasonable action necessary to protect the interests of the Council and its residents, reporting the financial consequences to the Corporate Director Resources and Place Delivery and the Cabinet as soon as possible.

3.7 As soon as a Budget Holder identifies a potential overspend in their cost Budgets they shall also:

- Take management actions that do not affect Council policy within their relevant Budgets to reduce or eliminate the overspend.
- If these are insufficient, identify and recommend potential policy choices within their relevant Budgets to reduce or eliminate the overspend to the Assistant Director.

- Report any changes to service delivery which increase spending or reduce income in the regular Budget Monitoring reports to Cabinet, detailing all the financial implications, including those falling on future years. At the same time offsetting savings within the Directorate Budget will be reported.
- 3.8 If the management actions in Rule 3.7 are insufficient to meet the projected overspend the Assistant Director shall:
- Take further management action within their Budgets to reduce or eliminate the projected overspend.
  - If these management actions are still insufficient, identify further potential policy choices within the range of their Budgets to reduce or eliminate the overspend to the Director.
- 3.9 If the management actions in Rule 3.7 and 3.8 are insufficient to eliminate the projected overspend, the relevant Director shall:
- Take further management action across all the Directorate's Budgets to reduce or eliminate the potential overspending.
  - If the management actions across all the Directorate's Budgets are insufficient to eliminate the overspend, to identify further policy options across the relevant Directorate's Budgets.
  - Consider the potential policy choices identified across the Directorate and include those policy choices and the relevant decision-making process in accordance with the constitution in the Budget monitoring report to Directors Board.
- 3.10 In the event that policy choices need to be put to Cabinet in the Budget monitoring report, the Directors' Board shall:
- Agree further management actions or underspendings across all the Council's Budgets to reduce or eliminate all overspends.
  - Identify policy choices across all the Council Budgets and the relevant decision-making process in accordance with the Constitution and report these to Cabinet as part of the regular or special Budget monitoring report.

### **Carry Forward of Revenue Budgets from One Year to the Next (Carry Forward)**

- 3.11 With the prior written approval of the Corporate Director Resources and Place Delivery, at the request of the Director, underspendings on revenue expenditure of £50,000 per Assistant Director in the aggregate may be carried from one financial year to another. Any carry-forward exceeding £50,000 per Assistant Director in the aggregate requires the approval of Cabinet, which may also require any overspend to be carried forward. Only delayed spending as a result of factors beyond management control or where the Council will suffer a financial loss may be carried forward.

### **Transferring Financial Resources between Revenue Budget Heads in Year (Virement)**

3.12 If extra expenditure is needed on an existing Budget head, then, providing equal savings can be made within the Directorate's Budget, Assistant Directors and Budget Holders may be able to transfer Budgetary provision. The following levels of authorisation are applicable:

- Up to £25,000 for any single item from or to any one Budget head at the discretion of the Responsible Budget Holder in agreement with the Assistant Director in consultation with the Group Finance Manager up to an aggregate of £50,000 in a financial year.
- Between £25,000 to £50,000 for any single item from or to any one Budget head at the discretion of the Assistant Director in agreement with the Director and in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £100,000 in a financial year.
- Between £50,000 to £100,000 for any single item from or to any one Budget head at the discretion of the Director in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £250,000 in a financial year.
- Above £100,000 for any single item or above an aggregate of £250,000 in a financial year per Director only with the prior agreement of Cabinet.

Each virement request must indicate whether the virement is permanent (that is, affects the base Budget, but without adding spending) or one-off for the relevant financial year.

The virement and carry-forward must be recorded in the Council's financial system.

Virement is permitted between the revenue Budget and the capital Budget but not from the capital Budget to the revenue Budget.

### **Limitations on Carry Forward and Virement of Revenue Budgets**

3.13 No carry-forward or virement will be allowed if:

- It results in a policy change which Members have not approved.
- It commits additional ongoing expenditure, or reduces income, in future years.
- It involves loan charges, capital expenditure, apportioned central charges, contributions to outside bodies or Council finance which the Directorate concerned has no control over.
- The underspending arises from a change in volume of service or reduced unit costs that were not anticipated when the Budget was set.
- The Directorate's total Budget is, or is projected to be overspent, the first call on any underspending is to rectify the Directorate's financial position.

- The total Budget (General Fund or HRA) is or is projected to be overspent. The first call on any virement of an underspending will be to rectify the overall financial position.

- 3.14 The Corporate Director Resources and Place Delivery is authorised to make technical adjustments to Budgets/cash limits that are not contrary to the policy and Budget framework including the transfer of Budget between Directorates to reflect transfers of functions.
- 3.15 No virement is permitted between employee and other Budget Heads relating to day to day running costs.

### **Capital Budget Management**

- 3.16 Where capital schemes are subject to full appraisal prior to approval by the Council as part of the capital programme this is sufficient for approval to go out to tender as required under the Contract Procedure Rules without a report to Cabinet. The award of contracts will still need to be approved in accordance with the thresholds and decision-making process set out in the Contract Procedure Rules.

If the sum approved is likely to be exceeded, prior confirmation from the Corporate Director Resources and Place Delivery is required to confirm that capital spending powers are available.

If the Council has approved a capital programme for future years and/or a reserve capital programme, this provides authorisation to carry out feasibility studies, outline design and application for planning consent (where required) provided the resources have been identified.

- 3.17 Any proposal to amend an approved Capital Programme by including a new project or deleting an approved project shall require the approval of the Cabinet. This must include all applications for schemes to be funded from Government sources, grants or other external funding.

Where additional funding for a scheme is fully funded by external resources and is consistent with the Council's corporate priorities, to the satisfaction of the Corporate Director Resources and Place Delivery, the scheme shall be added to the capital programme with a subsequent report to the Cabinet.

- 3.18 If, after a scheme has commenced, the original estimated total cost in respect of any scheme or programme appears likely to be exceeded, or where any avoidable variations or discretionary charges are to be incurred, then equivalent savings must be made within the Directorate's approved Capital Programme. The following levels of authorisation are applicable:
- Up to £25,000 for any single item from or to any one Budget head at the discretion of the Responsible Budget Holder in agreement with the Assistant Director in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £50,000 in a financial year.
  - Between £25,000 to £50,000 for any single item from or to any one Budget head at the discretion of the Assistant Director in agreement with the Director and in

consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £100,000 in a financial year.

- Between £50,000 to £100,000 for any single item from or to any one Budget head at the discretion of the Director in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £250,000 in a financial year.
- Above £100,000 for any single item or above an aggregate of £250,000 in a financial year per Director only with the prior agreement of Cabinet.

The applicable limitations on virement within capital Budgets are the same as for the Revenue Budget as set out in Rule 3.12

- 3.19 In any case where the total cost of works of a scheme or a programme of works to be carried out exceeds the original estimated sum (including any contingency) by 10% and it is not possible to identify a capital virement, the final cost or estimate thereof and reason for the increased expenditure shall be reported to the Corporate Director Resources and Place Delivery and the Cabinet at the earliest opportunity by the relevant Director.
- 3.20 Any slippage in estimated payments for the year must be reported at the earliest opportunity so that steps may be taken to avoid any loss of time-limited borrowing or capital grant approvals. The Corporate Director Resources and Place Delivery will be responsible for reporting the overall position to the Cabinet on no less than a quarterly basis.
- 3.21 No asset lease (operational or finance) shall be entered into unless approved by the Corporate Director Resources and Place Delivery. No property lease shall be undertaken without the prior approval of the Corporate Property Officer in consultation with the Corporate Director Resources and Place Delivery.

### **Treasury Management and Banking**

- 3.22 The Council has adopted the CIPFA Code of Practice on Treasury Management in Local Authorities.

The Corporate Director Resources and Place Delivery shall report to the Cabinet prior to the start of each financial year on the Annual Treasury Management Strategy prior to submission to the Council for approval. The Corporate Director Resources and Place Delivery shall have authority to make investments and arrange borrowings in such form as he/she deems appropriate within the limits imposed by the Council. The Corporate Director Resources and Place Delivery will report at least twice a year to the Cabinet on the implementation of the Treasury Management Policies and strategy, including when the final accounts for each financial year are submitted, the actual methods of funding and investment that have been used.

- 3.23 Only the Corporate Director Resources and Place Delivery is authorised to open, manage and operate the Council's bank accounts and all cheques and other forms of authority for payment out of the Council's bank accounts shall bear the signature of the Corporate Director Resources and Place Delivery or another officer authorised by him/her. Managers shall not maintain, or permit to be maintained, bank accounts in the name of the Council without the express authority of the Corporate Director Resources and Place Delivery.

## **Reporting**

- 3.24 There shall be at least four regular Budget monitoring reports to Cabinet during the year, including the provisional out-turn report. The Corporate Director Resources and Place Delivery shall report to Cabinet in between such regular reports should he or she require this to be necessary in the financial circumstances.
- 3.25 Virements between £50,000 and £100,000 will be reported to Cabinet as part of the agreed Budget monitor reporting arrangements.

## **4. Section 4 – Risk and Opportunity Management including Insurance**

- 4.1 The objectives of risk management and insurance are to ensure that risks to the Council are identified and quantified and that effective measures are taken to reduce, eliminate, accept or insure against them. This involves ensuring that:
- The possible impact of risks and opportunities is evaluated.
  - What needs to be done about risks and opportunities is determined.
  - Measures to avoid, transfer or reduce risk are identified and applied.
  - Measures to bring forward opportunities are identified and applied.
  - A programme for risk reduction and loss prevention is formulated.

## **General**

- 4.2 The Corporate Director Resources and Place Delivery is responsible for ensuring adequate risk and opportunity management and insurance arrangements are in place although this function may be carried out within another Directorate. Directors and Assistant Directors must ensure that Budget Holders and employees:
- Are aware of their responsibilities for insurance and risk management.
  - Receive adequate support and training to carry out their financial responsibilities.
  - Comply with the Council's standards for risk management.
  - Are personally protected from associated risks.
- 4.3 Directors and Assistant Directors are responsible for notifying the Corporate Director Resources and Place Delivery of:
- All new property, vehicles, plant or other risks that require insurance or an alteration to existing insurances.
  - All new partnership arrangements or changes to existing partnership arrangements that require insurance or an alteration to existing insurances.
  - Any loss or liability or damage that may lead to a claim against the Council.

- 4.4 Directors and Assistant Directors are responsible for ensuring that they and anyone covered by the Council's insurances:
- Do not admit liability nor offer any payment of compensation that may prejudice the Council's liability in respect of any future claim.
  - Do not enter into any indemnity without first consulting the Monitoring Officer and the Corporate Director Resources and Place Delivery.
- 4.5 Directors and Assistant Directors are responsible for the identification of potential risks of loss or damage to the resources and operations they control. The most common risks are:
- Loss of service.
  - Liability for injury to/death of employees and third parties, or damage to their property, caused by the negligence of the Council.
  - Council property damage or loss resulting from fire, flood, storm and similar perils.
  - Loss of Council equipment or property due to theft.
  - Additional or consequential expenses arising from a loss.
  - Loss of Council money due to theft, or dishonesty of staff.
- 4.6 Having identified all risks, Directors and Assistant Directors must assess the likelihood of their occurrence and evaluate the possible impact. This involves arranging them in order of priority, recording the risk and judging the likelihood and impact of:
- Financial cost.
  - Disruption to service delivery.
  - The reputation of the Council.

Each directorate and Assistant Director must maintain a risk register and mitigation plan as part of their service or Directorate Plans and ensure any critical risks are reflected in the Corporate Risk Register.

- 4.7 Directors with their Assistant Directors will prepare a risk assessment of the Budget and Medium Term Financial Strategy and agree this with the Corporate Director Resources and Place Delivery to inform the Annual Governance Statement and the Section 151 Officer's statement of the robustness of estimates and adequacy of reserves.

### **Managing Risk**

- 4.8 Directors, Assistant Directors and Budget Holders must take steps to minimise potential losses through preventative measures. Effective action will represent a judgement between the probable risk and the cost or effort required to safeguard against it. Potential measures may include:
- Taking care to guard against obvious risk, including statutory requirements.

- Prevention of loss through ensuring that the circumstances leading up to it are avoided.
- Preparing for the impact of likely incidents.
- Ensuring that incidents are discovered early through appropriate controls.
- Limiting losses once they arise through rapid and appropriate action and good record keeping.
- Having in place and regularly testing and reviewing disaster recovery and business continuity plans

4.9 Directors and Assistant Directors must regularly review their service risk registers and the Corporate Risk Register and report major changes to the Corporate Risk Register to the Risk and Opportunity Manager and the Corporate Director Resources and Place Delivery.

4.10 The Corporate Risk Register will be reported to the Cabinet and the Standards and Audit Committee on a quarterly basis or more frequently, if appropriate.

### **Insurance Procedure**

4.11 The Corporate Director Resources and Place Delivery is responsible for arranging appropriate insurance cover for the Council. Directors and Assistant Directors are responsible for notifying the Corporate Director Resources and Place Delivery of:

- All new risks and liabilities which may require specific insurance cover.
- Any alteration which may affect existing insurance.
- All new property, vehicles, plant or other risks that require insurance or an alteration to existing insurances.
- All leases of property granted by or to the Council which involve a transfer of insurance cover.
- All new partnership arrangements or changes to existing partnership arrangements that require insurance or an alteration to existing insurances.
- Any loss or liability or damage that may lead to a claim against the Council.

4.12 Directors and Assistant Directors are responsible for ensuring that they and anyone covered by the Council's insurances:

- Do not admit liability nor offer any payment of compensation that may prejudice the Council's liability in respect of any future claim.
- Do not enter into any indemnity without first consulting the Monitoring Officer and the Corporate Director Resources and Place Delivery.

### **Ex Gratia Payments and Compensation in respect of Local Government Ombudsman Investigations**

- 4.13 An ex-gratia payment relates to compensation made in respect of personal injury, loss or damage to clothing or personal belongings where there is no legal liability on the Council. Any proposal to make such a payment must be agreed, in advance, with the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims up to £10,000 per event may be agreed by the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims over £10,000 must be referred to the relevant Cabinet Member.
- 4.14 Compensation made in respect of a Local Government Ombudsman investigation and report must be agreed, in advance, with the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims up to £10,000 per event may be agreed by the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims over £10,000 must be referred to the relevant Cabinet Member.

### **Money Laundering**

- 4.15 The Corporate Director Resources and Place Delivery shall nominate a suitably qualified and experienced Money Laundering Reporting Officer and a Deputy Money Laundering Reporting Officer who shall ensure that systems are in place which counter opportunities for money laundering to take place within the Council. Within the established system of control, Directors and Assistant Directors in conjunction with the Reporting Officer should assess areas of vulnerability and any money laundering suspicions they may have.

## **5. Section 5 – Control of Resources and Asset Management**

The purpose of this section is to ensure that Budget Holders and employees have a clear understanding of their responsibilities regarding resources and asset management.

### **General**

- 5.1 Directors, Assistant Directors and Budget Holders must formulate a service delivery plan to identify the resources that are required to meet agreed service levels with due regard to the principles of Best Value and value for money. A comparison of resource inputs, outputs and outcomes must be made to identify:
- Where new resources are required and that these represent value for money.
  - That the application of existing resources represents value for money.
  - Opportunities to minimise or eliminate resource consumption, for example, of energy, water or paper and to meet the Council's Carbon Reduction Commitment.
  - Opportunities for resource efficiency, including the use of property, technology and business processes.
  - Opportunities to minimise negative environmental impacts.
- 5.2 Budget Holders are responsible for ensuring that the most favourable terms for price, delivery and quality are obtained on all purchases in accordance with Contract Procedure Rules.

- 5.3 Budget Holders must have due regard to the environmental impact of their purchasing decisions, including the national Carbon Reduction Commitment.
- 5.4 All transactions and agreements with property implications, including the acquisition or disposal of any interest in land, maintenance of buildings, change of use, increased use of space, change of premises and Section 106 and other planning agreements affecting Council interests must be authorised by the Section 151 Officer.
- 5.5 All property transactions including the granting, exchange, variation, taking, renewal or amendment (including assignment or subletting) of leases, tenancies, licences, easements, wayleaves, dedications, concessions or supply agreements concerning property transactions, must be with the agreement of the Section 151 Officer. This includes the agreement of any rents (except Council house rents) payable to, by or within the Council and determination of any payment or valuation required by statute or instrument (including asset rents and valuations).
- 5.6 Increases or reductions in personnel must be considered in consultation with the Director of Human Resources, Organisational Development and Transformation. Recruitment or reductions in personnel may be subject to certain constraints and must comply with Council policy and legislation.
- 5.7 Assistant Directors and Budget Holders must ensure that all staff are aware of health and safety standards in relation to employees and third parties. It is the individual duty of each employee to comply with these standards.

### **Information Systems**

- 5.8 Where new systems are introduced, or there are significant amendments to existing systems, the development must conform to standards specified by Council. There must be a full business case (including costs and benefits and how benefits will be realised), a review of business processes, a training needs analysis and adequate project management that meets the Council's standards, including early consideration of internal controls and security.
- 5.9 Directors, Assistant Directors and Budget Holders must ensure full compliance with the Council's IT Security Policy, in particular that:
- Adequate control is exercised over computer access through unique user identities, access levels, passwords, and identification of security violations.
  - Systems to back up and store computer data are sufficient.
  - A contingency plan is developed and maintained so that in the event of any disaster, systems and equipment can be reinstated.

### **Using and Accounting for Resources**

- 5.10 All equipment valued in excess of £1,000, or likely to be attractive to thieves, must be recorded in an Official Council Inventory. The accuracy of inventories must be checked at least once a year.

- 5.11 All valuable equipment must be visibly security marked in such a way as to identify it as the property of the Council, school or other establishment where held. All of the Council's computer equipment must be marked with the corporate standard marking that uniquely identifies equipment as the property of the Council.
- 5.12 Directors, Assistant Directors and Budget Holders are responsible for ensuring that proper security arrangements are maintained at all times for buildings, furniture, equipment, stocks, cash and other valuable resources or assets. All valuable resources must be locked away wherever possible to reduce the risk of theft. Buildings must be kept secure, well maintained and, where appropriate, access must be restricted.
- 5.13 All stocks must be recorded in a stock register in a form to be agreed by the Corporate Director Resources and Place Delivery. The stock register must be independently checked and certified at least annually to ensure all items are accounted for and the stock valued. Where a deficiency occurs or obsolete stock is identified, the correct write-off procedure, determined by the Corporate Director Resources and Place Delivery, must be followed. Deficiencies of more than £1,000 on any one item or £6,000 on all items of stock shall be reported to the Corporate Director Resources and Place Delivery.
- 5.14 Stocks and stores must generally be maintained at minimum levels consistent with operational requirements.
- 5.15 The Corporate Director Resources and Place Delivery must ensure that an asset register is maintained. This shall record information about all fixed assets that have a material or significant value to the Council. The threshold level for materiality will be set by the Director of Public Realm and will be subject to annual review.

### **Disposing of Resources**

- 5.16 Obsolete, unserviceable or unnecessary assets must be disposed of in accordance with legislation, Council policy and regulations. Disposal of surplus items will usually be by offer to other Council departments, tender or auction, although this requirement can be waived for low value items after consulting with the Section 151 Officer. All items must be disposed of for the best possible price.

## **6. Section 6 – Financial Administration**

- 6.1 This section outlines the standards of financial administration, including:
- Being clear on who is authorised to approve financial transactions (orders, payments, payroll, income)
  - Ensuring staff appointments are made in accordance with employment law, that salaries and wages are properly authorised, that the proper deductions are made (statutory and non-statutory) and all payments are properly recorded and correctly charged
  - Ordering and paying for goods and services according to the Council's Contract Procedure Rules, securing value for money, paying only for what the Council receives and dealing with VAT properly
  - Ensuring all sources of income to the Council are identified, claimed and collected

- Ensuring that a live and complete record of all Council transactions is maintained
- Ensuring the Council pays and accounts for tax correctly

### **Authorisation Levels**

6.2 Expenditure should only be incurred or income raised if authority to purchase goods and services has been delegated to an employee by a Director or Assistant Director.

The Council operates a process of authorised personnel and Directors must supply the Corporate Director Resources and Place Delivery with a list of employees, including any constraints or limits, who can:

- Place orders and make payments, including via the Council's procure-to-pay system.
- Certify travel and expense claims.
- Sign petty cash cheques and claim petty cash reimbursement.
- Authorise payroll transactions, including starters and leavers, overtime or bonus payment, notification of sickness, salary adjustments.
- Raise and collect income, including issuing receipts, requesting income adjustments, raising invoices and credit notes, requesting write-offs and invoice cancellations.

Transactions will not be processed unless authorisation has been given.

Any changes in authorised personnel must be notified immediately to the Corporate Director Resources and Place Delivery.

### **Payroll**

6.3 Directors, Assistant Directors and the Director of Human Resources, Organisational Development and Transformation will ensure that all appointments are made in accordance with the Council's policies covering approved establishments, grades and pay scales.

6.4 Directors and Assistant Directors when employing staff funded from one off or time limited funding must also have in place an exit strategy that minimises the cost to the Council while meeting employment law and Council policies.

6.5 The Director of Human Resources, Organisational Development and Transformation is responsible for:

- Paying all salaries, wages and other amounts due to employees.
- Keeping records dealing with our pay, superannuation, national insurance and income tax.
- Making payments due to third parties such as HM Revenue and Customs.

- 6.6 Directors, Assistant Directors and Responsible Budget Managers are responsible for reconciling payroll expenditure against approved Budgets and approved establishment.
- 6.7 Budget Holders must operate controls to ensure:
- There is Budget provision for the appointment of new employees.
  - The integrity and authorisation of all input documents.
  - The reconciliation and monitoring of payroll output to Budget monitoring statements.
  - That documentation is completed and forwarded to Payroll Services according to agreed timescales.
- 6.8 The Director of Human Resources, Organisational Development and Transformation must ensure that preparation of payroll documentation, document authorisation, data input and the checking of output is carried out by different members of staff, or have agreed compensating arrangements with the Corporate Director Resources and Place Delivery, where this is not practical.
- 6.9 Employees have a duty to check the accuracy of their pay. They must immediately notify Payroll Services of any change in circumstances, or situations (such as payments received in error), likely to affect their entitlement. Should employees receive any payment to which they are not entitled, they must refund this to the Council.
- 6.10 To ensure prompt and accurate payment, Payroll Services must be advised immediately decisions are made concerning:
- Anyone who starts working for the Council.
  - Anyone who resigns or is dismissed.
  - Anyone who transfers to another post.
  - Any other changes that may be necessary to ensure accurate payroll records including the completion of performance and development reviews where these lead to changes in pay.

In order to verify that all amendments to the payroll are properly authorised, instructions regarding these matters will only be accepted via official Council financial processes under the signature of an authorised officer.

- 6.11 Payroll Services will arrange payments for additional work, such as overtime, through the payroll system on completion of the approved claim form, signed by the claimant and certified by an authorised officer.
- 6.12 Very complex and stringent Rules govern circumstances where payment can be made to individuals without deducting national insurance or tax contributions. To avoid breaching these regulations, payments to employees must only be made through the payroll unless otherwise approved by the Director of Human Resources, Organisational Development and Transformation.

- 6.13 Similarly, care is needed when considering making payments for services provided by individuals who, although not permanently employed by the Council, are acting in this type of capacity. If there is any doubt regarding the method of reimbursement, contact the Payroll Services Manager or the Director of Human Resources, Organisational Development and Transformation.

### **Ordering and Paying for Goods and Services**

- 6.14 Directors must designate specific employees who are authorised to place orders on their behalf (Rule 6.1) and must operate procedures which secure value for money in accordance with Contract Procedure Rules. The procedures must also be properly recorded, communicated to staff, and continuously monitored.

In order to protect individual employees and also minimise the risk of losses through misappropriation or fraud, duties must be arranged to avoid the same member of staff having authority to place orders, receive and pay for goods without the involvement of others. Where limited staff resources make this difficult to achieve, the advice of the Chief Internal Auditor must be sought regarding compensating controls.

- 6.15 Under no circumstances may individual employees use the Council's ordering or payment systems for personal use or benefit. This includes any official trade cards and consortia.
- 6.16 The Council's approved financial systems must always be used when placing orders for goods and services. The only occasions where expenditure can be incurred without the issue of an official order are for petty cash purchases, payments made under written contracts, utility services or other circumstances approved by the Corporate Director Resources and Place Delivery.
- 6.17 There may be occasions, in cases of emergency, when verbal orders are placed, but these must be the exception rather than the rule and always confirmed by the issue of an authorised official order.
- 6.18 When receiving goods or services checks must immediately be made to ensure that:
- The goods or services are in accordance with the order placed.
  - Any faults or deficiencies are reported to the supplier and remedial action taken.
  - Where necessary, inventories or stock records have been updated.
  - Goods delivered are placed in the safe custody of their authorised recipient.
- 6.19 Payment must only be made on the satisfactory completion of the order placed. Any proposal to pay in advance of receiving the goods or services must, therefore, be first authorised by the Corporate Director Resources and Place Delivery.
- 6.20 Before paying for goods or services checks must be made to ensure that:
- Payment is made against a supplier's invoice using the correct expenditure code.
  - The goods or services have been received.
  - The goods or services meet the required quality standards.

- The supplier's invoice is correct in terms of price and quantity delivered.
- Any available discounts have been taken and VAT correctly coded.
- The invoice has not previously been paid and the Council is responsible for payment.

Similar checks apply where stage or phased payments are being made under the terms of a specific contract.

- 6.21 Once satisfied that invoices are correctly payable, and not covered by an automated procurement to pay process, they must be certified by an authorised officer and forwarded to the Invoice Request Team without delay, together with any information which needs to be despatched with the payment. Penalties may be imposed on the Council for late payment of invoices under the Late Payment of Commercial Debts (Interest) Act 1988. Any such penalties will be charged to the responsible Budget Manager's Budget.

### **Petty Cash**

- 6.22 The Corporate Director Resources and Place Delivery may approve the use of a petty cash imprest and open a bank account if necessary. Directors will authorise nominated employees to operate these arrangements and supply Corporate Finance and Internal Audit with their names and samples of their signatures.

Petty cash must only be used for small purchases (no more than £50 in a single transaction) for which the ordering system is not appropriate. Receipts must be obtained for spending from petty cash as this will support claims for reimbursement. Any "borrowing" from petty cash is strictly forbidden.

The petty cash bank account must be regularly reconciled and a reimbursement claim submitted when one half to two-thirds of the authorised level has been spent. A petty cash reimbursement claim cannot be paid if the account has not been reconciled.

All cash and unused cheques must be kept in a safe or other locked receptacle. Unused petty cash cheques must never be pre-signed. To avoid confusion, petty cash must not be mixed with other monies held and must never be used to cash personal cheques.

### **Electronic Payments**

- 6.23 Where payments are to be transmitted electronically, the Corporate Director Resources and Place Delivery shall approve the necessary arrangements made to safeguard the Council against losses. Requests for electronic transfers through the Banking system must be made to the Corporate Finance (Treasury Management team) in writing by an authorised signatory. The Treasury Management team must be given advance warning when such transfers are required. As a general guide, 7 days' notice is required for payments up to £2,000,000 and fourteen days for payments in excess of £2,000,000. Payment by Direct Debit may only be agreed with the prior approval of the Corporate Director Resources and Place Delivery. Directorates will be required to take any necessary action to safeguard against loss of VAT recovery.

- 6.24 The use of Payment Cards and Credit Cards may only be made with the prior approval of the Corporate Director Resources and Place Delivery and will require users to comply with detailed operating and security arrangements.

### **Construction Industry Scheme**

- 6.25 When ordering services such as painting, decorating, plumbing or any other general building works, Budget Holders must observe the regulations stipulated within Her Majesty's Revenue and Customs (HMRC) The scheme requires that the Council acts as agent to the HMRC, deducting Income Tax where appropriate. Any enquiries should be referred to the Payroll Manager who will liaise with the HMRC as required.

### **Fees and Charges and Income Collection**

- 6.26 Directors must formally delegate responsibility for ensuring that all sources of income due to the Council are identified and collected promptly and that payments received are accepted, recorded, banked and reconciled promptly and correctly.
- 6.27 A charging policy must be established and reviewed annually by the Assistant Director and relevant Director and the Corporate Director Resources and Place Delivery. The Cabinet must approve the charging policy. The charging policy should include consideration of:
- Whether the charge should be at full cost or subsidised and if the latter whether the proposed level of subsidy.
  - Who they must be charging, and when.
  - Any concessions to meet the objectives of the Council within the relevant legislation.
  - New services that can or should be charged for.
- 6.28 Budget Holders must ensure that they and all employees under their management are aware of all the controls that exist and that they operate within them.
- 6.29 Budget Holders must monitor trends in the amount of income received and of outstanding debt so that anomalies can be identified and investigated.
- 6.30 Budget Holders must ensure that they and their staff identify:
- All the goods and services they provide for which a charge is to be made.
  - Who they must be charging, and when.
  - Whether VAT is to be charged.
  - Opportunities to maximise income from services provided, within the limits imposed on the Council by legislation and policy.
- 6.31 Budget Holders must:

- Maintain a record of all money due to the Council, including details of contracts, leases and other arrangements that may generate income.
- Ensure that amounts due to the Council are collected at the earliest opportunity, where possible in advance of a service being provided. The issue of low value invoices, below £50, must be avoided wherever possible.

6.32 An official invoice, with pre-printed sequential numbering, must be requested within five working days of service delivery.

6.33 Budget Holders are responsible for ensuring that all income generated from their services is accounted for. They are also responsible for the security of monies prior to banking and for ensuring that adequate and accurate records relating to the collection of income are maintained.

There must be a separation of duties between employees who issue invoices and those who receive and bank money.

VAT must be properly recorded. Failure to account for VAT may result in the imposition of penalties on the Council. Guidance on VAT is available from the Accountancy Services section.

Taking Action on Non-Payment of Income Due to the Council (except for Council Tax, Benefits Overpayments and National Non-Domestic Rates)

6.34 Budget Holders are responsible for ensuring prompt action to secure the recovery of debt, having regard to the cost of collection. This will be facilitated by the maintenance and regular review of debtors' records and by following clearly defined procedures for recovery action. Courses of action available to Budget Holders include:

- Review of continued provision of services to the debtor where this is legal.
- The prompt submission of written reminders.
- Immediate follow up of queries or disputes.
- The use of collection or enquiry agents.
- Referral for legal action in the courts.

If a debt is not recovered within six months of the issue of a debtors invoice, and recovery action is continuing, the outstanding amount will be written back in the Council's revenue account unless an arrangement has been agreed with the debtor.

However, this does not mean that recovery action has ended or that the debt has been written off. The purpose of the write back is to notify Budget Holders that income credited to their Budget head has not yet been collected due to late payment.

6.35 Managers shall ensure that every effort is made to recover debts due to the Council using the central sundry debtors services as appropriate. No significant amendment should be made to any procedures for billing or recovery of monies due to the Council without prior consultation and agreement with the Corporate Director Resources and Place Delivery. Where authorised Managers consider that the sums are not reasonably recoverable, they

shall have the authority to amend or write off a debt, deficiency of stock or stores, or any item in an inventory subject to the following:

- Up to £2,000 in any one case after notifying the Corporate Director Resources and Place Delivery or a senior officer given delegated authority by the Corporate Director Resources and Place Delivery to write off amounts up to a pre-determined level.
- Between £2,000 and £25,000 in any one case after consultation with both the Corporate Director Resources and Place Delivery and a senior officer given delegated authority by the Corporate Director Resources and Place Delivery to write off amounts up to a pre-determined level.
- Over £25,000 in any one case after consultation with both the Corporate Director Resources and Place Delivery and Monitoring Officer and subject to the appropriate Cabinet approval.

### **Holding Cash and Cheques**

6.36 The holding of cash should only be in exceptional circumstances.

Responsibility for the security of money held shall rest with officers designated by Budget Holders. A lockable cash box must be used to hold money; the key to this cash box must remain in the custody of the employee with designated responsibility for the security of money. When custody of money held transfers between employees, the amount must be agreed to supporting records and the transfer of responsibility must be certified by a record signed by both employees.

The cash-box must be kept in a safe or a secure cabinet. Access to the safe must be restricted to a limited number of designated employees.

The safe or secure cabinet must be locked at all times unless a designated officer is depositing or withdrawing an item. Designated employees must retain keys in their possession at all times and must not leave them on the premises unless responsibility has transferred to another employee.

Budget Holders must ensure that cheques are securely held.

Official monies belonging to the Council or Voluntary and Semi-official Funds under the control of Council employees must not, under normal circumstances, be held at employees' homes. Should this be necessary for the efficiency of the service, these arrangements must be authorised by the Corporate Director Resources and Place Delivery.

6.37 Banking must be carried out as frequently as required and at least once a week. Where practical, two employees must visit the bank. The time of banking and route taken must be varied. Budget Holders must not allow the amount of cash held to exceed insurance limits.

All deposits to the bank must be made with an official, sequentially numbered and pre-printed bank paying-in book, as provided by Corporate Finance. The paying in slip must be fully completed with details of:

- department or establishment and officer making the deposit
- income code and VAT code
- total deposited, analysis of cash, number, value and details of cheques

Departments receiving cheques in excess of £10,000 must ensure that these are banked on the day of receipt. If the cheque is for £50,000 or more Corporate Finance must be informed of the deposit so that arrangements can be made within Treasury Management Services.

- 6.38 Accounting records must be reconciled to bank statements at least once a month by an officer not involved in the day to day operation of the account. A signed and dated statement must be produced as evidence that the reconciliation has been performed which must be countersigned by the Budget Manager.

Budget Holders must certify that the bank reconciliation is accurate and completed according to the agreed frequency.

### **Administration of Funds for Third Parties**

- 6.39 All trust funds shall, wherever possible, be in the name of the Council or approved nominees. All officers acting as trustees by virtue of their official position shall deposit all documents of title relating to the trust with the Corporate Director Resources and Place Delivery.

- 6.40 Directors are responsible for ensuring that all such funds are properly administered and audited. These funds must be administered to the standards required by Financial Procedure Rules. Such funds shall not be administered without the approval of the Director and Corporate Director Resources and Place Delivery.

Any material change to the fund level, and/or purpose must be immediately referred to the Director and Corporate Director Resources and Place Delivery.

Voluntary and Semi-official Funds must be kept entirely separate from Council funds and employees own personal monies.

These funds must be kept secure at all times on Council premises.

- 6.41 Budget Holders must offer to safeguard the property, including cash or savings, of any person under their care. Budget Holders who are responsible for such property must:
- Take all steps necessary to prevent or mitigate loss or damage to that property, this will normally involve securing property in a safe.
  - Maintain a record of property, cash or savings in a form prescribed by the Corporate Director Resources and Place Delivery, including a description of the property. The record must be prepared, and updated by at least two employees and regularly agreed to property held.
  - Report any loss to the Corporate Director Resources and Place Delivery and the Monitoring Officer.

If any person under the care of the Council declines an offer to safeguard their property, the Local Manager must obtain a disclaimer to this effect.

### **Accounting Systems and Processes**

- 6.42 Each Directorate must establish accounting processes for the recording of financial transactions. These processes must be designed to meet the Directorate's specific requirements for accounting information, the need to analyse income and expenditure by category and meet the corporate requirements of the Council as a whole.

Directorate Finance Managers must ensure that all financial transactions are accounted for in a timely manner in the accounting system using an appropriate code, which properly records the nature of the income or expenditure. Budget Holders must ensure that all income and expenditure is accounted for separately and not set off, one against the other.

Capital expenditure must be accounted for separately from revenue expenditure.

- 6.43 Budget Holders must only use their own designated accounting codes unless written authority has been given by another Budget Holder or the Corporate Director Resources and Place Delivery.
- 6.44 The Corporate Director Resources and Place Delivery will produce a timetable and standards for the production of final accounts each year. Corporate Finance will produce Directorate timetables to meet the timescale set. Inability to meet the required timescales must be reported without delay to the Corporate Director Resources and Place Delivery and the Director concerned together with proposals for remedial action.
- 6.45 The Corporate Director Resources and Place Delivery, in conjunction with the Budget Manager will maintain a definitive list of accounting codes to be used by all departments, which must be reviewed and updated regularly. These accounting codes will be communicated to all appropriate staff who must receive guidance on the use of the coding system.

Controls must be in place to ensure that all accounting transactions are processed into the financial management system.

- 6.46 It is the responsibility of the relevant Finance Manager to ensure that Control and Suspense accounts are reconciled on a regular basis and no less frequently than monthly.
- 6.47 A regular reconciliation must be carried out at least once per month for all bank accounts, to prove the correctness of the bank balance and to confirm that all transactions have been processed into the Council's accounts.
- 6.48 Journal transfers must be used to make accounting adjustments.

Journal transfers must show the full details of the transaction, the name and contact point of the originator and must be authorised as appropriate. Hand-written journal transfers must be legible and fully detailed with, where appropriate a reference to source documents. All journal transfers must have a reference number and must be retained on file for future reference.

The journal transfer must balance to zero. The value of debits must equal the value of credits.

Any Budget Holder whose accounts are affected must be advised of the journal transfer. A copy must be made available to Budget Holders.

- 6.49 All accounting transactions and financial statements produced must conform to the latest legislation and best accounting practice as determined by the relevant Statement of Recommended Accounting Practice published by CIPFA.

### **VAT and Taxation**

- 6.50 Budget Holders must ensure that VAT is dealt with correctly by the maximum recovery of tax paid to suppliers (input tax) and the identification of all income on which tax is due (output tax). Penalties are imposed for serious failures to account for output tax. Detailed application of the tax is subject to HMRC interpretation of the law. This can vary over a period of time for a number of reasons, including Tribunal decisions and changes in practices. Any queries concerning VAT must be immediately referred to the Council's VAT Officer.
- 6.51 The Council is unable to reclaim input tax unless a valid tax invoice is held. Managers must obtain a valid tax invoice for all goods and services on which VAT is payable. Failure to do so will mean the gross amount being charged to the relevant Budget.
- 6.52 Budget Holders' certification procedures must ensure that VAT is checked when authorising invoices. They must ensure that:
- Transactions where no VAT is paid are correctly identified as Zero-rated, Exempt or Outside the Scope.
  - There is a valid tax invoice.
  - The correct VAT indicator is used.
  - The VAT is correctly calculated.
  - The data capture slip is properly completed.
- 6.53 Budget Holders must ensure that tax is charged on income collected by the Council when due. Liability is determined by the type of organisation being charged and the nature of the service provided.

Budget Holders must correctly identify taxable income and customers. The VAT Manual contains examples of common types of income and their tax status, together with a list of taxable customers. Any new sources of income where the VAT treatment is unclear must be referred to the Council's VAT Officer.

Budget Holders must correctly identify non-taxable items as Zero, Exempt or Outside the Scope.

## **Financial Stationery and Document Retention**

6.54 All financial stationery and systems must be authorised by the Corporate Director Resources and Place Delivery and ordered through the Directorate Finance Managers.

Budget Holders must ensure that all unused Controlled Financial Stationery is kept under lock and key and that its use is properly controlled and recorded.

Budget Holders must not transfer Controlled Financial Stationery to another establishment, division or department without the agreement of the Controlled Stationery Officer. Any such transfers must be recorded.

If any Controlled Stationery has to be cancelled all copies of the relevant form/receipt must be endorsed "cancelled" and all copies retained.

6.55 Directors, Assistant Directors and Budget Holders must adhere to the Council's Document Retention Policy.

In general, financial documents must be retained for three complete financial years. However there are important exceptions to this general rule which are dictated by external agencies, such as HM Revenue and Customs. The key exceptions are summarised below.

- VAT Transactions – All records including proof of payment and banking records must be kept for six years (for example, bank paying in books, cheque stubs, bank statements).
- Payroll – All records relating to income tax and national insurance must be retained for six years.
- Pensions – Records identifying pay received and pension contributions are to be kept until the employee reaches benefit age.
- Insurance – Records and correspondence relating to liability policies must be retained indefinitely. Documents relating to other policies and internal funding arrangements must be kept for six years.

Personal Finances of Service Users (for example, Social Services) – All records relating to a Service User's personal cash or property must be retained for three years after the final transaction has taken place, in effect, three years after closure of the case.

6.56 Documents which are retained in an electronic format must comply with the Code of Practice for Legal Admissibility of Information Stored on Electronic Document Management Systems, published by the British Standards Institution.

## **7. Section 7 – External Arrangements**

This section of the financial regulations addresses responsibilities for:

- 1) Partnerships
- 2) External funding

3) Providing services to third parties

**Partnerships**

7.1 The Corporate Director Resources and Place Delivery will ensure that the accounting arrangements adopted in relation to partnerships and joint ventures are subject to financial control procedures that reflect those of the Council, legislative requirements and other professional guidance. Partnerships include:

- Services provided by private sector and community and voluntary sector partners.
- Shared services with other public bodies, including section 75 agreements entered into under the Health Act 2003 or similar arrangements.
- Where the Council becomes the accountable body under legislation or the terms of a grant.
- Any other partnerships involving a sharing of resources or risk and reward.

7.2 Directors and Assistant Directors have a responsibility to take appropriate professional advice when entering into partnership arrangements and to ensure that the impact of any such arrangements in terms of risk or financial standing are identified and considered by the Cabinet and the Council as appropriate. This includes:

- Governance arrangements for the partnership.
- Risk and opportunity management and risk sharing agreements.
- Performance and Financial Management/Monitoring Arrangements.
- Financial administration, cash management and accounting arrangements.
- Pensions risk.
- Taxation implications.
- Human resources implications.
- The transfer of assets and liabilities.
- Insurance arrangements.

**External Funding**

7.3 The Corporate Director Resources and Place Delivery must ensure that all funding by external bodies is approved, received and properly recorded in the Council's accounting system. A central register of major external funding/grant arrangements will be maintained by the Corporate Director Resources and Place Delivery. All Directors and Assistant Directors should ensure that such initiatives support the Council's service priorities and that the Corporate Director Resources and Place Delivery is notified of all such external funding and any conditions applying to that funding.

### **Providing Services to Third Parties**

- 7.4 Any financial and risk implications associated with arrangements made between the Council and third parties must be approved by the Corporate Director Resources and Place Delivery prior to entering into such arrangements.

Directors must ensure that financial and risk and other procedures are in place and that approval of the Cabinet or Council is obtained (as appropriate) before negotiations are concluded with third parties.

A business case should be prepared for the approval of Cabinet that includes:

- Governance arrangements for the partnership.
- Risk and opportunity management and risk sharing agreements, including the risk of service failure.
- Financial administration, cash management and accounting arrangements.
- Pensions risk.
- Taxation implications.
- Human resources implications.
- The transfer of assets and liabilities.
- Insurance arrangements.

## Part 4 – Indemnities for Members and Officers

### 1. Introduction

- 1.1 Under Section 265 of the Public Health Act 1875 councillors and local authority officers, when acting in the course of their duties and in good faith, have statutory immunity and are not personally liable for the actions they take. The Act provides for an indemnity in relation to potential liabilities and also costs.
- 1.2 The Local Authorities (Indemnities for Members and Officers) Order 2004 gives a specific power for authorities to grant indemnities and/or take out insurance to cover the potential liability of councillors and officers in a wider range of circumstances than under the 1875 Act. Each local authority has the discretion to decide whether to use the powers, and to decide the extent of such indemnities and insurance.
- 1.3 At the present time councillors may incur personal liability, or have to defend themselves where allegations are made that:
  - (a) They acted outside the powers of the authority
  - (b) They acted in bad faith, or fraudulently or out of malice
  - (c) Their actions constitute a criminal offence
  - (d) They made a defamatory statement.
- 1.4 They may also be liable, or attract allegations, for
  - (a) Activities where members are appointed to or working with outside bodies in their role as a councillor
  - (b) Action taken for an alleged failure to comply with the Code of Conduct for Members. (The Order requires the member to reimburse the Council if there is a finding of breach of the Code or the member admits non-compliance with the Code).
- 1.5 In relation to officers, Councils have always been able to indemnify officers and take out insurance cover where an officer acts within his or her powers for the Council, in order to protect the Council in the event of an officer's actions or inactions giving rise to a claim. The 2004 Order allows Councils to indemnify officers where they have acted outside the powers of the authority but reasonably believe that the action was within the powers at the time they were taken, or where they are acting on outside bodies for the Council.
- 1.6 Given the wide range of Council activities, the complexity of issues councillors and officers' face, and the demands made on their time, it may be considered appropriate for the Council to provide an indemnity where a councillor/officer inadvertently acts outside the powers given whilst believing he/she is acting in the interests of the Council or other body. However for both councillors and officers, the 2004 Order restricts the provision of indemnities so that they cannot cover any finding of criminal liability or liability arising from fraud, deliberate wrongdoing, or the cost of pursuing a defamation claim. In such cases any costs incurred under an indemnity would normally have to be repaid to the Council or insurer.

### **Terms of Indemnity**

- 1.7 Subject to the exceptions set out below, the Council will indemnify each of its members and employees against any loss or damage suffered by the member or officer arising from his/her action or failure to act in his/her capacity as a member or officer of the Council. "Member" means an elected Member of the Council, a co-opted Member of a committee of the Council and the Independent Person.
- 1.8 This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
- (a) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the member or officer
  - (b) Any act or failure to act by the member or employee otherwise than in his/her capacity as a member or officer of the Council, or
  - (c) failures by the member to comply with the Code of Conduct for Members
- 1.9 Subject to the exceptions set out below, the Council will indemnify each of its members and officers against the reasonable costs which he/she may incur in securing appropriate legal advice and representation in respect of any civil or criminal proceedings or code of conduct proceedings to which he/she is subject.
- (a) "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court, in the United Kingdom
  - (b) "Code of Conduct proceedings" means any investigation or hearing in respect of an alleged failure to comply with the Code of Conduct for Members
- 1.10 This indemnity will not extend to any advice or representation in respect of any claim or threatened claim in defamation to be brought by a member or officer, but will extend to defending a claim for defamation.
- 1.11 Where any member or officer avails him/herself of this indemnity in respect of defending him/herself against any criminal proceedings or Code of Conduct proceedings, the indemnity is subject to a condition that if, in respect of the matter in relation to which the member or officer has made use of this indemnity:
- (a) The member or officer is convicted of a criminal offence in consequence of such proceedings, or
  - (b) A Case Tribunal or Standards and Audit Committee determine that the member has failed to comply with the Code of Conduct for Members
- and the conviction or determination is not overturned on appeal, the member or officer shall reimburse any expenditure incurred by the Council under the indemnity.
- 1.12 Where the Council arranges insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 5 shall apply as if references to the Council were references to the insurer.

- 1.13 For the purpose of these indemnities, a loss or damage is deemed to have arisen to the member or officer "in his/her capacity as member or officer of the Council" where:
- (a) the act or failure to act was outside the powers of the Council, or outside the powers of the member or officer, but the member or officer reasonably believed that the act or failure to act was within the powers of the Council or within the powers of the member or officer (as appropriate) at the time that he/she acted or failed to act, as the case may be
  - (b) the act, or failure to act, occurred not in the discharge of the functions of the member or officer as a member or officer of the Council but in their capacity as a member or employee of another organisation, where the member or officer is, at the time of the action or failure to act, a member or employee of that organisation either:
    - (i) In consequence of his/her appointment as such member or officer of that organisation by the Council, or
    - (ii) In consequence of his/her nomination for appointment as such member or officer of that organisation by the Council, or
    - (iii) Where the Council has specifically approved the appointment of the member or employee of that organisation for the purpose of these indemnities.
- 1.14 The Council undertakes not to sue (or join in action as co-defendant) an officer in respect of any negligent act or failure to act by the officer in his/her capacity as an officer of the Council, subject to the following exceptions:
- (a) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the officer; or
  - (b) Any act or failure to act by the officer otherwise than in his/her capacity as a member or officer of the Council.
- 1.15 These indemnities and undertaking will not apply if a member or officer, without the express permission of the Council or of the appropriate officer of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the resolution.
- 1.16 These indemnities and undertakings are without prejudice to the rights of the Council to take disciplinary action against an officer in respect of any act or failure to act.
- 1.17 These indemnities and undertakings apply retrospectively to any act or failure to act which may have occurred before this date and shall continue to apply after the member or officer has ceased to be a member or officer of the Council as well as during his/her membership of or employment by the Council.

## **Part 5 – Protocol for recording of Council, Cabinet, Committee and Sub-Committee meetings**

### **1. Introduction**

- 1.1 For the purpose of making committees easily accessible and following recent technological advances, the Council has agreed to mandate its meetings, together with those of the Cabinet, Committees and Sub-Committees to be the subject of audio visual recording for transmission and publication on the Council's website.
- 1.2 This protocol has been produced to assist the conduct of the recording of meetings and to ensure that in doing so the Council is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998. Accordingly, the following will apply to all meetings to be recorded by the Council.

### **2. Main provisions**

- 2.1 The Chair of the meeting may request that any part of a recording may not be published to the Council's website if, in their opinion, the recording would prejudice the proceedings of the meeting for the following reasons.
  - (i) Public disturbance or other suspension of the meeting
  - (ii) Exclusion of public and press being proposed and agreed by the Council, the Cabinet, a Committee or Sub-Committee
  - (iii) Any other reason proposed, seconded and supported by the Council, the Cabinet, a Committee or Sub-Committee and recorded in the Minutes of the meeting.

In such circumstances, Democratic Services will stop the recording prior to publication to the Internet, as directed by the Chair and recorded in the Minutes of the meeting.

- 2.2 The proceedings of exempt or confidential agenda items may be recorded but shall not be published to the Council's website. Any such recordings will be held securely by Democratic Services.
- 2.3 Subject to paragraph 2.4 below, all recordings will be available on the Council's website for a minimum of 12 months from the date of the meeting.
- 2.4 Archived recordings, or parts thereof, shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law doctrine, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.

If the Monitoring Officer has decided to take such action, they must notify all Members in writing of their decision and include the reasons for this as soon as possible. The Council anticipates that the need to exercise the power set out above will occur only on an exceptional basis.

- 2.5 Any Member who is concerned about any recording that has been made, including any that have not already been published on the Council's website, should raise their concerns with the Monitoring Officer or in their absence, the Deputy Monitoring Officer.
- 2.6 Any concerns raised by a Member or a member of the public in respect of an audio recording being taken at a particular meeting should be brought to the attention of the Chair or a member of Democratic Services in attendance at the meeting.

### **3. Agenda and Signage at Meetings**

- 3.1 On each Agenda for a meeting, and on signs to be displayed inside and outside the Council Chamber and each of the committee rooms, there will be the following notice.

#### **Recording Notice**

Please note that this meeting may be recorded for transmission and publication on the Council's website. At the start of the meeting the Chair will confirm if all or part of the meeting is to be recorded.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this recording will be retained in accordance with the Council's Information Management Policy.

Members of the public not wishing any speech or address to be recorded for publication to the Internet should contact Democratic Services to discuss any concerns.

The Council will not publish any part of a recording where members of the public have made it known that they do not wish to appear in any broadcast.

If you have any queries regarding this, please contact the Democratic Services Manager on 01375 652 082.

### **4. Meetings of the Planning Committee, Licensing Committee and other 'quasi-judicial' hearings**

- 4.1 In any correspondence notifying applicants, licence holders, supporters or objectors, or anyone who has registered to speak at a meeting, of the meeting date on which a particular application will be heard, the following advice will be included if the meeting is to be recorded:

*"Please note that meetings of Thurrock Council, its Cabinet, Committees and Sub-Committees may be recorded for subsequent broadcast via the Council's Internet site.*

*"If you do not wish your speech to be recorded for publication to the Internet, please contact Democratic Services to discuss your concerns.*

*"The Council will not publish any part of a recording where members of the public have made it known that they do not wish to appear in any broadcast"*

## **5. Conduct of Meetings**

- 5.1 At the start of each meeting to be recorded, an announcement will be made to the effect that the meeting is being recorded and that the Chair may also terminate or suspend the recording of the meeting, in accordance with this protocol.

This will be confirmed by the Chair making the following statement or one to like effect:

*"I would like to remind everyone present that this meeting will be recorded for publication on the Council's website and will normally be available within 3 working days of the meeting."*

## **6. Transcription**

- 6.1 The Council will not provide transcripts of the recordings or any extracts from them. The Minutes of the meeting are the official record of proceedings.