

PART 4

PROCEDURE RULES

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Section 1 - Council and Committee Meeting Rules

4.1.1 Council Procedure Rules

4.1.1.1 These rules set out how meetings of the Council, the Cabinet, Committees and other bodies will be conducted.

4.1.2 Application

4.1.2.1 All of these Rules apply to the meetings of the Council. Only Rules 4.1.3 – 4, 4.1.9 – 12 and 4.1.16 - 24 apply to meetings of committees, sub-committees and other decision making bodies.

4.1.2.2 Where there is any inconsistency between the Council Rules and the rules that follow in the remainder of Part 4 of the Constitution, the latter shall prevail.

4.1.2.3 In the application of these rules to meetings other than Council meetings, greater informality may be exercised at the discretion of the Chairman of the meeting.

4.1.3 Interpretation

4.1.3.1 The ruling of the Chairman at the meeting as to the construction or application of the rules that apply to that meeting shall not be challenged at the meeting.

4.1.4 Appointment of Chairman

4.1.4.1 If at any meeting the Chairman appointed by Council in accordance with the Council Rules is absent and the Vice-Chairman is absent, or no Chairman or Vice-Chairman has been appointed by Council, the meeting shall appoint a chairman for that meeting only. The Monitoring Officer or his/her representative at the meeting shall at the commencement of the meeting invite nominations for Chairman and will take a vote on a show of hands for those members nominated for Chairman.

4.1.5 Annual Council Meeting

4.1.5.1 In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.

4.1.5.2 The Annual Meeting will:

- a elect a person to preside if the Chairman or Vice-Chairman of the Council is not present
- b elect the Chairman of the Council
- c appoint the Vice Chairman of the Council
- d receive any declarations of interest
- e approve the minutes of the last meeting
- f receive any announcements from the Chairman and/or the Chief Executive

- g elect the Leader of the Council
- h appoint the Chairmen of Committees and other bodies
- i appoint at least one Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet Functions
- j decide the size and terms of reference of those Committees
- k decide the allocation of seats to political or other groups in accordance with the political balance rules
- l receive nominations of Councillors and co-opted members to serve on each Committee and outside body or in the absence of nominations agree that the Chief Executive may make such appointments on receipt of nominations from the Political Group Leaders in accordance with its decision to allocate seats to political or other groups; and
- m appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet
- n agree the functions of those committees set out in Part 3 of this Constitution
- o approve a programme of Ordinary Meetings of the Council for the year (if not already agreed)
- p instruct the Monitoring Officer to make the necessary consequential amendments to the Constitution to give effect to these decisions.
- q receive annual reports from Committees to Council
- r receive an annual report from the Leader of the Council
- s receive any questions from, and provide answers to, the public;
- t receive any questions from and provide answers to Members of the Council

4.1.6 Ordinary Meetings

- 4.1.6.1 There will be five Ordinary Meetings of the Council per year, except for a year in which elections are held for all Councillors when there will be six Ordinary Meetings .
- 4.1.6.2 Ordinary Meetings of the Council will take place in accordance with a programme decided by the Council at places determined by the Chairman, except that one Ordinary Meeting will take place in February and will be reserved as the Budget Meeting.
- 4.1.6.3 Ordinary meetings, other than the Budget Meeting as described at paragraph 4.1.6.4 below, will:
 - a elect a person to preside if the Chairman or Vice- Chairman is not present;
 - b approve the minutes of the last Meeting;
 - c receive any declarations of interest from Members;
 - d receive any announcements from the Chairman of the Council, the Leader, Members of the Cabinet and/or the Chief Executive;

- e receive any questions from, and provide answers to, the public;
- f receive any questions from and provide answers to Members of the Council
- g deal with any business from the last Council Meeting;
- h receive recommendations from Cabinet and reports from its officers on any matters within the Council Functions;
- i receive reports from the Leader of the Council (on which he or she may be questioned and if so, answer questions) on:-
 - i the work of the Cabinet since the last meeting including a summary of those matters decided by the Cabinet and other activities of the Cabinet since the previous meeting;
 - ii any recommendation of the Cabinet in respect of the Policy Framework and Budget;
 - iii any report to the Council required by a Scrutiny Committee; and
 - iv details of any urgent decision made under Paragraph 4.4.15 Urgent Decisions.
- j receive reports from the Standards Committee
- k receive reports and receive questions and answers on the business of joint arrangements and external organisations;
- l consider motions and debate those motions in the order to be determined in accordance with these rules;
- m deal with statutory plans or other matters within the Policy Framework that require Council approval; and
- n consider any other business specified in the summons to the Meeting.

4.1.6.4 At the Council meeting in February the Council will only:

- a elect a person to preside if the Chairman or Vice- Chairman is not present;
- b approve the minutes of the last Meeting;
- c receive any declarations of interest from Councillors;
- d consider the Budget;
- e receive any questions from, and provide answers to, the public, but only on matters listed on the agenda;
- f receive any questions from and provide answers to Councillors, but only on matters listed on the agenda:
- g deal with statutory plans or other matters within the Policy Framework that require Council approval: and
- h consider any other business specified in the summons to the Meeting.

4.1.6.5 At the Council meeting in March the Council will set the level of council tax and associated business rates and deal with other business normally carried out at an ordinary meeting.

4.1.7 Time of meetings

- 4.1.7.1 Meetings of the Council will be at 10.30 am or any other such time as the Chairman considers necessary and will continue for a maximum of 3 hours unless the Chairman determines that the meeting should continue beyond 3 hours, or the Council so agrees.
- 4.1.7.2 At the expiry of 3 hours, the Chairman may determine that the remaining business to be conducted at the meeting be:
- a Deferred to the next meeting
 - b Deferred to an extraordinary meeting called for the purpose of dealing with any remaining business
 - c Put to the vote immediately in the order that the business appears on the agenda or in any order determined by the Chairman. The Chairman may determine that some business be put to the vote immediately in accordance with this rule and other business be deferred in accordance with rules (a) and (b) above
- 4.1.7.3 The Chairman has discretion to order the adjournment of any meeting and to cancel or postpone a meeting if in the event of an emergency or where there is no business.

4.1.8 Extraordinary Meetings

- 4.1.8.1 Those listed below may require the Chief Executive to call Council Meetings in addition to ordinary Meetings:
- a the Council by resolution;
 - b the Chairman of the Council;
 - c the Monitoring Officer; or
 - d any five Members of the Council if they have signed a requisition stating the grounds for the extraordinary meeting and the business to be conducted at that meeting and presented it to the Chairman and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- 4.1.8.2 When requested, the Chief Executive shall call a meeting of the Council unless he or she is of the opinion that the business to be discussed at the proposed meeting can conveniently wait until the next Ordinary Meeting of the Council.
- 4.1.8.3 No business may be conducted at an Extraordinary Meeting other than that specified in the resolution, request or requisition which led to it being called.
- 4.1.8.4 Notice of an intended meeting shall be in accordance with the Access to Information Rules.

4.1.9 Notice of Meetings

- 4.1.9.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules (Part 4 section 2).

4.1.10 Conduct of the meeting

4.1.10.1 The Chairman's powers and responsibilities in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

4.1.11 Quorum

4.1.11.1 Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of voting Members, or three voting Members, whichever is the greater.

4.1.11.2 If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will stand adjourned.

4.1.11.3 During any meeting if the person chairing the meeting counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately.

4.1.11.4 Subject to 4.1.11.5 remaining business will be considered at a time and date fixed by the person chairing the Meeting. If he/she does not fix a date, the remaining business will be considered at the next ordinary Meeting.

4.1.11.5 The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment under 4.1.11.3 that there are sufficient Members present to constitute a quorum.

4.1.12 Variations in order of business

4.1.12.1 The Chairman has discretion to vary the order of business in relation to motions on notice or particular questions from the public or Members and the length of any debate on a motion on the agenda.

4.1.12.2 The Chairman cannot vary the order of business in respect of:-

- a the Annual Meeting
- b choosing a person to preside if the Chairman and Vice-Chairman are absent
- c dealing with any business required by statute to be done before any other business of the Council

4.1.12.3 A proposed variation may be moved by the Chairman or any other Member. Where moved by the Chairman there is no need for it to be seconded. The variation will be put to the vote immediately without debate unless the Chairman determines otherwise.

4.1.13 Petitions and Deputations**Petitions**

4.1.13.1 Petitions will be dealt with according to the Petitions Scheme in Part 5 section 10.

Deputations

- 4.1.13.2 Deputations may be received at any meeting of the Council provided seven clear days written notice has been given to the Monitoring Officer. Deputations must relate to matters for which the Council has a responsibility or which affect the area. The notice must be signed by at least five persons and set out the subject which the deputation wishes to raise and how it relates to the Council's functions or affects the area.
- 4.1.13.3 The Chairman will be available 30 minutes before a Council meeting to receive deputations.
- 4.1.13.4 The Chairman may, on the advice of the Monitoring Officer refuse a deputation which is illegal, scurrilous, improper, out of order or relates to a specific planning application or relates to a matter on which there has been a previous similar deputation within the preceding six months.
- 4.1.13.5 A maximum of two Deputations only will be permitted at any meeting and they will be selected in the order notice is received. Only one Deputation will be permitted if the Monitoring Officer receives notice of a petition.
- 4.1.13.6 The Chairman will announce at the meeting that the Deputation has been received and briefly summarise its subject.
- 4.1.13.7 The Chairman may invite a Councillor nominated by the Deputation to address the meeting for up to three minutes.
- 4.1.13.8 There will be no debate or vote on a Deputation. A Councillor may propose that the subject matter be placed on the agenda of the next ordinary meeting of the relevant Committee. Such a motion is to be moved and seconded formally and put to the vote without discussion. If no such motion is moved or carried, the Deputation will be referred to the Chief Executive who will respond to it in writing within 28 days.

4.1.14 Questions by the public

- 4.1.14.1 Subject to 4.1.14.13 and 14, Members of the public may ask one question of either a Cabinet Member, Committee or other Chairman. Written answers will be circulated to Members, the press and public prior to the start of the Council meeting. Questions subject to a Freedom of Information Act request will be dealt with under that separate process.
- 4.1.14.2 Composite answers are acceptable where appropriate.
- 4.1.14.3 Council employees must not use Council questions as a means of raising issues that should more properly be dealt with through the Council's Human Resources processes. This does not prevent Council employees from exercising their right in another capacity unconnected with their employment. The recognised Unions representing Council employees can exercise the right to ask a public question provided such questions relate to matters within the Council's remit and do not deal with individual named employees.

Notice of Public Questions

- 4.1.14.4 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday eight clear working days before the day of the meeting (ie the Monday of the week preceding the Council meeting where that meeting is on a Friday). Each question must give the name and address of the questioner and must name the person to whom it is to be put.

Order of Public Questions

- 4.1.14.5 Questions will be answered in the order in which they are received. Where it is not possible to supply a written answer immediately prior to the meeting of the Council, the answer will be supplied as soon as practicable after the meeting.

Number of Public Questions

- 4.1.14.6 A member of public may submit only one question at any meeting of the Council.

Scope of Public Questions

- 4.1.14.7 The Monitoring Officer may reject a question or a supplementary question if it:
- a is not about a matter for which the Council has a responsibility or which affects the County or a part of it
 - b is illegal, scurrilous, defamatory, frivolous or offensive or otherwise out of order
 - c is substantially the same as or similar to a question which has been put at a meeting of the Council in the past six months or relates to the same subject matter or the answer to the question will be substantially the same as the previous answer
 - d requires the disclosure of confidential or exempt information
 - e relates to a planning or licensing application
 - f relates to an employment matter that should more properly be dealt with through the Council's Human Resources processes.
- 4.1.14.8 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

Record of Questions

- 4.1.14.9 The Monitoring Officer will record each question in a register open to public inspection and will immediately send a copy of the question to the person to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions and answers supplied will be circulated to all Members and made available to members of the public who attend the Council meeting.

Supplementary Questions

- 4.1.14.10 A member of public who has submitted a written question may also put one brief supplementary question without notice to the person (if he/she is present at the

meeting) who has replied to his or her original question. A supplementary question must arise directly out of the original request or reply. The Chairman may reject a supplementary question on any of the grounds for rejecting written questions set out in these Council Rules or if the question is too lengthy, is in multiple parts or takes the form of a speech. In any event, any person asking a supplementary question will be permitted only 1 minute to do so.

Written Answers

- 4.1.14.11 Any question or supplementary question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the person to whom it was to be put, will be dealt with by a written answer by the Leader or such other person as he/she may designate.

Reference of Question to the Cabinet or a Committee

- 4.1.14.12 Unless the Chairman decides otherwise, no discussion will take place on any question or a supplemental question, but any Member may move that the matter raised by a question be referred to the Cabinet Member or Committee. Once seconded, such a motion will be voted on without debate.

Restrictions on Asking Questions

- 4.1.14.13 No questions may be asked at the Annual Meeting of Council in a year of ordinary elections of Councillors.
- 4.1.14.14 No questions may be asked at the Budget Meeting except in relation to those items listed on the agenda.

4.1.15 Questions from Councillors

Questions on reports

- 4.1.15.1 Subject to 4.1.15.11 and 12, A Member may ask the Leader or the Chairman of a Committee questions without notice about an item in a report of the Cabinet or of that Committee when it is being considered. Otherwise there will be no debate on matters contained in reports.

Questions on Notice at Council Meetings

- 4.1.15.2 Subject to 4.1.15.13 and 14, A Member may ask the Chairman of the Council, the Leader, any Member of the Cabinet or the Chairman of a Committee a question about any matter in relation to which the Council has powers or duties or which affects the County in accordance with these Council Rules.

Notice of Questions

- 4.1.15.3 A Member may ask a question only if either:
- a he/she has given at least 3 clear days notice in writing of the question to the Monitoring Officer; or
 - b if the question relates to urgent matters, they have the consent of the Member to whom the question is to be put and the content of the question is

given to the Monitoring Officer by 12 noon one working day in advance of the Meeting.

Scope of Questions

- 4.1.15.4 The Monitoring Officer may reject a question or a supplemental question if it:
- a is not about a matter for which the Council has a responsibility or which affects the district
 - b is illegal, scurrilous, defamatory, frivolous, offensive or otherwise out of order
 - c is substantially the same as or similar to a question which has been put at a meeting of the Council in the past six months or relates to the same subject matter or the answer to the question will be substantially the same as the previous answer
 - d requires the disclosure of confidential or exempt information
 - e relates to a planning or licensing application.
- 4.1.15.5 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

Response

- 4.1.15.6 An answer may take the form of:
- a a written answer
 - b a direct oral answer
 - c where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - d an answer to be given to the Member where it is appropriate elsewhere on the agenda as part of a report before Council.

Supplementary Question

- 4.1.15.7 A Member asking a question under these Council Rules may ask one supplementary question without notice. A supplementary question must arise directly out of the original question or reply. Where a reply can be given orally at the meeting it will be given. If it can not any further information shall be provided by written answer.

Time for Questions

- 4.1.15.8 There will be a time-limit of a maximum of 30 minutes for public questions and of 30 Minutes for Members' questions. If either public questions or Members questions are concluded in less than 30 minutes, then the Chairman may allow more time for either public or Members' questions within an overall time limit of one hour for all questions and supplementary questions. There will normally be no extension of time beyond one hour, unless the Chairman decides that there are reasonable grounds to allow such an extension, and questions not dealt with in

this time will be dealt with by written response. The Chairman will decide the time allocated to each question.

Format of Questions

- 4.1.15.9 Questioners and those responding must confine their contributions to questions and answers and not make statements or attempt to debate. The Chairman will decide whether a contravention of this rule occurs and stop the person contravening this rule from speaking further.
- 4.1.15.10 Every question asked in accordance with these Council Rules, and the reply (or a summary of the reply), shall be recorded in the minutes of the Council and provided to all Councillors.

Restrictions to Asking Questions

- 4.1.15.11 No questions may be asked at the Annual Meeting of Council in a year of ordinary elections of Councillors.
- 4.1.15.12 No questions may be asked at the Budget Meeting except in relation to those items listed on the agenda.

4.1.16 Notice of Motions

- 4.1.16.1 Except for motions which can be moved without notice under these Council rules, written notice of every motion, signed by at least one Member, must be delivered to the Monitoring Officer not later than midday on the seventh working day before the date of the Meeting. These will be entered in a book open to inspection by the public. A Member cannot sign more than one motion per Meeting.

Motions Set Out in the Agenda

- 4.1.16.2 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, to a maximum of three, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it. Motions exceeding three and not therefore able to be listed on the Agenda will be held over for listing on the Agenda for the next meeting in the order they were received.
- 4.1.16.3 A maximum of 1½ hours will be allocated for dealing with notices of motion but that time may be extended at the discretion of the Chairman.

Scope

- 4.1.16.4 Motions must be about matters for which the Council has a responsibility or which affect the area. The Chairman may, on the advice of the Monitoring Officer, refuse a motion which is illegal, scurrilous, improper or out of order.

Exceptions

- 4.1.16.5 Where a critical local situation arises a motion signed by two Members may be permitted in addition to the maximum of three and accepted by the Chairman or in consultation with the Monitoring Officer.

Motions and Amendments - Without Notice

- 4.1.16.6 The following motions and amendments may be moved without notice:
- a to appoint a Chairman of the meeting at which the motion is moved
 - b in relation to the accuracy of the Minutes
 - c to change the order of business in the Agenda
 - d to refer something to an appropriate body or individual
 - e to appoint a Committee or Member arising from an item on the summons for the Meeting
 - f to receive reports and recommendations of Committees or officers and to make any decisions necessarily arising
 - g to withdraw a motion
 - h to amend a motion
 - i to proceed to the next business
 - j that the question be now put
 - k to adjourn a debate
 - l to adjourn a Meeting
 - m that the meeting continue beyond 3 hours duration
 - n to exclude the public in accordance with the Access to Information Procedure Rules
 - o not to hear a Member further or to require a Member to leave the Meeting
 - p to give the consent of the Council where its consent is required by this Constitution
 - q to suspend any of the Council rules it is permitted to suspend.

Rules Of Debate**No Speeches to be Made Until Motion Seconded**

- 4.1.16.7 No speeches may be made after the mover has moved a proposal and explained the purpose of it, until the motion has been seconded.

Right to Require a Motion in Writing

- 4.1.16.8 Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him or her before it is discussed.

Secunder's Speech

- 4.1.16.9 When seconding a motion or amendment, a Member may reserve his or her speech until later in the debate.

Content and Length of Speeches

- 4.1.16.10 Speeches must be directed to the matter being debated or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman of the Council.

When a Member May Speak Again

- 4.1.16.11 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- a to speak once on an amendment moved by another Member
 - b to move a further amendment if the motion has been amended since he or she last spoke
 - c if his or her first speech was on an amendment moved by another Member, to speak on the main issues (whether or not the amendment on which he or she spoke was carried)
 - d to exercise a right of reply
 - e on a point of order
 - f by way of personal explanation.

Amendments to Motions

- 4.1.16.12 An amendment must be relevant to the motion and may:
- a refer the motion to an appropriate body or individual for consideration or re-consideration
 - b leave out words
 - c leave out words and insert or add others
 - d insert or add words
- as long as the effect is not to negate the motion.
- 4.1.16.13 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 4.1.16.14 If an amendment is not carried, other amendments to the original motion may be moved.
- 4.1.16.15 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 4.1.16.16 After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there is none, put it to the vote.

Alteration of Motion

- 4.1.16.17 A Member may alter a motion of which he or she has given notice with the consent of the Meeting. The Meeting's consent will be signified without discussion.
- 4.1.16.18 A Member may alter a motion which he or she has moved without notice with the consent of both the meeting and the seconder. The Meeting's consent will be signified without discussion.
- 4.1.16.19 Only alterations which could be made as an amendment may be made.

Withdrawal of Motion

- 4.1.16.20 A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The Meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of Reply

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

Motions Which may be Moved During Debate

- 4.1.16.24 When a motion is under debate, no other motion may be moved except the following:
- a to withdraw the motion
 - b to amend the motion
 - c to proceed to the next business;
 - d that the question be now put
 - e to adjourn a debate
 - f to adjourn a Meeting
 - g that the meeting continue for a further half hour
 - h to exclude the press and public in accordance with the Access to Information Rules
 - l that a Member be not further heard or to exclude the Member from the Meeting.

Closure Motions

- 4.1.16.25 A Member may move without comment the following motions at the end of a speech of another Member:
- a to proceed to next business
 - b that the question be now put
 - c to adjourn a debate
 - d to adjourn a Meeting.
- 4.1.16.26 If a motion to proceed to next business is seconded and the Chairman thinks the item under discussion has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 4.1.16.27 If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed, he or she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- 4.1.16.28 If a motion to adjourn the debate or adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he or she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 4.1.16.29 A Member may raise a point of order at any time and the Chairman will hear it immediately. A point of order may only relate to the alleged breach of these Council Rules or the law. The Member must indicate the rule or law and the way in which he or she considers it has been broken. The ruling of the Chairman on the matter will be final.

Personal Explanation

- 4.1.16.30 A Member may make a personal explanation at any time. A personal explanation shall only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

Conduct of the debate

- 4.1.16.31 A Member shall stand when speaking and shall address the Chairman. If two or more Members rise, the Chairman shall call on one to speak and the other shall sit down.

Motion to Rescind a Previous Decision

- 4.1.16.32 A motion to rescind a decision arising from a motion moved and adopted at a Council meeting within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council.

Motion Similar to one Previously Rejected

- 4.1.16.33 A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least one third of the Members of the Council.
- 4.1.16.34 Once a motion or amendment to which this Rule applies has been dealt with, no Member can propose a similar motion or amendment within the next six months.

Voting Majority

- 4.1.16.35 Unless this Constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.

Chairman of the Council's Casting Vote

- 4.1.16.36 If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

On the voices and show of hands

- 4.1.16.37 Unless a recorded vote is demanded the Chairman will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the Chairman will take the vote by a show of hands.

Recorded Vote

- 4.1.16.38 If at least one fifth Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

Right to Require Individual Vote to be Recorded

- 4.1.16.39 Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

4.1.17 Voting on Appointments

- 4.1.17.1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

4.1.18 Keeping of minutes

- 4.1.18.1 Minutes of the proceedings of each meeting of the Council will be prepared and entered in a book kept for the purpose.

Signing the Minutes

- 4.1.18.2 The Chairman will sign the minutes at the next available Meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 4.1.18.3 In the case of any question of the accuracy of the minutes this can only be raised where notice is given to the Monitoring Officer at least twenty four hours before the meeting at which this is to be raised unless the Chairman determines that questions of accuracy may be raised when the minutes are presented to the next meeting for agreement.

No Requirement to Sign Minutes of Previous meeting at an Extraordinary Meeting

- 4.1.18.4 Where in relation to any meeting, the next meeting for the purposes of signing the minutes is an Extraordinary meeting, then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of signing of minutes.
- 4.1.18.5 Until the contrary is proved, a meeting of the Council shall be deemed to have been duly convened and held, and all the Members present at the meeting shall be deemed to have been duly qualified, where a minute of those proceedings has been made and signed in accordance with these Council Rules.

4.1.19 Exclusion of the public

- 4.1.19.1 The public and press may only be excluded either in accordance with the Access to Information Rules (part 4 section 2) or in the case of disturbance by the public in accordance with these Council Rules 4.1.2.1.

4.1.20 Members' Conduct

- 4.1.20.1 When the Chairman stands during a debate any Member(s) then standing must sit down and the Council must be silent.
- 4.1.20.2 If a Member is guilty of misconduct by persistently disregarding the ruling of the Chairman of the Council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any Member may move that that Member is not further heard. If seconded, the motion will be voted on without discussion.
- 4.1.20.3 If the Member continues to behave improperly after such a motion is carried, any Member may move either that the Member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 4.1.20.4 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he or she thinks necessary.
- 4.1.20.5 The decision as to whether misconduct is taking place shall rest with the Chairman who will have due regard to the Councillor Code of Conduct.

4.1.21 Disturbance by Public

- 4.1.21.1 If a member of the public interrupts proceedings, the Chairman will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.
- 4.1.21.2 If there is a general disturbance in any part of the meeting room open to the public the Chairman shall order that part to be cleared and the Chairman may for that purpose adjourn the meeting for as long as is needed.

4.1.22 Suspension and Amendment of Council Rules

- 4.1.22.1 Any of the Council Rules may be suspended for all or part of the business of a meeting at which suspension is moved by a motion, except Rules 4.1.1 to 4.1.12, 4.1.16.35 to 4.1.16.39, and 4.1.17 to 4.1.22
- 4.1.22.2 Such a motion cannot be moved without notice unless at least two thirds of the whole number of Members of the Council is present.

4.1.23 Substitution

- 4.1.23.1 The Monitoring Officer on behalf of the Chief Executive may receive notice from a group leader or authorised nominee on behalf of that group that a different member of their group shall be substituted for the member previously allocated to a place on a committee, sub-committee or other body to which the proportionality rules apply. The giving of notice in writing no later than 3.00 p.m. on the last working day prior to the date of the meeting is encouraged.
- 4.1.23.2 The Monitoring Officer (in consultation with the ungrouped members concerned) may substitute another ungrouped member for an ungrouped member who has notified him in writing that he is unable to attend a meeting. Such notification must be given no later than 3.00 p.m. on the last working day prior to the date of the meeting.

4.1.24 Recording and Filming of Meetings

- 4.1.24.1 The recording or filming of meetings is forbidden without the express prior consent of the Chairman who will inform all in attendance.

Section 2 - Access to Information Rules

4.2.1 Meetings covered by these Rules

4.2.1.1 These Rules apply to all meetings of:-

- a the Council
- b the Cabinet
- c the Audit and Governance Committee
- d the Overview and Scrutiny Committee
- e the Scrutiny Committees
- f the Planning Committee
- g the Regulatory Committee and its Sub-Committee
- h the Employment Panel
- i the Standards Committee
- j all sub-committees except as provided for by law or elsewhere in this Constitution.

4.2.2 Additional rights to information

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

4.2.3 Rights to attend meetings

4.2.3.1 Members of the public may attend all Meetings subject only to the exceptions in these rules.

4.2.4 Notice of meetings

4.2.4.1 The Council will give at least five clear days' notice of any Meeting by posting details of the meeting at the Designated Office (Brockington, 35 Hafod Road, Hereford).

4.2.5 Access to agenda and reports before the meeting

4.2.5.1 Copies of:

- a the agenda, and
- b those reports which are open to the public

shall be made available for inspection at the Designated Office at least five clear days before the meeting, unless paragraphs 4.2.5.2 or 4.2.5.3 apply.

4.2.5.2 If a Meeting is convened with less notice, copies of the agenda and reports must be open to inspection from the time the meeting is convened.

- 4.2.5.3 If an item is added to an agenda which is open to inspection, copies of the item and the revised agenda must be open to inspection from the time the item is added to the agenda.

4.2.6 Consideration of items of business

- 4.2.6.1 An item of business may not be considered at a Meeting unless either:-
- a a copy of the agenda including the item (or a copy of it) is open to inspection by a member of the public for at least five clear days before the meeting, or if the meeting was convened with less notice, from the time the meeting is convened, or
 - b the Chairman of the Meeting considers that for reasons of special circumstances, the item should be considered at the Meeting as a matter of urgency.
- 4.2.6.2 Rules in paragraphs 4.2.14 and 4.2.15 apply if the item of business relates to a Key Decision.

4.2.7 Supply of copies

- 4.2.7.1 The Council will supply copies of:
- a any agenda and reports which are open to public inspection;
 - b any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - c if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.
- 4.2.7.2 The Council may first direct a member of the public seeking copies of documents referred to in 4.2.7.1 to the Council's website if copies of those documents are available there.

4.2.8 Access to Minutes etc after the Meeting

- 4.2.8.1 The Council will retain for six years and make available copies of the following:
- a the minutes of the Meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet excluding any part of the Minutes of proceedings when the meeting was not open to the public or which disclose Exempt or Confidential information;
 - b a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
 - c the agenda for the meeting; and
 - d reports relating to items when the Meeting was open to the public.

4.2.9 Background Papers

- 4.2.9.1 Background Papers used or referred to in the preparation of a report will be listed in every report.
- 4.2.9.2 The Council will make available for public inspection a copy of each Background Paper for four years after the date of the Meeting.

4.2.10 Summary of Public's Rights

- 4.2.10.1 A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at the Council's principal office.

4.2.11 Exclusion of Access by the Public to Meetings

- 4.2.11.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Confidential Information would be disclosed.
- 4.2.11.2 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Exempt Information would be disclosed.
- 4.2.11.3 Confidential Information and Exempt Information is defined by law for these purposes. Advice is available from the Monitoring Officer on what is confidential information and exempt information.
- 4.2.11.4 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, the Council will give due consideration to the presumption in Article 6 of the European Convention on Human Rights that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6. The Monitoring Officer can provide advice on Article 6.

4.2.12 Exclusion of Access by the Public to Reports

- 4.2.12.1 If in the opinion of the Monitoring Officer any report contains confidential information (pursuant to paragraph 4.2.11.1) or Exempt Information (pursuant to paragraph 4.2.11.2), and will or is likely to be considered during that part of the meeting from which the public are excluded, those reports will not be published with the agenda for the meeting. Such reports will be marked "Not for publication" and will include a statement of the category of information contained within the report which will or is likely to give rise to the exclusion of the public from the meeting.
- 4.2.12.2 When a report is to be considered at a meeting which in the opinion of the Monitoring Officer contains Confidential Information pursuant to paragraph 4.2.11.1, the Chairman will ask the public to leave the meeting during consideration of that item.
- 4.2.12.3 When a report is to be considered at a meeting which in the opinion of the Monitoring Officer contains Exempt Information pursuant to paragraph 4.2.11.2, the Chairman will invite the members present at the meeting to consider whether

in the circumstances the public should be excluded and, if the meeting agrees that the public should be excluded, the Chairman will ask the public to leave the meeting during consideration of that item. The decision will be based on a test of whether it serves the public interest better to deal with the matter in public or in private.

4.2.13 Application of Rules to the Cabinet

4.2.13.1 These rules apply to the public meetings of Cabinet and its committees.

4.2.13.2 If the Cabinet, its committees or a Cabinet Member meet:-

- a to discuss a Key Decision to be taken individually or collectively, and
- b with an Officer, other than a Political Assistant, present,
- c within 28 days of the date in the Forward Plan by which it is to be decided,

it must also comply with these Rules, unless paragraph 4.2.16 (General Exception) or paragraph 4.2.17 (Special Urgency) apply.

4.2.13.3 The requirements in these Rules do not apply to meetings whose sole purpose is for Officers to brief Councillors.

4.2.14 Procedure before Taking Key Decisions

4.2.14.1 Subject to paragraph 4.2.16 (General Exception) and paragraph 4.2.17 (Special Urgency), a Key Decision may not be taken unless:

- a a Forward Plan has been published in connection with the matter in question
- b at least five clear days have elapsed since the publication of the Forward Plan
- c where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4.2.4 (notice of meetings).

4.2.15 The Forward Plan

4.2.15.1 The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, or under joint arrangements in the course of the discharge of a Cabinet Function during the period covered by the plan.

4.2.15.2 The Forward Plan will be maintained and published by the Chief Executive to cover a period of four months, beginning with the first day of any month. It will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

4.2.15.3 The Forward Plan must be published at least 14 days before the start of the period covered.

4.2.15.4 The Forward Plan will contain the following information so far as it is available or might reasonably be obtained:

- a the matter in respect of which a decision is to be made
- b where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership
- c the date on which, or the period within which, the decision will be taken
- d the identity of the principal groups whom the decision taker proposes to consult before taking the decision
- e the means by which any such consultation is proposed to be undertaken
- f the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken
- g a list of the documents submitted to the decision taker for consideration in relation to the matter.

4.2.15.5 The Monitoring Officer will publish a notice once a year in at least one newspaper circulating in the area, stating:

- a that key decisions are to be taken on behalf of the Council
- b that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis
- c that the plan will contain details of the Key Decisions to be made for the four month period following its publication
- d that each plan will be available for inspection at reasonable hours free of charge at the Council's offices
- e that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan
- f the address from which, subject to any prohibition or restriction on this disclosure, copies of, or extracts from, any documents listed in the forward plan is available
- g that other documents may be submitted to decision takers
- h the procedure for requesting details of documents (if any) as they become available
- i the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

4.2.15.6 Exempt information need not and confidential information must not be included in the Forward Plan.

4.2.16 General Exception

4.2.16.1 If the matter which is likely to be a Key Decision has not been included in the Forward Plan, the decision may still be taken if:

- a the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;

- b the Monitoring Officer has informed the Chairman of the relevant Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- c the Monitoring Officer has made copies of that notice available to the public at the Designated Office; and
- d at least Five Clear Days have elapsed since the Monitoring Officer complied with (a) and (b).

4.2.16.2 Where such a decision is taken collectively, it must be taken in public, unless it involves consideration of exempt or confidential information.

4.2.17 Special Urgency

4.2.17.1 If because of the date by which a decision must be taken, paragraph 4.2.16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

4.2.17.2 If there is no Chairman of the relevant Scrutiny Committee or in his /her absence, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman, will suffice.

4.2.17.3 The Cabinet will submit quarterly reports to the Council Meeting on the decisions taken in the circumstances set out in this Rule in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

4.2.18 Report to the Council Meeting

4.2.18.1 If a Scrutiny Committee thinks that a Key Decision has been taken which was not:

- a included in the Forward Plan; or
- b the subject of the general exception procedure (paragraph 4.2.16)
- c or the subject of the Special Urgency procedure (paragraph 4.2.17)

the Committee may require the Cabinet to submit a report to the Council Meeting within such reasonable time as the committee specifies.

4.2.18.2 The power to require a report in paragraph 4.2.18.1 may be exercised by:-

- a resolution passed at a meeting of the relevant Scrutiny Committee, or
- b the Monitoring Officer, when so requested by the Chairman or any 3 members of the relevant Scrutiny Committee.

4.2.18.3 If required under paragraph 4.2.18.1, the Cabinet will prepare a report for submission to the next available Council Meeting. However, if the next Council Meeting is within 7 days of the receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to the Council Meeting will set out particulars of the decision, the individual or body making the decision, and if the Cabinet is of the opinion that it was not a Key Decision, the reasons for that opinion.

4.2.19 Record of Decisions

- 4.2.19.1 After any meeting of the Cabinet or any of its committees, whether held in public or private, the Monitoring Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

4.2.20 Scrutiny Committees Access to Documents

- 4.2.20.1 Subject to paragraph 4.2.20.2, a member of a Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:-
- a any business transacted at a meeting of the Cabinet or its committees
 - b any decision taken by an individual member of the Cabinet.
- 4.2.20.2 A Scrutiny Committee or members of a Scrutiny Review Group will not be entitled to:
- a any document that is in draft form
 - b any part of a document that contains exempt or confidential Information,

unless that information is relevant to an action or decision they are reviewing or intending to review. A Scrutiny Committee or members of a Scrutiny Review Group may be provided with information to which they are not entitled with the agreement of the Leader and in such circumstances, may be required to treat such information as confidential if so specified.

4.2.21 Additional Rights of Access for Councillors

- 4.2.21.1 Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless it contains exempt Information.

Section 3 - The Budget and Policy Framework Rules

4.3.1 The Budget and Policy Framework

- 4.3.1.1 The Council is responsible for the adoption of the Budget and Policy Framework and the Cabinet is responsible for implementing it as set out Part 2 (Article 4 and Article 5) and in Part 3 (the Functions Scheme).

4.3.2 Process for Developing the Framework

- 4.3.2.1 The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals.
- 4.3.2.2 The Cabinet will provide a copy of the timetable to the Chairman of the Council, the Chairman of the Overview and Scrutiny Committee and the Chairmen of the Scrutiny Committees. The Chairman of the Overview and Scrutiny Committee shall take steps to ensure that the Overview and Scrutiny Committee and the Scrutiny Committee work programmes include any such plan, strategy or budget to enable scrutiny members to be consulted on the Budget and Policy Framework.
- 4.3.2.3 The Cabinet will determine the methods to be used to publicise the timetable to ensure that the appropriate consultees are informed about the process and the timetable for adoption of any such plan, strategy or budget.
- 4.3.2.4 Budget consultees should include Town and Parish Councils, the Local Strategic Partnership, Health partners, the Schools Forum, Business Ratepayers, Council Taxpayers, the Trade Unions, Political Groups on the Council, the Overview and Scrutiny Committee and such other organisations and persons as the Leader shall determine.
- 4.3.2.5 Following consultation and having had regard to the responses to the consultation, the Cabinet will draw up firm proposals for the plan, strategy or budget under consideration.
- 4.3.2.6 The Chief Executive will report the recommendations of Cabinet to Council for any such plan, strategy or budget. The report from the Cabinet to Council recommending the adoption of the plans, strategies and plans that are part of the Budget and Policy Framework will include a summary of the responses to consultation including scrutiny responses.
- 4.3.2.7 In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place. The Council should ensure that it takes into account the advice of its officers to ensure that any decision is properly informed by professional advice.
- 4.3.2.8 If the Council accepts the recommendation of Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in principle decision.
- 4.3.2.9 If the Council rejects or amends the Cabinet recommendation or substitutes its proposals in place of the Cabinet's recommendations, the Cabinet will not

implement the proposed plan, strategy or budget until a further report to Council has been considered.

- 4.3.2.10 In the event that the Council rejects or amends the Cabinet recommendation or substitutes its proposals, immediately prior to the close of the meeting the Chairman of the Council will adjourn the meeting until a date (not less than 10 working days thereafter) to be agreed by the Leader. The Leader may agree that the matter be deferred to the next meeting of Council. At the reconvened or next meeting the Council will consider the matter again.
- 4.3.2.11 At least 5 working days before the date on which the adjourned meeting is to be reconvened, the Chief Executive will provide a further report to Council in which he will set out the Leader's response to the in principle decision of Council on its recommendations. That report must address all relevant issues and in particular, must include advice on the financial and legal implications. If the proposed plan, strategy or budget has legal implications for or impact on the Council's Medium Term Financial Management Strategy that exceed £500,000 then the report must contain advice from the s.151 officer on the implications or impact of any proposed amendments or substitute proposals.
- 4.3.2.12 The Leader may:
- a submit a revision of the draft budget plan or strategy with the Cabinet's reasons for any amendments and any advice from officers for the Council to consider
 - b inform the Council of any disagreement the Cabinet has with the Council's amendments or substitute proposals and the Cabinet's reasons for such disagreement
 - c agree any in principle decisions of Council in whole or in part
- 4.3.2.13 If the Leader of the Council fails to agree a date for the reconvened meeting of Council or that the matter may be deferred to the next meeting, the Chairman of the Council shall set the date of the reconvened meeting or decide that the matter be deferred to the next meeting.
- 4.3.2.14 At the reconvened or next meeting, the Council may approve the Cabinet's recommendation or approve a different decision that does not accord with the recommendation of the Cabinet.
- 4.3.2.15 The decision shall then be made public and shall be implemented immediately.

4.3.3 Decisions Outside the Budget or Policy Framework

- 4.3.3.1 Subject to the virement arrangements in the Financial Procedure Rules (section 4.7.20), the Cabinet, a Committee of the Cabinet or Cabinet Members may only take decisions that are in line with the Budget and Policy Framework. If any of these bodies want to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by the Council unless it is an urgent decision as defined in these Budget and Policy Framework Rules.
- 4.3.3.2 If the Cabinet, a Committee of the Cabinet or Cabinet Members want to make such a decision, they shall take advice from the Chief Executive, Monitoring

Officer and s.151 officer as to whether the decision they want to take would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of any of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body to the Council for decision, unless the decision is a matter of urgency in which case the provisions relating to urgent decisions apply as defined in these Budget and Policy Framework Rules.

4.3.4 Urgent Decisions Outside the Budget or Policy Framework

4.3.4.1 The Cabinet may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. The decision may only be taken:

- a if it is not practical to convene a quorate Council Meeting;
- b if it is taken by Cabinet collectively; and
- c if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

4.3.4.2 The reason why it is not practical to convene a Council Meeting must be clear and noted on the record of the decision.

4.3.4.3 The Chairman of the Overview and Scrutiny Committee's agreement must be noted on the record of the decision.

4.3.4.4 In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Chairman of the Council, and if he/she is unavailable or unable to act, the Vice-Chairman of the Council, will suffice.

4.3.4.5 Following the decision, the Cabinet will provide a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

4.3.5 In Year Changes to the Budget and Policy Framework

4.3.5.1 Any decisions that involve an in year change to the Budget and Policy Framework must be approved or adopted by the Council unless:

- a It is an urgent decision as provided for in these Budget and Policy Framework Rules
- b It will result in the closure or discontinuance of a service or part of service to meet immediate budgetary constraint
- c It is necessary to ensure compliance with the law, ministerial direction or government guidance
- d It relates to the policy framework and is in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy does not provide for the matter under consideration
- e It is within the scope of an in-year decision that the Council has previously agreed can be made by Cabinet
- f It is otherwise within the Financial Procedure Rules

4.3.6 Call-In of Decisions Outside the Budget and Policy Framework

- 4.3.6.1 Where the Overview and Scrutiny Committee or the relevant Scrutiny Committee is of the opinion that a decision has been taken or is likely to be taken by the Cabinet, a Committee of the Cabinet or a Cabinet Member that is contrary to or not wholly in accordance with the Budget and Policy Framework, that Committee shall seek advice from the Chief Executive, the Monitoring Officer and the s.151 Officer.
- 4.3.6.2 If the Chief Executive, the Monitoring Officer and/or the s.151 Officer are of the opinion that the decision was contrary to or not wholly in accordance with the Budget and Policy Framework, a report will be prepared and presented to the Council.
- 4.3.6.3 If the Chief Executive, the Monitoring Officer and/or the s.151 Officer are of the opinion that the decision was not contrary to or was wholly in accordance with the Budget and Policy Framework, a report will be prepared and presented to the Overview and Scrutiny Committee or the relevant Scrutiny Committee.
- 4.3.6.4 If the decision has yet to be or has been made but not implemented, and a report is presented to Council stating that the decision is one that is contrary to or not wholly in accordance with the Budget and Policy Framework, no further action will be taken in respect of that decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the submission of a request for advice by the Overview and Scrutiny Committee or relevant Scrutiny Committee to the Chief Executive, s.151 Officer or Monitoring Officer.

Section 4 - Cabinet Rules

4.4.1 The Cabinet

- 4.4.1.1 The Leader and the Cabinet comprise the Executive of the Council.
- 4.4.1.2 The Council elects the Leader and the Leader appoints members of the Cabinet and shall designate one of them as Deputy Leader. The Leader is also the Chairman of Cabinet meetings. In his or her absence, the Deputy Leader chairs meetings of the Cabinet.
- 4.4.1.3 The Leader determines the functions to be determined by the Cabinet and the individual portfolios to be allocated to Cabinet Members. These may be varied from time to time by the Leader giving notice to the Chief Executive.

4.4.2 Who may make Executive Decisions?

- 4.4.2.1 The arrangements for the discharge of Cabinet functions are explained in Part 3 (The Functions Scheme) and in Part 7. By law, the arrangements may provide for Cabinet Functions to be discharged by:
 - a the Leader
 - b the Cabinet as a whole
 - c a Committee of the Cabinet
 - d an individual member of the Cabinet
 - e an officer
 - f joint arrangements
 - g another local authority.
- 4.4.2.2 The Leader will decide the arrangements for the discharge of Cabinet Functions and will notify the Chief Executive and the Monitoring Officer of these functions in writing. The Monitoring Officer will make sure they are set out in Part 7 of the Constitution and that the Council is informed at its next meeting. Changes to the arrangements will only take effect when the Leader has notified the Monitoring Officer.
- 4.4.2.3 Some matters may require decisions by more than one Cabinet Member and in those circumstances, individual Cabinet Member decisions may be taken together.

4.4.3 Sub-delegation of Functions

- 4.4.3.1 Unless the Leader directs otherwise:
 - a the Cabinet may delegate its functions to a Committee of the Cabinet, a Cabinet Member or an officer
 - b a Committee of the Cabinet may delegate its functions to a Cabinet Member or an officer

- c a Cabinet Member may delegate his/her functions to an officer except any matter which is a Key Decision
- d any delegation shall be without prejudice to the powers of the delegating body to exercise the power

4.4.3.2 The current system of delegation of Cabinet functions is set out in The Functions Scheme (Part 3)

4.4.4 Conflict of Interests

4.4.4.1 Where the Leader or any member of the Cabinet has a conflict of interest this will be dealt with under the Council's Councillor Code of Conduct in Part 5 section 1.

4.4.5 Cabinet Meetings – when and where?

4.4.5.1 The Cabinet will meet in accordance with a programme of meetings agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

4.4.6 Public and private meetings of the Cabinet

4.4.6.1 There is a presumption that Cabinet meetings will be held in public in accordance with the Council's principles of openness in decision making set out in Part 2 Article 11 of this Constitution. The Access to Information Rules in Section 2 of this Part of the Constitution set out the requirements covering public and private meetings.

4.4.7 Quorum

4.4.7.1 The Quorum of the Cabinet is three. One of those must be the Leader or the Deputy Leader.

4.4.7.2 The quorum for a Cabinet Committee is three.

4.4.8 Who May Attend Cabinet?

4.4.8.1 When a Cabinet meeting is held in public any person is permitted to attend. The press and public can be excluded in accordance with the Access to Information Rules in Section 2 of this part of the Constitution.

4.4.8.2 In addition the following rules apply:

- a the Chairmen of Scrutiny Committees (or in their absence the Vice-Chairmen) have the right to attend Cabinet meetings for the purpose of reporting the views of his/her Committee on any matter under consideration at the meeting
- b the Chairman of a Review Group has the right to attend Cabinet meetings for the purpose of presenting a report of a review to Cabinet
- c the Group Leaders have the right to attend Cabinet meetings for the purpose of fulfilling their informal role(s) as outlined in Part 3 section 7
- d a Ward Member or Members have the right to attend a Cabinet meeting where an item relating to an individual Ward or a group of Wards is included in the Agenda or is the subject of a report to a Cabinet Member

e others will be invitees at the discretion of the Chairman of the meeting.

4.4.8.3 All officers presenting reports shall attend and present those reports. In addition, such officers as are required to assist in presenting reports or provide support, advice or information required by the Cabinet will attend.

4.4.8.4 The Chairman shall invite any person in attendance under these rules to speak on an item in order to enable that person to fulfil the purpose of his/her attendance. The Chairman has responsibility for the conduct of the meeting and the order in which those in attendance will be invited to speak.

4.4.8.5 Members of the Cabinet will sit at the Cabinet table and all other invitees and attendees will be accommodated separately so as to make it clear to the public and others in attendance which person is fulfilling which role.

4.4.8.6 The Chairman of the Cabinet meeting will at the commencement of the meeting explain who is attending, in what capacity and for what purpose. The Minutes will also reflect this.

4.4.8.7 The Leader will agree with the Monitoring Officer who should be invited to which meeting of the Cabinet and Democratic Services will manage the process of invitation and attendance.

4.4.8.8 In general the meetings of the Cabinet are to be used as a means of taking final soundings from those attending on an issue for decision and are not the forum for detailed scrutiny of decisions, which should be referred to the relevant Scrutiny Committee.

4.4.9 Decision taking

4.4.9.1 The Cabinet meeting is the forum in which members of the Cabinet take decisions collectively.

4.4.9.2 The Leader, the Cabinet and individual Cabinet Members may meet informally with officers to receive information and briefings but no Cabinet decisions will be taken by the Cabinet or any individual Cabinet Member at any such informal meeting.

4.4.10 Form of business

4.4.10.1 The Cabinet will conduct the following business at its meetings:

- a Consideration and approval of the minutes of the last meeting
 - b Declarations of interest, if any
 - c Consideration of reports from the Overview and Scrutiny Committee or Scrutiny Committees
 - d Consideration of matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the Scrutiny Rules or the Budget and Policy Framework Procedure Rules
 - e Reports from the Chief Executive or any officer nominated by him to so report
 - f Decisions on any Cabinet function
-

- g Recommendations to Council on any Council functions
- h Any other matters set out in the agenda for the meeting.

4.4.10.2 The agenda for the Cabinet meeting shall specify all the business to be conducted in accordance with the Access to Information Rules and shall identify any matter which requires a Key Decision.

4.4.11 Leader's Report

4.4.11.1 The Leader will submit a report from the Cabinet to each meeting of the Council on which he or she may be questioned and if so, answer. This will report the work of the Cabinet since the last report and will include:

- a A summary of those matters decided by the Cabinet and other activities of the Cabinet since the previous Council meeting;
- b Any recommendations of the Cabinet in respect of the Policy Framework and Budget;
- c Any report to the Council required by a Scrutiny Committee; and
- d A summary and particulars of any urgent decision made under paragraph 4.4.15 (Urgent Decisions).

4.4.12 Forward Plan

4.4.12.1 The Cabinet and Cabinet Members will take Key Decisions as defined in the Functions Scheme (Part 3) only in respect of items listed on the Forward Plan unless the rules on Urgent Decisions in paragraph 4.4.15 apply.

4.4.12.2 The Forward Plan must be reviewed regularly at meetings of the Cabinet and the Chairman of the Overview and Scrutiny Committee will be asked to indicate those matters that in his/her view should be referred to a Scrutiny Committee. The Leader will determine which matters should be referred taking into account the views of the Chairman of the Overview and Scrutiny Committee. Referred matters will be subject to a report to the relevant Scrutiny Committee prior to the decision being taken at Cabinet. The views of the Scrutiny Committee will be reported to the Cabinet before the decision is taken.

4.4.13 Decisions subject to call in by Scrutiny Committees

4.4.13.1 Cabinet decisions made but not implemented may be called-in pursuant to Section 21 (2) (a) of the Local Government Act 2000 (call-in powers) in accordance with the Scrutiny Rules.

4.4.14 Individual Cabinet Member Decisions

4.4.14.1 Where individual Cabinet Members make Key Decisions they must take into account any report submitted to them before making the Key Decision.

4.4.14.2 Subject to the provisions relating to special urgency in the Access to Information Rules (section 2 of this Part) where any such report is to be taken into account in respect of a Key Decision the report must:

- a be available for public inspection for not less than five clear days before the decision is due to be made
- b include a reference to any background papers.

4.4.14.3 All decisions taken by a Cabinet Member will be recorded in a decision notice. All decision notices will be published and a copy will be provided to the Chairman of the relevant Scrutiny Committee(s).

4.4.15 Urgent Decisions

4.4.15.1 There may be an urgent need to take a Key Decision where inclusion of it on the Forward Plan is impracticable in the circumstances.

4.4.15.2 In that event the Key Decision may only be made in accordance with the Access to Information Rules (section 2 of this Part).

Section 5 - Scrutiny Rules

4.5.1 Arrangements for Overview and Scrutiny

4.5.1.1 The Scrutiny arrangements for the Council are as laid out in Part 2 Article 6 and Part 3 of the Functions Scheme. The Council has decided that it will have one Overview and Scrutiny Committee which will have responsibility for all overview and scrutiny functions on behalf of the Council.

4.5.2 Who may sit on the Overview and Scrutiny Committee?

4.5.2.1 All Councillors except members of the Executive may be members of the Overview and Scrutiny Committee. No Member may be involved in scrutinising a decision in which he/she has been directly involved.

4.5.3 Co-Option

4.5.3.1 The Overview and Scrutiny Committee has the power to co-opt people onto the Committee as it considers appropriate.

4.5.3.2 Co-optees shall not have the right to vote as a member of the Committee unless the statutory or other requirements under which they are appointed or required so provide or unless the Council at the time of the appointment designate the appointed co-optee as a voting member in which case any limitation on such voting rights shall also be specified.

4.5.3.3 Co-optees are not signatories for the purpose of triggering a call in under Rule 4.5.16 below.

4.5.4 Quorum

4.5.4.1 The Quorum for the Overview and Scrutiny Committee is one quarter of the voting membership of the Committee, or three Members, whichever is the greater. If the number is a part number it is rounded up.

4.5.5 Task and Finish Groups

4.5.5.1 The Chairman of the Overview and Scrutiny Committee may propose and the Overview and Scrutiny Committee may appoint a Task and Finish Group for any scrutiny activity within the Committee's work programme.

The Council will appoint a number of Vice-Chairmen of the Overview and Scrutiny Committee. Their role will be to chair the Task and Finish Groups. The Overview and Scrutiny Committee will appoint the Chairman of each Task and Finish Group.

4.5.5.2 The expectation is that the Task and Finish Groups will meet in public. However, as the Task and Finish Groups will not be making decisions they can in appropriate circumstances meet in private.

When the Task and Finish Groups meet formally in public they may exclude the press and public from any such meeting in accordance with the Access to Information Rules (Part 4 section 2).

- 4.5.5.3 The Overview and Scrutiny Committee will allocate a task drawn from the work programme to a Task and Finish Group. On occasion it may undertake a task itself acting as a Task and Finish Group.
- 4.5.5.4 The Committee will determine an outline scope including, as a minimum, the composition of the Group, the desired outcomes and what will not be included in the work.
- 4.5.5.5 The Task and Finish Groups will be composed of Members of the Overview and Scrutiny Committee, may include other Councillors, and, may also include, as appropriate, co-opted people with specialist knowledge and or expertise to support the task. It is unlikely that voting will be necessary in Task and Finish Groups. However, for avoidance of doubt any Councillor appointed to a Task and Finish Group will have the right to vote. No co-opted members of Task and Finish Groups will have voting powers.
- 4.5.5.6 The Task and Finish Groups will also be able to seek contributions from the wider community, if felt appropriate.
- 4.5.5.7 Officer support will be provided to each Task and Finish Group dependent on the matter being considered.
- 4.5.5.8 The Task and Finish Groups will be created for specific tasks taken from the Committee's work programme and will be disbanded once the task has been completed.
- 4.5.5.9 The Task and Finish Groups will report their findings/outcomes to the Overview and Scrutiny Committee who will then decide if the findings/outcomes should be reported to the Cabinet or elsewhere.
- 4.5.5.10 At the start of each Task and Finish project, the Task and Finish Group will finalise:
- its terms of reference
 - the Scope of the work to be undertaken
 - the desired outcomes
 - timescales
 - expert/specialist support required
 - Officer input required
 - which aspects of the task are to be undertaken in private or public.
- 4.5.5.11 Any changes to the scope allocated to the Task and Finish Group by the Overview and Scrutiny Committee will be reported to the Chairman of the Overview and Scrutiny Committee for his agreement.
- 4.5.5.12 In the event of any disagreement a report will be made to the Overview and Scrutiny Committee for its consideration.

4.5.6 The Appointment of Chairman and Members of the Overview and Scrutiny Committees

4.5.6.1 The Chairman and Vice Chairman of the Overview and Scrutiny Committee are appointed annually by the Council together with such additional Vice-Chairmen as the Council considers appropriate. The Council shall determine the number of members of the Overview and Scrutiny Committee annually or as required from time to time in compliance with the statutory rules on proportionality. The members of the Committee shall be appointed by the Chief Executive on nomination of the Group Leaders.

4.5.7 Meetings of the Overview and Scrutiny Committee

4.5.7.1 The Overview and Scrutiny Committee will meet in accordance with the Council's schedule of meetings, subject to the Chairman's power to cancel or postpone meetings in case of emergency or where there is no business. Where the Overview and Scrutiny Committee feels it is appropriate to hold additional meetings it may do so. The Chairman of the Overview and Scrutiny Committee may also call additional meetings if he/she considers it necessary or appropriate. In so doing, the Committee or Chairman shall have regard to the resources available to support the work of the Committee.

4.5.8 Programme of work of the Overview and Scrutiny Committee

4.5.8.1 The Overview and Scrutiny Committee will be responsible for setting its own work programme. In setting the work programme the Overview and Scrutiny Committee shall have regard to the resources (including officer time) available.

4.5.9 Overview and Scrutiny Committee Agendas

- 4.5.9.1 At each of its meetings the Overview and Scrutiny Committee shall consider the following business, where appropriate:
- a minutes of the last meeting
 - b any matter called-in in accordance with paragraph 4.5.16 below
 - c a review of its work programme
 - d any request from Council or Cabinet for a review as allocated by the Overview and Scrutiny Committee
 - e any response of the Cabinet to reports of the Scrutiny Committees
 - f any item requested to be placed on the agenda by a member of the Committee
 - g any Councillor Call for Action
 - h any item arising from any petition or deputation to Council under the Council Rules (Part 4 section 1)
 - i any business otherwise set out on the agenda for the meeting.
- 4.5.9.2 Any member of the Overview and Scrutiny Committee may give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the

Committee. On receipt of such a request the Chief Executive shall ensure that it is included on the next available agenda.

- 4.5.9.3 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and from the Cabinet to review particular areas of Council activity. On receipt of any such request from Cabinet the Scrutiny Committee shall firstly consider whether it wishes to conduct the review as requested. Where they do so, and in response to any request from Council, the Scrutiny Committee shall conduct the review as requested and report their findings and any recommendations back to the Cabinet and/or Council.

4.5.10 Councillor Call for Action

- 4.5.10.1 Any member of the Council shall be entitled to give notice to the Chief Executive if he/she wishes an item relating to a Councillor Call for Action to be included on the agenda for discussions at the next available meeting of the Overview and Scrutiny Committee.
- 4.5.10.2 On receipt of such a request and subject to it falling within the statutory definition of a matter that can be the subject of a Councillor Call for Action and it meeting the procedural and other requirements set out in the Councillor Call for Action Code (Part 5 section 9) the Chief Executive shall ensure that it is included on the next available agenda of the Committee.
- 4.5.10.3 Further guidance in respect of the Councillor Call for Action is contained in Part 5 section 9.

4.5.11 Policy Review and Development

- 4.5.11.1 The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (Part 4 section 3).
- 4.5.11.2 In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.
- 4.5.11.3 The Overview and Scrutiny Committee may hold or commission inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist it in this process. The Committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend in order to address it on any matter under consideration and may pay to advisers, assessors and witnesses a reasonable fee and expenses for doing so, having regard to the resources (including officer time) available. In determining how to conduct such activities the Chairman of the Committee should consult with the Chief Executive or his nominated officer.

4.5.12 Reports from the Overview and Scrutiny Committee

- 4.5.12.1 Following any investigation or review, the Committee or Task and Finish Group shall prepare a report. Any report from a Task and Finish Group will first be

considered by the Overview and Scrutiny Committee and if adopted will be dealt with in accordance with the following rules.

- 4.5.12.2 If any review is in response to a request from Council in accordance with paragraph 4.5.9.3 above, the Overview and Scrutiny Committee shall report its findings to Council.
- 4.5.12.3 In all other cases the report will be submitted to the Chief Executive for consideration by the Cabinet. If the recommendations are such that a decision can be taken by an individual Cabinet Member or more than one Cabinet Member acting within his/her portfolio in accordance with the Functions Scheme (Part 3 Section 3), the Chief Executive shall arrange for that/those Cabinet Member(s) to consider the report.
- 4.5.12.4 If the recommendations in the Overview and Scrutiny report are contrary to or not wholly in accordance with the Budget and Policy Framework, the Cabinet shall consider the scrutiny recommendations and report the matter with its response to the scrutiny recommendations to the Council.
- 4.5.12.5 If the recommendations in the Scrutiny report are in line with the Budget and Policy Framework, the Cabinet or the Cabinet Member(s) shall consider the scrutiny recommendations and report their decision to the Overview and Scrutiny Committee.

4.5.13 Making sure that Scrutiny reports are considered by the Cabinet

- 4.5.13.1 The Cabinet agenda will include a standing item to deal with reports from the Overview and Scrutiny Committee. Any report referred to the Cabinet will be considered under this item on the Cabinet agenda at the next Cabinet meeting following its submission to the Chief Executive. If such a report is to be considered by an individual Cabinet Member or more than one, such report will be so considered within one month of its submission to the Chief Executive.
- 4.5.13.2 If any individual Cabinet Member rejects all of the recommendations in a report from the Overview and Scrutiny Committee, then the matter must be referred to the next meeting of the Cabinet to decide its response.
- 4.5.13.3 The Chief Executive will notify the relevant Scrutiny Committee of the response of the Cabinet and Individual Cabinet Member(s) within 2 months of a decision on the Scrutiny Report, with the exception of matters relating to statutory Health Scrutiny and issues relating to Crime and Disorder Scrutiny which require a response within 28 days. If the Cabinet or Cabinet Member wishes to extend the deadline a report will be made to the Overview and Scrutiny Committee explaining why this is considered necessary. Decisions of Council on any scrutiny recommendations will be recorded in the usual way.

4.5.14 Rights and Powers of Overview and Scrutiny Committee Members

- 4.5.14.1 Where the Overview and Scrutiny Committee or Task and Finish Group conduct investigations or reviews and people attend to give evidence or otherwise assist the Committee the following principles will apply:

- a that the investigation be conducted fairly and all Members of the Committee or Group be given the opportunity to ask questions of attendees, and to contribute and speak
- b that those assisting the Committee by giving evidence be treated with respect and courtesy
- c that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

4.5.15 Members and Officers Giving Account

4.5.15.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Chief Executive, and/or senior officer carrying out functions on the Chief Executive's behalf to attend before it to explain in relation to matters within its remit regarding:-

- a any particular decision or series of decisions
- b the extent to which the actions taken implement Council policy; and/or
- c their performance.

4.5.15.2 It is the duty of those persons to attend if so required.

4.5.15.3 Where any member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of the Committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least ten working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.

4.5.15.4 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

4.5.15.5 Unless in exceptional circumstances, any witnesses required to attend any meetings called under paragraphs 4.5.15.1 to 4.5.15.3 and 4.15.6 will be restricted to:-

- a any Cabinet Member involved in the decision the subject of the Call In
- b any Officer who in the view of the Chairman of the meeting would be able to supply evidence materially able to assist at the meeting.

4.5.15.6 The Council has designated the Deputy Chief Executive the Statutory Scrutiny Officer who is required to discharge the following functions:

- a to promote the role of the authority's overview and scrutiny committee
- b to provide support to the authority's overview and scrutiny committee and the members of that committee

- c to provide support and guidance to (i) members of the authority, (ii) members of the Executive of the authority, and (iii) Officers of the authority – in relation to the functions of the authority’s overview and scrutiny committee

4.5.16 Call-In

- 4.5.16.1 “Call-in” is a statutory right for Members of Council to call in a decision of Cabinet or an individual Cabinet Member or Members after it is made but before it is implemented subject to the following provisions (4.5.15.5, 4.5.16.2, 4.5.16.3 and 4.5.16.8).
- 4.5.16.2 Call-in does not apply to Cabinet decisions that make recommendations to Council because those decisions will not be implemented in any event until the matter has been considered and agreed by Council.
- 4.5.16.3 Call-in is triggered by three members of the Overview and Scrutiny Committee who are not all members of the same political group.
- 4.5.16.4 When a call-in has been triggered, the call-in process will be managed by the Monitoring Officer in consultation with the Chairman of the Overview and Scrutiny Committee and the members who have triggered the call-in. The Chairman of the Overview and Scrutiny Committee will maintain responsibility for the conduct of any meeting at which the decision called-in is considered.
- 4.5.16.5 Call-in should only be used in exceptional circumstances including but not limited to;
 - a where there is evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in this Constitution
 - b where a key decision has been taken which was neither published in accordance with the requirements for the Forward Plan, and is not subject to the urgency procedures set out in this Constitution; or
 - c where a decision is outside the Budget and Policy Framework.
- 4.5.16.6 Advice should be sought from the Monitoring Officer on these matters.
- 4.5.16.7 When a decision is made by the Cabinet or an individual Cabinet Member that decision will be published widely by electronic means. This includes:-
 - a displaying it at the principal Offices of the Council
 - b sending a copy of the decision to all members of the Council
 - c sending a copy of the decision to the Chairman of the Overview and Scrutiny Committee
 - d appropriate publication by electronic means
- 4.5.16.8 The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of three working days after the date of publication, unless it is called in under these call-in Rules.

- 4.5.16.9 To call the decision in a call-in notice must be received by the Monitoring Officer (or his/her nominated officer) in writing which:-
- a clearly states the decision(s) which is/are being called-in by reference to the decisions as set out on the decision notice
 - b clearly states the grounds for the call in as laid out in rule 4.5.16.5 above as applied to each decision being called-in
 - c is signed by three members of the Overview and Scrutiny Committee, none of whom are Co-optees; and who are not all members of the same political group.

4.5.17 Limitations of Call Ins

- 4.5.17.1 The call in procedure is restricted to any Cabinet or individual Cabinet Member decisions and does not apply to decisions taken by officers.
- 4.5.17.2 Where a decision has been taken in circumstances where the general exception or special urgency provisions apply, as set out the Access to Information Rules (Part 4 section 2), that decision will not be subject to call in.
- 4.5.17.3 The call-in procedure will also not apply where the decision taken needs to be implemented urgently. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest.
- 4.5.17.4 In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the Monitoring Officer should confirm that as such it is not subject to call in.
- 4.5.17.5 The Chairman of the Overview and Scrutiny Committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency. In the Chairman's absence, the Vice-Chairman's consent shall be required. .
- 4.5.17.6 The consent to the decision being taken as a matter of urgency must be recorded by the Chairman of the Overview and Scrutiny Committee and copied to the Leader, the Chief Executive, the Monitoring Officer and all Councillors.
- 4.5.17.7 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

4.5.18 Post Call in

- 4.5.18.1 The Monitoring Officer will determine the validity of the call in as soon as possible.
- 4.5.18.2 The Monitoring Officer will then advise the original decision maker of the Call In.
- 4.5.18.3 The Monitoring Officer shall then call a meeting of the Overview and Scrutiny Committee on such a day as he/she shall determine in consultation with the Chairman and in any event within ten working days of the Monitoring Officer receiving the Call In notice subject to paragraph 4.5.19.

- 4.5.18.4 If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Cabinet or Cabinet Member(s) for reconsideration, setting out in writing the nature of its concerns.
- 4.5.18.5 The Cabinet or Cabinet Member(s) shall reconsider any decision referred to them following call-in, take into account any views expressed by the Overview and Scrutiny Committee and may amend or confirm the original decision.
- 4.5.18.6 If it is alleged that the decision appears to be contrary to or not in accordance with the Budget and Policy Framework the Monitoring Officer shall advise the Cabinet on that or any other relevant legal issues raised by or in relation to the called in decision. The Cabinet shall consider that advice and shall re-consider its decision. If the matter is outside the Budget and Policy Framework the Monitoring Officer shall refer the matter to the next Council Meeting.
- 4.5.18.7 If the matter was referred to the next Council Meeting and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective.
- 4.5.18.8 If the Council Meeting does object, it has no right to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council Meeting will refer any decision to which it objects back to the Cabinet together with the Council's views on the decision. The Cabinet shall choose whether to amend the decision or not before implementing it.
- 4.5.18.9 If the Overview and Scrutiny Committee or the Council does not meet within the time permitted by these rules or such extended time as may be agreed in accordance with paragraph 4.5.19, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Overview and Scrutiny Committee or the Council meeting should have been held, whichever is the earlier.
- 4.5.18.10 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

4.5.19 Extension of Time limit

- 4.5.19.1 In exceptional circumstances the time limit of ten working days for convening a meeting of the Overview and Scrutiny Committee to consider the called in decision may be extended as agreed by the original decision maker and/or the Leader where practical considerations or any unforeseen factor make such an extension appropriate.

4.5.20 Party Whip

- 4.5.20.1 Government Guidance views party or group "whipping" as incompatible with Overview and Scrutiny functions. Generally the party or group whip should not be applied to scrutiny committees and members should be free to comment and vote on matters under consideration.
- 4.5.20.2 That said there may be circumstances when a party or group whip is appropriate and in such circumstances if a party or group whip is in operation:

- a when considering any matter that is subject to a party whip each Member must ensure the existence of the whip is declared
- b the details of the whipping arrangements shall be recorded in any Minutes.

Section 6 - Contracts Procedure Rules

4.6.1 Introduction

- 4.6.1.1 The primary objective of the Council's Contract Procedure Rules is to ensure that all contracts for works, goods and services are entered into in a manner that secures value for money and is demonstrably free from impropriety.
- 4.6.1.2 The Council's Contract Procedure Rules also ensure that:
- a contract selection and award procedures are conducted fairly, in a properly regularised manner and in accordance with relevant legal requirements
 - b strategic service delivery and supply partners are used wherever possible to ensure value for money is obtained and the cost to procure is minimised
 - c local firms are employed whenever they offer as good value for money as other firms and their selection is in accordance with the Council's legal obligations, for example in relation to European procurement rules
 - d the Council's strategic policies are taken into account, for example in promoting the economic development of Herefordshire and in relation to protecting the environment
 - e alternative methods of procurement compatible with the objectives of the Contract Procedure Rules have been considered
 - f procurement procedures are kept under review in order to ensure continuous improvements to services and provide best value to the community of Herefordshire
 - g procurement of ICT equipment is achieved using the Council's on-line procurement system.
- 4.6.1.3 The Deputy Chief Executive has overall responsibility for the preparation of the Council's Contract Procedure Rules. The senior Procurement Officer appointed by the Deputy Chief Executive has delegated responsibility for implementing the Council's Contract Procedure Rules.
- 4.6.1.4 The senior Procurement Officer works very closely with the Monitoring Officer due to the significant legal issues involved in contracting and procurement activity.
- 4.6.1.5 It should be noted that the Council's Contract Procedure Rules should be read in conjunction with the Functions Scheme (Part 3), Budget and Policy Framework Rules (Part 4 section 3) and Financial Procedure Rules (Part 4 section 7) in the Constitution.
- 4.6.1.6 Wherever it is mutually advantageous to do so, the Council should seek tenders in collaboration with other public bodies, for example either or both of our partners in Herefordshire Public Services (HPS) – NHS Herefordshire and The Herefordshire Hospital Trust. In the case of HPS it must be noted that each Partner will need to comply with their own Contract Rules, which have key differences to the Council Rules – not least due to the European Procurement Directive governing Health Authorities having different thresholds to those applicable to Local Authorities. In the event that Contracts are to be established

applicable to two or more partners the Contract Rules of each partner must be adhered to, and it is likely that separate contractual documents will have to be established for each Partner as they are separate legal entities. Officers must ensure the Rules and Governance procedures of each partner are followed throughout the procurement process. Where costs are to be shared between collaborating authorities it is advised that a formal agreement detailing such arrangements is drawn up between the Partners. Legal Services can provide assistance.

4.6.1.7 It should also be noted that failure to observe the Council's Contract Procedure Rules could lead to disciplinary action.

4.6.1.8 All financial limits outlined in this document exclude Value Added Tax (VAT).

STANDARDS OF CONDUCT

4.6.2 Declarations of Interest

4.6.2.1 Members and Officers must ensure that they comply with the provisions of the relevant Code of Conduct including on the Declaration and Registration of Interests and the Disclosure of Financial Interest requirements in Part 5 (sections 1 and 13) of the Constitution.

4.6.3 Gifts and Hospitality

4.6.3.1 Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with the Council must be treated with extreme caution.

4.6.3.2 Any such offers must be noted on the appropriate form and reported to the Monitoring Officer who shall maintain and make available to the Council's internal and external auditors a register of such matters.

4.6.3.3 Acceptance of gifts and hospitality must be in accordance with the Council's Code on such matters (Part 5 section 9).

4.6.4 Honesty

4.6.4.1 All Members must follow the Councillor Code of Conduct (Part 5 section 1).

4.6.4.2 All employees must follow the Employee Code of Conduct (Part 5 section 13).

4.6.4.3 All officers must make sure that employees involved in an in-house tender for a contract do not take part in the preparation of tender documentation or the decision on the award of such a contract.

OFFICER RESPONSIBILITIES

4.6.5 Chief Executive's Responsibilities

4.6.5.1 The Chief Executive is responsible for resolving issues concerning the operation of the Council's Contract Procedure Rules, seeking advice as necessary from the Deputy Chief Executive **and** the Monitoring Officer.

4.6.6 Directors' Responsibilities

- 4.6.6.1 All Directors are responsible for:
- a monitoring compliance with the Council's Contract Procedure Rules in relation to contracts funded by their Directorate budget
 - b appointing Contract Monitoring Officers (paragraph 4.6.8) and ensuring they support them in their role and obtain regular briefings from them
 - c appointing a senior member of staff to the Corporate Procurement Group (paragraph 4.6.9)
 - d establishing, maintaining and utilising Approved Contractors Registers for their Directorate in accordance with section 4.6.11 of the Council's Contract Procedure Rules
 - e bringing the provisions of the Council's Contract Procedure Rules to the attention of their staff
 - f ensuring that the contracts within their Directorate are legal, comply with Contract Procedure Rules and Financial Procedure Rules (Part 4 section 7) and protect the Council's interests fully
 - g ensuring that the Council's Criminal Records Bureau policies and procedures are followed.
- 4.6.6.2 The Deputy Chief Executive has overall responsibility for the preparation and review of the Council's Contract Procedure Rules but must do so in agreement with the Monitoring Officer.

4.6.7 Monitoring Officer Responsibilities

- 4.6.7.1 The Monitoring Officer is responsible for:
- a providing legal advice and guidance to Members and officers on the operation of the Council's Contract Procedure Rules and all contracting and procurement activity
 - b working with the Deputy Chief Executive on the preparation and review of the Contract Procedure Rules
 - c assisting the Chief Executive with the resolution of questions regarding the interpretation of the Council's Contract Procedure Rules
 - d advising on the preparation of contract documentation
 - e maintaining a Central Procedures Exemption Register
 - f informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the Council.
- 4.6.7.2 The senior officer responsible for the Corporate Procurement function provides the professional lead on all the non-legal aspects of contracting and procurement relating to works, goods and services. This officer is also responsible for supervising the Corporate Procurement Group's activities (paragraph 4.6.9) and maintaining a Contracts Register, which will be published on the Council website for public viewing.

4.6.7.3 All Heads of Service are responsible for providing Corporate Procurement with the information required to maintain a Contracts Register. The Contracts Register will include all contracts for purchases in total valued £10,001 and above and the name of the Contract Monitoring Officer or responsible officer.

4.6.8 Contract Monitoring Officers' Responsibilities

4.6.8.1 Directors shall appoint one or more Contract Monitoring Officer(s) to take responsibility for contracts with an estimated total value (excluding VAT) in excess of £10,001. Directors shall nominate a Contract Monitoring Officer for each contract and nominate one of their Contract Monitoring Officers to be responsible for the overall reporting and maintenance of contract records within the Directorate. A responsible officer shall be appointed for all contracts below £10,000.

4.6.8.2 Contract Monitoring Officers are responsible for liaising fully with Corporate Procurement and Legal Services on all matters relating to contracting and procurement.

4.6.8.3 Contract Monitoring Officers are responsible for agreeing exemptions from the formal tendering procedures with the senior Procurement Officer **and** the Monitoring Officer. All exemptions are to be approved in writing and reported in line with the requirements of 4.6.18 of the Council's Contract Procedure Rules.

4.6.8.4 Contract Monitoring Officers are responsible for liaising with officers administering contracts regarding any reports concerning failures by contractors to comply with contractual obligations or otherwise satisfactorily complete work.

4.6.8.5 Contract Monitoring Officers are responsible for advising the senior Procurement Officer and Monitoring Officer of any concerns they receive regarding the suitability of a supplier to carry out work for the Council.

4.6.8.6 Contract Monitoring Officers are responsible for maintaining records of the:

- a contractors included in their Approved Contractor Registers
- b contracts awarded including the nature and value of contracts and the names of successful tenderers
- c total value of contracts awarded to each successful tenderer during each financial year
- d names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price
- e details of any failure by a tenderer to comply with instructions to tenderers
- f details of the reasons for any tenders being withdrawn
- g details of failures by contractors to submit tenders after having requested and been invited to do so
- h contractors' performance
- i reasons for opening late tenders (paragraph 4.6.13)
- j reasons for exceptions to tendering procedures (paragraph 4.6.18).

4.6.8.7 The lead Contract Monitoring Officer appointed by the Director is responsible for keeping their Director briefed on contract and procurement issues within the Directorate.

4.6.9 Senior Procurement Officer's Responsibilities

4.6.9.1 Working to the Deputy Chief Executive, the senior Procurement Officer is responsible for providing advice on all aspects of the Council's Contract Procedure Rules save for the legal issues. The responsibility for the legal aspects of the Council's Contract Procedure Rules rests with the Monitoring Officer.

4.6.9.2 The senior Procurement Officer is responsible for chairing the Council's Corporate Procurement Group. Each Director shall appoint a senior officer to be a member of the Corporate Procurement Group and the membership shall include the Monitoring Officer or their nominated representative.

4.6.9.3 The Council's Corporate Procurement Group will meet at least quarterly in order to fulfil the following responsibilities:

- a continually reviewing the Council's Procurement Strategy and making recommendations on appropriate enhancements to the Deputy Chief Executive to take forward in consultation with the Monitoring Officer for approval in line with the Council's arrangements for decision making as set out in the Constitution
- b maintaining a register of current contracts
- c monitoring compliance with the Council's Contract Procedure Rules and reporting non-compliance to the Deputy Chief Executive and Monitoring Officer for appropriate action
- d preparing an annual report on the operation of and compliance with the Council's Contract Procedure Rules as a basis for the Deputy Chief Executive, in consultation with the Monitoring Officer, to report to the Audit and Governance Committee
- e continually reviewing the Council's Contract Procedure Rules to ensure they keep pace with developing best practice and advising amendments as necessary
- f prescribing the information needed from Contract Monitoring Officers and maintaining a central record of the information notified by Contract Monitoring Officers
- g reviewing the Contract Procedure Rules Exemption Register and preparing an annual report on the exemptions recorded for the Monitoring Officer
- h providing training and support for employees involved in procurement activities.

4.6.10 Responsibilities of all Officers

4.6.10.1 All officers are responsible for:

- a following the Council's Contract Procedure Rules and any codes of practice, guidance or instructions provided by Corporate Procurement and the Monitoring Officer

- b following all relevant English and European procurement laws
- c seeking advice from Corporate Procurement and the Monitoring Officer in the case of any uncertainty
- d ensuring that any departure from these Contract Procedure Rules is agreed with the senior Procurement Officer **and** the Monitoring Officer
- e following the Council's Employee Code of Conduct (Part 5 section 13)
- f following the Council's Financial Procedure Rules and the systems and procedures that are in place to control budgets properly
- g declaring any interest that could influence their judgement in contracting matters to their Director and the Monitoring Officer
- h not taking part in **any** decisions relating to the procurement of work, goods or services if they are part of a formal in-house bid for that work
- i reporting any suspected fraudulent, corrupt or other irregularity to the Chief Internal Auditor
- j ensuring that value for money is evidenced through the procurement process.

APPROVED CONTRACTOR REGISTERS

4.6.11 Introduction

- 4.6.11.1 Approved Contractor Registers are very useful for some types of works, goods or services contracts and can be an efficient way of identifying suppliers.
- 4.6.11.2 Use of an Approved Contractor Register is particularly useful for low-value procurements such as building repairs for Council and school buildings, where tradesmen can be vetted formally in advance. Such a Register, however, must not be used for awarding contracts in excess of £50,000, where formal tendering procedures must be used to ensure best value is obtained (unless covered by a strategic service delivery partner).
- 4.6.11.3 Approved Contractor Registers should not be confused with Framework Agreements, which are a means to formally qualify single or multiple suppliers for a single type, or range of goods or services. Framework Agreements put in place the contractual terms and conditions that will apply to any awards under the Agreement, and are one of the methods that comply with European Procurement Directives. If the aggregate value of expenditure on any particular product, services or works is likely to exceed EU Procurement thresholds then advice should be sought from Corporate Procurement, as a process compliant with European procurement law may need to be followed. If an Approved Contractor Register exists and it is appropriate to use it – the value involved being clearly below both the European thresholds and the Council's threshold for formal tendering - then the Register should be used. All contractors will be subject to ongoing risk assessment.
- 4.6.11.4 When a valid Approved Contractor Register or Framework Agreement is used and there is therefore no need to advertise for potential bidders, then the procurement does not need to be posted on the Business Portal referenced in 4.6.13.24.
- 4.6.11.5 Contractors shall be added to an Approved Contractor Register by successfully completing a written application provided by the Council relevant to the specific

Register they are applying for, which shall be subject to a written set of acceptance criteria. All Contractors applying to be added to the Register shall be treated equally and shall be subjected to an identical process. All Contractors shall be informed of the result of their application promptly in writing and, if unsuccessful, reasons for their failure are to be given. All applications and related correspondence are to be maintained on file during the life of the Register. All Approved Contractor Registers must be reviewed at least every two years, and Contractor details updated.

Managing an Approved Contractor Register

- 4.6.11.6 When establishing an Approved Contractor Register for the first time or reviewing an existing Register, Contract Monitoring Officers must advertise and invite applications from potential suppliers to be added to an Approved Contractor Register for the specific type of contract for works, goods or services that is required. Once a Register is in place they must also assess applications from any Contractors who approach the Council from time to time. Should the number of Contractors on an Approved Contractor Register reach a limit beyond which it would be too difficult to ensure each Contractor receives a reasonable number of opportunities for business, or would be generally unmanageable, then further applicants should be advised that the register is closed, but at the next Review Date they will be invited to apply and the Register will be re-assessed. At such Review Date, which shall be no more than two years apart for each specific Approved Contractor Register in accordance with 4.6.11.5, all applicants, including previous incumbents, shall be assessed and a new Register created. If a maximum number of Contractors are to be allowed onto the Register then applicants should be informed, and the highest-scoring ones selected.
- 4.6.11.7 Advertisements inviting applications from potential suppliers to be included in an Approved Contractor Register should be placed in the relevant local and trade press, the Business Portal, and if necessary, the EU Journal (OJEU).
- 4.6.11.8 When considering whether to include a contractor on an Approved Contractor Register, officers must look at each contractor's:
- a past performance on similar contracts (quality and costs)
 - b technical capacity
 - c specialist experience in the type of products and services being procured
 - d financial situation
 - e public and employer's liability insurance arrangements
 - f health and safety arrangements
 - g equalities policy
 - h written references on the contractor's reputation.
- 4.6.11.9 Officers may add other criteria to help them select suppliers for inclusion on an Approved Contractor Register providing the additional criteria are relevant, do not prevent fair competition and do not illegally discriminate between suppliers. The Contract Monitoring Officer must establish the minimum standard required for each criterion before inviting applications for inclusion on the Approved Contractor Register.

- 4.6.11.10 An Approved Contractor Register must state the value of work that can be placed with each supplier at any one time.
- 4.6.11.11 All suppliers and contractors on an Approved Contractor Register must be given an equal chance of obtaining business for the duration of the register. This may necessitate adopting a system of rotation in seeking quotations, when there are a relatively large number of contractors on the register. In this case the policy and procedure should be in writing, and use of the procedure recorded, so that it can be demonstrated that it is being followed.
- 4.6.11.12 An Approved Contractor Register should normally contain at least five suppliers. Advice and guidance must be sought from Corporate Procurement where fewer than five suppliers qualify for inclusion as this might indicate that an Approved Contractor Register is not the most suitable route for the works, goods or services in question.
- 4.6.11.13 Officers must review their Approved Contractor Registers at least every two years using the criteria set out in 4.6.11.8 and 4.6.11.9 to assess whether a supplier should remain on the Register. The review should also consider whether the value of work that can be placed with each supplier at any one time should be revised.
- 4.6.11.14 Officers should consider suspending or removing suppliers from an Approved Contractor Register at any time if there are grounds to do so such as poor performance, disputes or poor financial standing. See 4.6.12 below for guidance on how to suspend or remove a supplier from an Approved Contractor Register.
- 4.6.11.15 All contracts let using an Approved Contractor Register must comply with the Council's Contract Procedure Rules in every respect. Corporate Procurement or the Monitoring Officer are able to advise on any aspect of the Council's Contract Procedure Rules.

4.6.12 Suspending or Removing a Supplier from an Approved Contractor Register

- 4.6.12.1 If an officer receives a materially adverse report concerning a contractor's performance or compliance with tendering procedures that suggests they should no longer be on an Approved Contractor Register, the officer must seek advice from Corporate Procurement who will, in consultation with the Monitoring Officer, advise what further action is necessary.
- 4.6.12.2 If Corporate Procurement determines, after consultation with the Monitoring Officer, that the supplier should be suspended or removed from an Approved Contractor Register, the officer shall follow this advice and amend the Register accordingly. The officer shall also include the contractor in a List of Suspended and Removed Contractors and notify the contractor accordingly.
- 4.6.12.3 An officer must seek approval as outlined in 4.6.12.1 and 4.6.12.2 to lift a suspension on a supplier or re-admit a supplier to an Approved Contractor Register.
- 4.6.12.4 If an officer concludes as a result of a routine review of an Approved Contractor Register that a supplier should be removed from that Register, then they must seek advice as outlined in 4.6.12.1 and 4.6.12.2.

FORMAL QUOTATION AND TENDERING PROCEDURES**4.6.13 Introduction**

- 4.6.13.1 West Mercia Supplies (WMS) should be used for all purchases of office supplies and consumables, janitorial supplies and personal protective equipment. Photocopiers, Multi-Functional Devices and basic desktop printers should be sourced from the Council contract with Altodigital. (More specialist printers and related standalone equipment may need to be sourced elsewhere, and ICT will provide advice on these). All other mandatory supply contracts with strategic service partners, (as described in 4.6.13.5), such as Amey Herefordshire, that the Council establishes from time to time, must be used for applicable items, and details of such arrangements shall be advised via routine communication channels and details maintained on the Council Intranet by Corporate Procurement.
- 4.6.13.2 Proposals to use an alternative supplier for such goods must be approved prior to an order being placed using a form prepared by the senior Procurement Officer.
- 4.6.13.3 Requests to use an alternative supplier to WMS will be approved or otherwise by Corporate Procurement.
- 4.6.13.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction equivalent to the total price of the supply.
- 4.6.13.5 The Council, sometimes in conjunction with NHS Herefordshire, will engage with external suppliers to create large-scale strategic service delivery partnerships. This form of commissioning will become more common as the Council seeks to secure longer term efficiency gains and it is likely that it will involve larger amounts of more complex services within each contract's scope. Officers must use Council approved strategic service delivery partners if the work required is within the scope of the Council's service delivery contracts. Should officers be unclear of the scope of such contracts, they should seek advice from the Corporate Procurement Section prior to proceeding with any procurement exercise. Corporate Procurement maintains details of the current service delivery partners on the intranet.
- 4.6.13.6 Procurement of ICT equipment must be achieved using the Council's online ICT procurement system accessed via the intranet.
- 4.6.13.7 The following procedures must be followed for all other types of procurement:
- a **Purchases in total valued up to £1,000** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
 - b **Purchases in total valued between £1,001 and £10,000** – at least two formal quotations must be obtained (see 4.6.13.11 to 4.6.13.19)
 - c **Purchases in total valued between £10,001 and £50,000** – at least three formal quotations must be obtained (see 4.6.13.11 to 4.6.13.19)
 - d **Purchases in total valued between £50,001 and up to relevant EU limit (£156,000)** – formal tendering arrangements must be followed (see 4.6.13.18 to 4.6.13.86)

- e **Purchases in total valued in excess of relevant EU limit (currently circa £156,000 for goods and services)** – European procurement rules must be followed (see 4.6.14 of the Council's Contract Procedure Rules).

- 4.6.13.8 As the value, size and complexity of the contract increases, the degree of risk to the Council will also increase. Where contract values exceed £50,000, a formal risk assessment must be undertaken and a managed risk register maintained throughout the procurement process. Advice may be sought from the Council's risk and insurance officers.
- 4.6.13.9 It is important to respect confidentiality in quotation and tendering processes. Officers must not therefore disclose any information they have about potential suppliers to other persons/ suppliers potentially competing for the same contract
- 4.6.13.10 Official orders should be raised for works, goods and services in line with the Council's Financial Procedure Rules.

Formal Quotation Procedure

- 4.6.13.11 The requisite number of formal quotations must be obtained for all purchases (other than those with WMS or within the scope of a strategic service delivery contract) where between £1,001 and £50,000 in total (see 4.6.13.7).
- 4.6.13.12 A quotation is a written estimate of the cost to execute works or supply goods, materials or services.
- 4.6.13.13 Officers must produce a description of the goods or specification of the services required before seeking quotations. This will enable a fair comparison of prices. The level of detail in the description or specification will depend on the value and type of goods or services being purchased. Advice can be obtained from Corporate Procurement.
- 4.6.13.14 Formal quotations should contain as a minimum the following information:
 - a date and reference number
 - b supplier company details
 - c council officer/department name
 - d item/part number
 - e description specification
 - f quantity required
 - g unit/service cost
 - h total cost
 - i delivery information
 - j payment details
 - k any special requirements
 - l Details of any discounts/rebates.
- 4.6.13.15 An appropriate Approved Contractor Register should be used if available to select the suppliers that will be asked to provide a quotation, when the contract value will be less than £50,000.
- 4.6.13.16 Every person or firm who makes a quotation must be treated fairly. Selection of the preferred supplier from the quotations received must be done in accordance

with the principles set out in the formal tendering procedures (4.6.13.20 to 4.6.13.86).

- 4.6.13.17 Any departures from the formal quotation procedures must be discussed with Corporate Procurement who will agree or otherwise any exception in consultation with the Monitoring Officer. A record must be kept of the reasons for, and approval given for, departing from the formal quotation procedure.
- 4.6.13.18 Formal quotations for contracts up to £50,000 should be kept for a minimum of two years after the contract has been awarded.
- 4.6.13.19 When Council Officers are engaging in procurement activity on behalf of schools, or other third parties who will be the actual contracting entity, and the Council is therefore acting as the agent of the school or other party, they must adhere to the Council Contracts Procedure Rules, recognising that the Council may be held liable for any complaints or challenges relating to the process. The documents sent to bidders in such cases must contain a disclaimer saying that the Council will not be held liable should the contracting entity not follow the Council's recommendation in making an award. The Council must provide a written recommendation to the school or third party regarding making the award, pointing out that if they make a different choice to that recommended it will be at their own risk. Advice on wording can be obtained from Corporate Procurement.

Formal Tendering Procedure

- 4.6.13.20 Formal tendering procedures apply to all contracts with a total value between £50,001 and the prevailing European procurement limit for supplies and services except for those with WMS or any other Council approved strategic service delivery contract. To ensure that European procurement rules are properly applied, including aggregation rules, Officers should liaise with Corporate Procurement before commencing any procurement with an estimated value in excess of £50,000. Aggregation rules also apply to Council formal tenders, so that requirements must not be artificially split to fall below the £50,000 threshold to avoid the need to follow the correct process. Advice should be sought from Corporate Procurement if uncertain.
- 4.6.13.21 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not therefore disclose any information they have about potential suppliers to others persons/suppliers potentially competing for the same contract.
- 4.6.13.22 Advice and guidance on how to describe the works, goods or services required for formal tendering purposes can be obtained from the Strategic Procurement Manager.

Selecting Potential Tenderers

- 4.6.13.23 Potential suppliers must be sought by placing advertisements in the most appropriate media, in addition to the Business Portal, in accordance with 4.6.13.24.
- 4.6.13.24 Advertisements for potential suppliers may be placed at the officer's discretion in relevant trade or professional journals, local and national newspapers, the Council's website, or national websites administered by responsible bodies, and **must** be placed in the EU Journal (OJEU) if the contract is likely to exceed the

relevant EU threshold. All contracts with a potential value exceeding £5,000 must be advertised on the Portal provided for that purpose via the Council's website, in addition to any discretionary advertising by other means. Where advertisements are published in OJEU such publication must **precede** their appearance on the portal, or any other supplementary means of advertising, to comply with EU regulations. Note, for clarity, publication is still required on the Portal if OJEU is used, and must quote the specific OJEU Reference for the contract, which suppliers should be asked to quote in their application.

- 4.6.13.25 The only occasions when procurements do not need to be advertised on the Portal is when the contract value will be less than £5,000, or if an existing Approved Contractor Register or Framework Agreement is to be used to source suppliers and advertising is therefore not required. Note that use of an Approved Contractor Register to source suppliers is limited to procurements where the value is below £50,001.
- 4.6.13.26 For formal tenders (values in excess of £50,000), the minimum number of tenderers required is three, and for tenders compliant with European law the minimum is normally five. In the event that officers find that they have less than the minimum number of applications they must consult with Corporate Procurement before they proceed further. Procurement will advise on whether it may be possible to attract further applicants or if an Exemption needs to be sought in accordance with 4.6.13.34.
- 4.6.13.27 The method for collecting the information needed from potential suppliers to assess whether to invite them to submit a formal tender and the method of assessment must be agreed before the selection process begins.
- 4.6.13.28 The entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice needs to be sought from Corporate Procurement before commencing a procurement in excess of EU thresholds (including ensuring sufficient time is allowed to carry out a compliant process, which can take several months). For procurements below the European thresholds, the advice in clauses 4.6.13.20 to 4.6.13.86 applies.
- 4.6.13.29 A standard business questionnaire may be used to collect information from the potential suppliers but the same questionnaire must be used for all potential suppliers. Alternatively, information may be gathered by inviting potential suppliers to express an interest in writing covering the specifics identified by the officer in the advertisement or letter of invitation. Market testing can be carried out to find market interest, including approaching suppliers directly, but pre-selection of suppliers for potential contract award must not commence until the market testing process has been completed and the actual formal procurement process begun. In the case of procurements above the EU thresholds, highly-prescribed processes apply. Further advice can be obtained from Corporate Procurement.
- 4.6.13.30 The method for selecting tenderers must:
- a treat all tenderers in the same way
 - b keep the process clear and simple
 - c record all the selection decisions.

- 4.6.13.31 Officers must consider the following when selecting suppliers to be invited to tender for a particular contract:
- a past performance on similar contracts (quality and costs)
 - b technical capacity
 - c specialist experience in the type of products and services being procured
 - d financial situation
 - e public and employer's liability insurance arrangements
 - f health and safety arrangements
 - g equalities policy
 - h written references on the contractor's reputation
 - i environmental policies.
- 4.6.13.32 Officers may also use information from referees and from company searches to assess which persons or firms to invite to submit a tender.
- 4.6.13.33 At least three suitable suppliers should be invited to tender. If there are only three suitable suppliers (e.g. due to the number of suppliers responding to an advertisement) they must all be invited to tender.
- 4.6.13.34 If there are only one or two suppliers indicating they wish to be considered then an exemption from the Contract Procedure Rules **must** be sought from the senior procurement officer and Monitoring Officer and their approval given before proceeding. The names or details of suppliers must not be passed on to anyone at any time during the tendering process.

Inviting tenders

- 4.6.13.35 Each potential supplier should be sent an invitation to tender, the contract documents, a tender form and a return label bearing the name of the contract and the word 'Tender', together with instructions on when and how the tenders should be returned. They must be instructed to return their tender in a plain envelope addressed to the officer who has been approved by the Monitoring Officer to receive the tenders. There should be no marks or writing on the envelope, other than the address and the return label, such that the identity of the tenderer cannot be discerned from the envelope. Tenderers must be advised not to use a franking machine if they propose posting their tender. Alternatively, officers may use electronic means to despatch and receive tenders, as long as the process is deemed at least as secure as the paper process described in this clause. Such electronic means may include, for example, HM Government's Buying Solutions Online Procurement System. Any such electronic method must be approved for use by Corporate Procurement and Legal Services.
- 4.6.13.36 A copy of the Council's standard contract terms should also be included so that the tenderer is aware of the terms and conditions that will form part of the final contract. When an industry standard contract is used advice should be sought from the Monitoring Officer on which of the standard clauses to incorporate.

- 4.6.13.37 Tenderers must be told exactly how and when tenders shall be returned and that tenders sent by other means, or received after the deadline, will not be accepted.
- 4.6.13.38 Tenders can be returned by hand or by post to the Monitoring Officer, Brockington, 35 Hafod Road, Hereford, HR1 1SH or to the officer and address otherwise approved by the Monitoring Officer. Tenderers should be advised to use postal services that provide them with proof of postage and the time of sending. Alternatively, tenders can be returned by an electronic method approved by Corporate Procurement and Legal Services.
- 4.6.13.39 Tenderers should be advised that tenders will be opened at the same time and no advantage is secured by seeking to delay submission until the last moment.
- 4.6.13.40 The invitation to tender **must** state that the Council does not bind itself to accepting the lowest or any tender.
- 4.6.13.41 The invitation to tender needs to explain how the Council will deal with any mistakes it identifies in the tender documentation submitted (see Assessing Tenders below).
- 4.6.13.42 The invitation to tender **must** set out the criteria that will be used to select the preferred supplier. The assessment criteria must not prevent fair competition or discriminate between tenderers in any way. They must also comply with relevant legislation.
- 4.6.13.43 The tender assessment criteria should include:
- a price
 - b technical standard
 - c experience and skills
 - d financial proposals
 - e financial standing
 - f contract management arrangements
 - g quality management proposals
 - h delivery proposals
 - i employment practices
 - j environmental considerations
 - k diversity issues.
- 4.6.13.44 If an officer wants to know whether the supplier has received an invitation to tender, they must enclose a 'Tender Received Confirmation Form' with the invitation to tender documentation. They must not contact the potential supplier to check they have received the documentation.
- 4.6.13.45 During the period allowed for preparing tenders, all communications with tenderers must be recorded. All communications should go through the Contract Monitoring Officer who can obtain the information requested from others if necessary. If a tenderer raises a query during this period, it must be passed on to

all other tenderers, together with the reply. The identity of the tenderer who has raised the query **must not** be revealed.

Receiving Tenders

- 4.6.13.46 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances. Any extension should not provide either advantage or disadvantage to any of the tenderers. Any proposal to extend the closing date must be agreed by Monitoring Officer.
- 4.6.13.47 Should it be necessary to extend the time limit for the submission of tenders all potential tenderers should be informed of the new date in good time before the original submission date.
- 4.6.13.48 Tenders should be recorded in a register that shows the time, date and name of the contract as they are received. Tenders delivered by hand should be acknowledged with a written receipt and the time, date and name of the contract similarly recorded in the register. All tender envelopes must be date stamped on receipt with the time of receipt written on the envelope and countersigned by the receiving officer.
- 4.6.13.49 Tenders must not be opened until the final deadline for receiving them. Tenders must be stored securely until it is time for them to be opened. The storage used should be locked and access to it available only to those officers in Legal Services, or approved by the Monitoring Officer, responsible for handling tenders, and they must ensure that keys are secure at all times. For tenders received electronically opening should be password-protected and opened under independent witness, and details recorded in the same way as for paper submissions.
- 4.6.13.50 A Legal Services officer, or an officer delegated to that role by the Monitoring Officer, shall be responsible for opening the tenders for a contract in the company of the Contract Monitoring Officer\responsible officer and an independent witness (an officer from a different Directorate). The Legal Services officer (or delegate) must ensure the number of tender envelopes to be opened tallies with the number recorded in the tender register and shall sign the register to indicate that this is the case.
- 4.6.13.51 If a tender is opened by mistake before the deadline, a record of how this has happened should be attached to the packaging. The tender should be re-sealed immediately and its contents kept confidential.
- 4.6.13.52 If fewer tenders are received than expected, officers should not contact tenderers to ask whether they have sent one in.
- 4.6.13.53 In exceptional circumstances, officers, in consultation with and the approval of the Monitoring Officer, can accept a late tender (see the section "Late Tenders" below).

Opening and Recording Tenders

- 4.6.13.54 All tenders relating to a contract must be opened at the same session and opened one at a time. Each officer present must sign, date and write on the tender form the time that the tender was opened.

- 4.6.13.55 The key documents submitted by each tenderer must be recorded on a tender return form along with value. Each officer must check, sign and date the form.
- 4.6.13.56 The Contract Monitoring Officer must sign each page of the tender document unless it is very long. In this case, they may only sign the pages that include pricing information.
- 4.6.13.57 Once the tenders have been opened, they should be held in a secure place by the Contract Monitoring Officer.

Late Tenders

- 4.6.13.58 The Monitoring Officer must reject tenders that are received after the deadline unless none of the tenders submitted on time have been opened or there is proof that the tender was posted in enough time to meet the deadline (for example, the postmark date is the day before the deadline for a first class delivery or is three days before the deadline for a second class delivery) or other exceptional circumstances exist which the Council, in exercising reasonable discretion, deems sufficient to allow acceptance. The core principle is that tenders should not be rejected if the delay is due to the actions of the Council, a third party, or force majeure.
- 4.6.13.59 If the Monitoring Officer decides to accept a late tender, they must treat that tender in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded.
- 4.6.13.60 If the late tender is rejected, it should be returned to the tenderer and a record of posting kept on file for two years with the other documents from the tender opening. The tender should be opened, under the same conditions as the other tenders, merely to ascertain the return name and address. The tenderer should be informed in writing of the date and time the tender was received.

Assessing Tenders

- 4.6.13.61 The Contract Monitoring Officer will ensure the tenders are assessed in accordance with the advice provided by Corporate Procurement.
- 4.6.13.62 Before assessing the tenders, the Contract Monitoring Officer needs to check that each part of them meets the requirements of the specification. The responsible officer also needs to make sure that there are no mistakes and that nothing is missing
- 4.6.13.63 If there are substantial omissions of data or documentation that make it impossible to assess the tender, this should be fully recorded and the tender rejected.
- 4.6.13.64 The accuracy of the figures in each tender must be checked. If mistakes are found that do not affect the overall price of the goods or services, the tenderer must be contacted and asked to confirm the correct figures in writing.
- 4.6.13.65 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.

- 4.6.13.66 The correct tenders can then be assessed in accordance with the assessment criteria that have previously been agreed in accordance with these formal tendering procedures.
- 4.6.13.67 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.
- 4.6.13.68 Assessment details are strictly confidential and must not be passed on to anyone else. During the course of the assessment, tender documentation must be kept secure and confidentiality preserved. If, in a major tendering exercise, the documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify those to whom such documents have been issued and the date returned.
- 4.6.13.69 The Contract Monitoring Officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.
- 4.6.13.70 Once the assessment has been completed the responsible officer should produce a report showing:
- a the result of the assessment of each tender
 - b a comparison of assessment results
 - c the recommendation on which tenderer should be offered the contract.

Accepting and Rejecting Tenders

- 4.6.13.71 The Contract Monitoring Officer should accept the tender that is:
- a the lowest tender that meets the evaluation criteria; or
 - b the tender that will be of most economic benefit to the Council.
- Where this is not the lowest tender, the Contract Monitoring Officer should explain in writing, giving objective reasons why that tender is preferred, and seek approval from Corporate Procurement and the Monitoring Officer to proceed to appoint. A note should be placed on file to show that Corporate Procurement and Monitoring Officer has reviewed the evaluation process and agreed with the outcome.
- 4.6.13.72 The Contract Monitoring Officer should always consider whether their recommendation for awarding the contract should be put before a Cabinet Member, the Cabinet or Council for formal approval **before** contacting the successful tenderer. The Functions Scheme (Part 3) sets out the Council's procedures for making decisions. If in doubt, seek advice and approval from Corporate Procurement and the Monitoring Officer. Tenderers should be told at the outset if Cabinet or Council approval will be needed.
- 4.6.13.73 The officer should write to inform the successful tenderers of the decision as soon as possible **after all necessary approvals have been received**.
- 4.6.13.74 Care should be taken when issuing letters informing the tenderer that they have been successful as an unqualified acceptance of the tender may create a binding contract before the formal documentation has been completed and signed by the

appropriate authorised signatories. In the case of an EU-compliant process the contract cannot be formally awarded until the losing bidders have been informed and the Mandatory Standstill Period has elapsed without any challenges arising from the bidders.

- 4.6.13.75 Unsuccessful tenderers should be informed at the same time that the successful tenderer is notified. If unsuccessful tenderers ask why their tender was not successful then general feedback should be given on the areas of their tender that scored poorly. The Contract Monitoring Officer should not become involved in detailed arguments or discussions in order to justify their decision. If the tenderer requires more detailed information the officer should advise them to put their request in writing and seek appropriate advice before responding in writing. In the case of EU –compliant processes, a detailed scheme of requirements means a comprehensive briefing on the results of the tender has to be provided to all bidders. With the increasing tendency for losing bidders or third parties to ask for such information under the Freedom of Information Act, it is essential that full details are recorded and can be supplied easily for all tender exercises, both above and below the EU thresholds.

Negotiating

- 4.6.13.76 The Contract Monitoring Officer must comply with the following conditions when negotiating on price with tenderers:
- a guidance must be sought from Corporate Procurement who will consult with the Monitoring Officer as necessary before advising on the appropriate course of action
 - b the Contract Monitoring Officer must be accompanied by another officer during negotiations with tenderers and a full written record of all discussions should be made and signed by both officers. The results of the negotiation process must be shared with Corporate Procurement
 - c all negotiations must be carried out at the Council's offices
 - d officers must not discuss one tenderer's detailed prices, conditions or terms with another tenderer
 - e officers must respect the confidentiality of information provided by tenderers
 - f if negotiations lead to a material change in the description of the work, goods or services or other terms, the officer must invite everyone who has provided a tender to re-tender on the basis of the revised contract. If this is the case, the whole process should start again.
- 4.6.13.77 If there is an in-house tender for a contract, negotiations must not take place without permission from the Corporate Procurement as outlined in 4.6.13.76 a above.

Awarding a Contract

- 4.6.13.78 Before awarding any contract, the officer responsible must first obtain the approval of their Director or their authorised representative with confirmation of:
- a the competency of the proposed contractor and the adequacy of any necessary insurance

- b the prices quoted by the proposed contractor
- c the consistency of the procedure followed and the proposed action with the objectives and requirements of the Council's Contract Procedure Rules, including European Procurement Law if applicable
- d The financial stability of the proposed contractor
- e a satisfactory credit check if the Council has not dealt with that contractor for more than two years for contracts in excess of £50,000. A credit check should be carried out on all short listed tenderers for contracts in excess of the European procurement limit for supplies and services.

Where necessary advice should be sought from a specialist in the appropriate function: Accounts; Insurance and Risk; Procurement; or Legal.

- 4.6.13.79 Once this approval has been granted, the officer needs to complete the contractual arrangements. The documents should clearly set out the name of the supplier, what the contract is for, and the terms and conditions of the contract. They should also show that there is suitable insurance to protect the Council's interests. Advice on insurance matters is available from the Council's Insurance and Risk Manager. Where an official purchase order is used and where it makes reference to the Council's General Terms and Conditions for Services, Supplies and Works those terms will apply to the contract. If this is not the intention and a specific set of contractual terms and conditions has been provided, this must be made clear in the body of the purchase order. If in any doubt with the contract documentation, advice should be sought from the Monitoring Officer.
- 4.6.13.80 All contracts must be signed by the Monitoring Officer or their delegated officer. The Monitoring Officer will only sign contracts if the relevant Director has given written authority for them to do so and written assurance that the Council's Contract Procedure Rules have been complied with in all respects. The relevant Director must also sign all contracts where European Procurement Rules apply.
- 4.6.13.81 Officers are responsible for seeking advice from Legal Services if they are not clear about the form of contract to be used or changes are needed to the standard form of contract used by the Council.
- 4.6.13.82 The Contract Monitoring Officer must inform Corporate Procurement of the contract and must record the details of all contracts in the Contracts Register.
- 4.6.13.83 Officers must keep written records of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers. These records must be made available to internal or external audit as required by them.

Publication of Contract Details

- 4.6.13.84 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.
- 4.6.13.85 The only information officers should make public is the name of the successful tenderer. However, this information must not be released until the contract has been awarded and signed.

- 4.6.13.86 If information is published on the amounts of the other bids received, the names of the unsuccessful tenderers must not be disclosed. Officers should ensure that all tenderers are aware that this information will or may be published when they are invited to tender and that the Council will need to meet its obligations under the Freedom of Information Act.

EUROPEAN PROCUREMENT RULES

4.6.14 Introduction

- 4.6.14.1 Whilst European Procurement Rules prevail, officers are expected to follow the principles set out in the Council's Contract Procedure Rules.
- 4.6.14.2 The European Procurement Rules are complex with significant penalties if the legislative requirements are not strictly adhered to. All officers are therefore responsible for seeking advice and guidance at all stages of the process from Corporate Procurement and the Monitoring Officer.

European Limits

- 4.6.14.3 The following table sets out the public sector thresholds for 1 January 2010 to 31 December 2011:

	Supplies	Services	Works
Public Sector Contracting Authorities	£156,442	£156,442	£3,927,260
Indicative Notices	£607,935	£607,935	£3,927,260

- 4.6.14.4 The figures are revised every two years on 1st January and officers should check with the Monitoring Officer for the latest values.
- 4.6.14.5 If a contract for supplying goods or services will be worth more than the limits set out in the table above, the contract is likely to be governed by EU Directives and English Regulations. Note that calculation of the value of the contract is to be as detailed in 4.6.14.7.
- 4.6.14.6 The value limits apply to individual contracts and groups of contracts with similar characteristics that are to be agreed in the same year. Contracts with similar characteristics have to be added together to see whether they have reached the value limits. This is to prevent organisations packaging similar contracts into small units to avoid the rules.
- 4.6.14.7 Individual contract values are calculated as follows:
- a if the contract is part of a series or is renewable, its value will be:
 - i the value given in the previous financial year (over a 12-month period);
or
 - ii the estimated value over the next 12 months from the date the goods, work or service is first provided

- b if the contract is for a fixed term of less than four years, the value will be the total value of the contract
- c if the contract has no end date or is for a fixed term of more than four years, the value will be the monthly value of the contract multiplied by 48.

4.6.14.8 If more than one of the above applies, the method that gives the highest value must be used. Again this is to prevent organisations by-passing the rules by choosing a calculation that puts a contract or group of contracts below the value limit.

4.6.14.9 Once the value of each contract has been calculated, it must be added to the value of other contracts with similar characteristics. If the value of a contract or group of contracts with similar characteristics is greater than the value limit, European procurement rules must be followed. To ensure that the aggregation rules are properly applied, Contract Monitoring Officers should liaise with Corporate Procurement for all contracts in excess of £50,000.

4.6.14.10 Before going any further with a European procurement process, officers must discuss the next steps with Corporate Procurement and the Monitoring Officer.

Awarding Contracts Subject to European Procurement Rules

4.6.14.11 Before issuing an award notification, or if contact is made by an unsuccessful tenderer at any time during the standstill period, contact Corporate Procurement or your external procurement consultants for advice.

4.6.14.12 To ensure compliance with European procurement rules there must be a **minimum** standstill period of 10 calendar days between advising all tenderers of the award decision and the actual award of the contract. This 10 day standstill period incorporates other specific deadlines that can result in the standstill period being extended.

4.6.14.13 The standstill period is to allow unsuccessful tenderers an opportunity to challenge any award decision. Where a legal challenge is made within the 10 day standstill period, the contract cannot be awarded until the outcome of the application to court is known. **It is imperative that any correspondence amounting to an acceptance letter is not issued during this period.**

4.6.14.14 The written notification to the unsuccessful tenderers which triggers the standstill period **must** contain:

- a the award criteria
- b the tenderer's score (where appropriate)
- c the winning tenderer's score (where appropriate)
- d the name of the winning tenderer.

4.6.14.15 The European procurement rules require tender results to be published in the Official Journal within 48 days of the date a contract is awarded. This must be done in consultation with the Monitoring Officer.

4.6.14.16 Corporate Procurement and the Monitoring Officer must be consulted on all EU procurements.

4.6.15 FRAMEWORK CONTRACTING

- 4.6.15.1 Framework contracting involves selecting a contractor from a list of contractors on an approved "Framework" for given works, goods or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality and value. The tendering procedures will have had to comply with any relevant English or European law.
- 4.6.15.2 Purchasers can enter into subsequent 'call-off' contracts from a Framework. Framework contracting is becoming increasingly prevalent in an attempt to avoid bureaucracy and achieve best values via economies of scale.
- 4.6.15.3 Frameworks can be externally formed (for example, by Government) or internally formed (for example, by the Council). The number of approved contractors on a Framework can vary but the minimum number should be three. Frameworks should not be confused with internal Approved Contractor Registers.
- 4.6.15.4 When an external Framework is formed general terms and conditions are agreed between the Framework contractors and the Framework organiser. These pre-agreed terms and conditions will form a major part of any purchaser's 'call-off' contract and contractors are not obliged to agree to any amendments to them.
- 4.6.15.5 From 1 January 2006, **EU Procurement Directive 2004/18/EC** has governed the process under which contracts under Frameworks are to be awarded and in the interests of competition has placed a maximum duration of 4 years on any Framework (unless special justification can be made for a longer period).
- 4.6.15.6 Officers must take the following steps to ensure compliance with EU Procurement Directive 2004/18/EC when using a Framework contract created since 1 January 2006:
- a all the contractors on a Framework that are capable of meeting the purchaser's specification must be allowed to submit a bid against that specification.
 - b the reasons for selecting a smaller number of contractors on a Framework must be clearly evidenced.
 - c award of contract must be on the basis of the criteria for the Framework as set out in the Framework agreement itself, that is, within the original tender documentation setting up the Framework.
- 4.6.15.7 Corporate Procurement and the Monitoring Officer must be consulted on all Framework contract procurements.

4.6.16 OTHER PROCUREMENT PROCEDURES

- 4.6.16.1 There are a number of other procurement procedures that may be available in particular circumstances:

- a design contests, particularly in the fields of planning, architecture, civil engineering and information technology.
- b public housing schemes where the size and complexity of schemes necessitate the close collaboration between the Council and contractors.
- c concession contracts where contractors derive income from the completed work, for example a toll bridge.

4.6.16.2 Corporate Procurement and the Monitoring Officer must be consulted regarding any proposals to follow any such procedures.

4.6.17 CONTRACTS UNDER SEAL

4.6.17.1 All contracts for building, engineering, property repairs and property maintenance works excluded from the Council contract with Amey Herefordshire, with an estimated value in excess of the European procurement limit for supplies and services (currently £156,000), shall be sent to the Monitoring Officer for execution under the Council's seal.

4.6.18 EXEMPTIONS FROM THE COUNCIL'S CONTRACT PROCEDURE RULES

4.6.18.1 Exemptions from the Council's Contract Procedure Rules are only allowed in exceptional circumstances such as there being insufficient suppliers for the goods, works or services being procured. Permission must be obtained for any exemption from the senior Procurement Officer **and** Monitoring Officer. Major contracts may be subject to the European Procurement Rules and the Monitoring Officer cannot provide an exemption from those requirements.

4.6.18.2 A written application for an exemption from the Council's Contract Procedure Rules must be made to the Monitoring Officer setting out the reasons for the application. The Monitoring Officer must respond within 21 days. If agreed by the Monitoring Officer, the exemption must be approved in accordance with the Council's Constitution.

4.6.18.3 The normal procedure for the completion of Exemption Forms is for the responsible officer to obtain the signature of their Director on the form to demonstrate their approval of the request, then forward the form to the senior Procurement Manager for their approval. If the senior Procurement Manager is satisfied they will forward to the Monitoring Officer or their deputy for final approval and signature. A copy bearing all three signatures will be filed by Legal Services and copies also returned to the responsible officer and Corporate Procurement for their records.

4.6.18.4 Tenders need not be invited in accordance with the provisions of the Council's Contract Procedure Rules if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least two quotations must be obtained and any decision made or contract awarded shall be reported to the relevant Director, Cabinet Members and Local Members. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the Contract Procedure Rules at the earliest practical opportunity.

Section 7 - Financial Procedure Rules

4.7.1 Introduction

- 4.7.1.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Director of Resources.
- 4.7.1.2 Authority is delegated to the Head of Financial Services to act on behalf of the Director of Resources in all respects in his/her absence or if requested by the Director to do so.

4.7.2 Background

- 4.7.2.1 Section 151 of the Local Government Act 1972 requires that: *"Every local authority shall make arrangements for the proper administration of their financial affairs"*. The Financial Procedure Rules give effect to this requirement and control the way the Council manages its finances and safeguards its assets. They form part of the Council's Constitution and are to be read in conjunction with other sections of the Constitution in particular:
 - a Part 3 – The Functions Scheme.
 - b Part 4 – Section 3 - The Budget and Policy Framework Rules.
 - c Part 4 – Section 6 – the Contract Procedure Rules.
- 4.7.2.2 The Financial Procedure Rules apply to every Member and officer of the Council and anyone acting on its behalf except where separate arrangements are made under the scheme for the Local Management of Schools.

4.7.3 General Responsibilities

- 4.7.3.1 Members and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money, and achieves best value.
- 4.7.3.2 Members, officers and others acting on behalf of the Council are required to have proper regard to the advice and guidance issued by the Director of Resources on the Financial Procedure Rules.
- 4.7.3.3 Every report to Members shall contain a statement setting out the financial implications of the recommendation(s) proposed that has been approved by the Director of Resources.
- 4.7.3.4 The Council's expectation of propriety and accountability is that Members and staff at all levels shall lead by example in ensuring adherence to financial and legal requirements, rules, procedures and practices.
- 4.7.3.5 Members and staff at all levels shall act in accordance with the council's Anti-fraud and Anti-corruption policies.
- 4.7.3.6 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, shall act towards the Council with integrity and without thought or actions involving fraud or corruption.
- 4.7.3.7 Appendix A sets out the responsibilities of members and officers relating to the Financial Procedure Rules.

- 4.7.3.8 The council's scheme of delegation is the formal record of delegation of financial decision making.

4.7.4 Urgent Decisions

- 4.7.4.1 In exceptional circumstances, where an urgent decision is required, this shall be taken by the relevant Director in consultation with the Director of Resources, the Head of Financial Services and the Assistant Director - Law and Governance. If the matter is outside the scheme of delegation then the matter can only be authorised by the Head of Paid Service and the Cabinet Member responsible for Resources in accordance with the procedures for the taking of urgent decisions set out in the Council's Constitution.
- 4.7.4.2 Any decisions made under the 'Urgent Decision' arrangements shall be reported to the relevant Director, Cabinet Members and Local Members.
- 4.7.4.3 Nothing in these standing orders shall prevent expenditure required to meet immediate needs caused by a sudden emergency to which Section 138 of the Local Government Act 1972 applies, provided that such expenditure shall be reported as soon as possible to the appropriate Cabinet Member and the Cabinet.

4.7.5 Preventing Financial Irregularities

- 4.7.5.1 The Director of Resources will report financial irregularities to the Head of Paid Service, Cabinet and the Audit and Corporate Governance Committee.
- 4.7.5.2 The Director of Resources, in conjunction with the Chief Internal Auditor, will determine the scope of any internal enquiries or investigations, subject to consultation with the relevant member of the Joint Management Team.
- 4.7.5.3 The Director of Resources, in consultation with the relevant member of the Joint Management Team, will decide whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.
- 4.7.5.4 The Director of Resources will inform the Head of Paid Service and Monitoring Officer if a suspected irregularity occurs involving staff who are his or her responsibility.
- 4.7.5.5 Directors, Heads of Service and officers will report financial irregularities to the Director of Resources and Chief Internal Auditor.
- 4.7.5.6 Directors, Heads of Service and officers will instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

4.7.6 Money Laundering

- 4.7.6.1 The Director of Resources shall appoint a Money Laundering Reporting Officer (MLRO). This officer shall ensure that all staff likely to receive payments from the public, businesses or professions are aware of the Authority's responsibilities under the Proceeds of Crime Act 2002, the Money Laundering Regulations 2003 and any other relevant acts and regulations, such as the anti-terrorism acts.
- 4.7.6.2 The MLRO, or the Deputy MLRO in the MLRO's absence, shall receive reports from staff about suspicious payments of any value for any purpose and payments in cash in excess of £10,000 or €15,000.

- 4.7.6.3 The MLRO shall report any instance of suspected money laundering to the Serious Organised Crime Agency.

4.7.8 Asset Management

Introduction

- 4.7.8.1 The Asset Management section of the Council's Financial Procedure Rules provides a framework of principles, minimum requirements, levels of authority and delegations to ensure that Herefordshire Council's asset portfolio is managed effectively to achieve maximum value for money.
- 4.7.8.2 Further detail can be found by referring to the Capital and Asset Management Strategy.

Overarching principles

- 4.7.8.3. A set of overarching principles govern the operation of this section of the Council's Financial Procedure Rules.

- 4.7.8.4 These are:

Property -

- a All property owned or leased by Herefordshire Council is held corporately (including Herefordshire Council-owned schools).
- b The Director of Resources is responsible for ensuring that the occupation of all Herefordshire Council property by Directorates is in the interests of the Council as a whole.
- c Directorates have discretion to manage the operations within the property they occupy in order to promote effective service delivery. However, this discretion operates subject to the corporate responsibilities of the Director of Resources who has the authority to intervene in property matters to protect Herefordshire Council's overall interests. Directorates will not occupy property without the prior approval of the Director of Resources.
- d Resolution of disputes on property matters is through the Head of Paid Services.
- e All property transactions should be referred to the Director of Resources who shall seek the comments of all interested parties, including relevant Cabinet Members, Directorates and local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this section of the Council's Financial Procedure Rules and the decision making procedures set out in the Council's Constitution.

General

- a Capital investment on assets must be linked to HPS priorities identified through the corporate planning process using a clear and objective prioritisation policy.
- b Capital investment must be directed to obtain maximum benefit from available resources, taking account of economy, efficiency and effectiveness.

- c Revenue implications of capital investment must be considered and spend to save funding may be available to pump prime investment that can demonstrate a clear financial pay back.

Acquisitions and improvements to assets

- 4.7.8.5 Before an asset is acquired or improved the need for investment must be clearly identified and appraised.
- 4.7.8.6 Prior to allocation of resources a business case must be prepared and approved by the relevant Director and submitted to the Capital Strategy Working Group (CSWG).
- 4.7.8.7 The CSWG will rank and score business cases based on clear criteria linked to HPS priorities, including affordability using whole life costing, sustainability and value for money.
- 4.7.8.8 The Director of Resources will present the scored business case to JMT. Where the acquisition is part of the annual budget setting process JMT will make recommendations to Cabinet for inclusion in the Medium Term Financial Strategy. Where the proposal is outside of the budget setting process the approval will follow the council's virement procedures.
- 4.7.8.9 The use of compulsory purchase powers must be approved by Cabinet.
- 4.7.8.10 Where appropriate, local members will be kept informed and views sought as outlined in paragraph 4.7.8.4.
- 4.7.8.11 The Director of Resources may action acquisitions for highway purposes provided the scheme is in an approved programme or the property concerned has as a consequence been blighted.
- 4.7.8.12 The Director of Resources shall ensure that acquisitions for highways purposes that are part of a scheme that is not in an approved programme is referred for formal decision in accordance with the Council's Constitution and Financial Procedure Rules.
- 4.7.8.13 Where the value of highways land to be acquired is less than £5,000 this may be approved by the Director of Sustainability or any officer nominated to act on his/her behalf providing that there is a budget to cover the acquisition.

Property

- 4.7.8.14 Property is to be used efficiently, effectively and economically with due regard to legislative requirements. When any property is no longer required for operational purposes it is to be formally declared surplus, at which point its management reverts to the Director of Resources. The budgetary implications of this are to be identified and reported to the Cabinet Member responsible for Resources.
- 4.7.8.15 The occupation and use of property by a Directorate is subject to the Director of Resources responsibility for approving all material changes to property, including change of use, appropriations, granting/taking of interests, alterations or additions. Such changes must be reported to the Head of Financial Services for correct accounting treatment and apportionment of charges.
- 4.7.8.16 The Director of Resources has the authority to undertake reviews of the property portfolio, or parts of it, to determine if it is optimised in terms of its utilisation, cost and value and within this to challenge the retention or use of existing properties occupied by Directorates.

Disposals

- 4.7.8.17 Land, property and any other assets which are surplus to operational need are either to be reallocated to meet alternative needs or disposed of in line with statutory requirements and/or Herefordshire Council disposals and asset transfer policies.
- 4.7.8.18 Directorates shall notify the Director of Resources of:
- a Any property (or part) that is:
 - Vacant.
 - Held against a future operational need.
 - Not used for the principal purpose for which it is held.
 - Likely to be surplus to requirements (with estimated time-scale).
 - b Any operational issues associated with such property (e.g. longer-term requirements).
 - c Any statutory/process issues relevant to its disposal (e.g. prescribed consultation processes, reference to the Secretary of State, etc.).
 - d Any other issues which need to be considered prior to disposal.
- 4.7.8.19 The Director of Resources may identify any property (or part) that is considered, or could be made, surplus to operational requirements.

Treatment of Capital Receipts

- 4.7.8.20 In general capital receipts from disposals are deemed to be a corporate capital resource available for allocation in line with corporate priorities, excluding schools.

- 4.7.8.21 Use of capital receipts are subject to the following rules:
- a Overspending on schemes dependent on receipts must be contained within the budget allocated to the directorate concerned.
 - b Capital schemes dependent on receipts are included in the Capital Programme only after full vetting and valuation by CSWG and ultimate approval by Cabinet or as appropriate within the virement rules.
 - c All dependencies, assumptions and risks to be clearly identified by the project sponsor leading to prudent valuation adopted in project sign-off.
 - d Scheme assumptions about the quantum, timing and phasing of receipts to be explicit and receipts cannot generally be “counted” until the sale is complete.
 - e Monitoring shall be undertaken by CSWG with Asset Management & Property Services using a traffic light system to assess the level of risk around the receipts.

Financial Procedure Rules

- 4.7.8.22 All of the protocols set out in the Council’s Financial Procedure Rules and the Functions Scheme (Part3) and officer Schemes of Delegation must be adhered to. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in paragraph 4.7.4.

Delegation to Officers

- 4.7.8.23 Subject to the consultation and approval provisions set out in this section of the Council’s Financial Procedure Rules, the Director of Resources is authorised to:
- a Determine and settle the disposal of any land or property, or an interest in land or property.
 - b Determine and settle the terms of a lease (taken or granted) for any land or property.
- 4.7.8.24 As provided by arrangements made in the Constitution for the discharge of executive functions, the Chief Executive may exercise any power delegated under this section of the Council’s Financial Procedure Rules to the Director of Resources. The Director of Resources may delegate his/her powers in writing to other officers.

4.7.9 Audit

- 4.7.9.1 The Director of Resources has delegated responsibility for maintaining an adequate and effective internal audit service.
- 4.7.9.2 The Director of Resources shall maintain strategic and annual audit plans that take account of the relative risks of the activities involved. He/she shall liaise with the Joint Management Team on the audit strategy and plan.
- 4.7.9.3 The Chief Internal Auditor is responsible for providing the Audit & Governance Committee with regular assurance reports that highlight any areas of concern regarding the effectiveness or level of compliance with agreed systems of internal control.

- 4.7.9.4 The Chief Internal Auditor shall provide the Chairman of Audit & Governance Committee with a copy of audit review reports with an unsound, unsatisfactory or marginal audit opinion. The Council's procedures for maintaining confidentiality shall apply.
- 4.7.9.5 The Chief Internal Auditor shall submit an annual report to the Audit and Governance Committee detailing internal audit activity for the previous year and reporting significant findings and areas of concern.
- 4.7.9.6 The Chief Internal Auditor shall provide an annual summary to the Leader, Chairman of Audit and Governance Committee and relevant Cabinet Member(s) of audit review reports with a satisfactory or good audit opinion.
- 4.7.9.7 The Director of Resources is responsible for producing an Annual Governance Statement for inclusion with the annual Statement of Accounts based on assurances provided by the Chief Internal Auditor.
- 4.7.9.8 Officers shall ensure that internal and external auditors are provided with:
- a Access at reasonable times to premises or land used by the Council.
 - b Access at reasonable times to any employee or employees.
 - c Access to all assets, records, documents, correspondence and control systems relating to any matter or business of the Council.
 - d Any information and explanation considered necessary concerning any matter under examination.
- 4.7.9.9 Officers must account for cash, stores or any other Council property under their control and produce such items for inspection if required by Audit Services.
- 4.7.9.10 Officers are required to consider and respond to audit reports and audit recommendations within two weeks.
- 4.7.9.11 Officers must ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 4.7.9.12 Where an appropriate response to audit recommendations has not been made within the agreed period, the Director of Resources shall refer the matter to the Head of Paid Service and/or the Audit and Governance Committee.
- 4.7.9.13 Officers are responsible for notifying the Director of Resources or Chief Internal Auditor immediately in writing/electronic medium of any suspected or alleged fraud, theft, irregularity, improper use or misappropriation of Council property or resources. Pending investigation, all necessary steps should be taken to prevent further loss and secure records and documents against removal, destruction or alterations.
- 4.7.9.14 The Director of Resources is to investigate promptly any apparent, suspected or reported irregularity or fraud he/she becomes aware of. He/she shall report his/her findings to the Head of Paid Service to discuss and agree appropriate legal proceedings and disciplinary action, consulting with the relevant member(s) of the Joint Management Team as appropriate.
- 4.7.9.15 Officers are responsible for ensuring that new systems for maintaining financial records, or records of assets, or changes to such systems are discussed and agreed with the Director of Resources prior to implementation.
- 4.7.9.16 Officers are responsible for ensuring that all paperwork and systems are up to date, kept securely and are made available for inspection by internal or external audit.

- 4.7.9.17 Officers shall ensure that all fundamental systems as defined by the Chief Internal Auditor and other financial systems are reconciled on a monthly basis and that records are up to date and available for internal or external audit inspection when required.

4.7.10 Imprest Accounts

- 4.7.10.1 The Head of Financial Services will consider requests from Heads of Service and Head Teachers to provide a cash or bank imprest account to meet minor expenditure on behalf of the Council.
- 4.7.10.2 The Head of Financial Services will maintain a record of all advances made and reconcile to the Council's main financial system.
- 4.7.10.3 Officers operating an imprest account will comply with the following procedures:
- a Obtain and retain vouchers to support each payment from the imprest account including official VAT receipts where appropriate.
 - b Make adequate arrangements in their office for the safe custody of the account including vouchers and any other supporting documentation.
 - c Produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest account.
 - d Record transactions promptly.
 - e Reconcile and balance the account at least monthly with reconciliation sheets to be signed and retained by the imprest holder.
 - f Provide the Head of Financial Services with a certificate of the value of the account held at 31st March by 31st May each year.
 - g Ensure that the imprest is never used to cash personal cheques or to make personal loans.
 - h Ensure that the only payments into the account are the reimbursement payments and any notes/coinage relating to purchases made by a cash advance from the imprest account.
 - i Ensure income due to the Council is collected and banked as provided in paragraph 4.7.12 of the Council's Financial Procedure Rules and not through an imprest account.
 - j On leaving the Council's employment, ceasing to be entitled to hold an imprest advance or no longer requiring an imprest advance, account to the Head of Service or Head Teacher for the amount advanced to them.
 - k A bank imprest account cannot become overdrawn.
 - l Submit a claim for reimbursement at least monthly.
 - m Notify the Head of Financial Services of any new signatories.
- 4.7.10.4 Further information on operating imprest accounts can be found in the Accounting Guidelines for the Petty Cash Imprest Accounts

4.7.11 Income Charging Policy

- 4.7.11.1 Local authorities have a wide discretion to levy charges for services. Where charges can be set at the discretion of the council Directors should comply with the following principles;

- a Services should raise income wherever there is a power or duty to do so.
- b The income raised should cover the full cost of providing the service, including overheads. Any exception to this must be justified in a transparent manner which links to the council's objectives and priorities.
- c All fees and charges should be transparent and consistently applied.
- d Fees and charges must be set for a specific purpose- either as a policy tool or full cost recovery, or a combination of both.

4.7.11.2 Further details can be found in the council's Income Charging Policy.

4.7.12 Income Collection

4.7.12.1 The Director of Resources shall agree arrangements for the collection of all income and approve procedures and systems. In order to achieve this, the following controls must be followed:

- a All income due to the Council is identified, charged correctly and billed promptly.
- b All money received by an employee on behalf of the Council is paid without delay to the Director of Resources or to a nominated officer or into the Council's specified bank account and is properly recorded.
- c All receipts given for money should be on an official receipt form.
- d All income is collected from the correct person, at the right time using the correct procedures and appropriate stationery and effective recovery action to pursue outstanding sums is taken within defined timescales.
- e A formal approval process for write-offs of uncollectable debts using the criteria detailed below.
- f Personal cheques shall not be cashed out of money held on behalf of the Council.
- g All income received shall be receipted immediately.
- h Officers shall bank all cash received immediately; its use for either personal or official purposes is strictly forbidden.
- i All paying in records shall be retained securely in line with the Council's policies on the retention of documents.

4.7.12.2 The Director of Resources has determined the following authorisations for writing off uncollectable debt:

- a Under £150 – individual Service Managers.
- b Between £150 and £500 – Revenues Manager.
- c Between £500 and £2,000 – Head of Benefit and Exchequer Services.
- d Between £2,000 and £20,000 – Director of Resources.

4.7.12.3 For write offs of amounts exceeding £20,000 the Director of Resources shall seek agreement from the relevant Cabinet Member responsible for Resources.

4.7.12.4 The Director of Resources shall report details of amounts over £2,000 written off to Cabinet twice a year for information purposes.

4.7.12.5 Write off of amounts above £2,000 relating to other Directorates require the recommendation of the relevant Director.

4.7.13 Orders for Goods, Works and Services

4.7.13.1 Orders shall not be issued for goods, work or services unless the cost is covered by an approved budget.

4.7.13.2 All orders given on behalf of the Council shall be in a written or electronic form approved by the Director of Resources. All orders are to be authorised by officers nominated by the appropriate Director who shall be responsible for official orders issued from his or her Directorate. Orders given verbally shall be confirmed by paper or electronic order as appropriate as soon as possible.

4.7.13.3 All works, goods or services supplied to the Council are to be subject to formal prior authorisation, in writing and/or electronic medium, as to need and budget cover. Written or electronic orders are to be issued for all work, goods or services to be supplied to the Council unless a written contract is required. An order or contract is not required for public utility services, periodical payments such as rent or rates, for petty cash purchases or for such other expenditure as the Director of Resources may approve. All orders and contracts are to be managed in compliance with the Council's Contract Procedure Rules and Financial Procedure Rules.

4.7.13.4 Each order shall conform to the directions of the Council with respect to central purchasing and the standardisation of supplies and materials and with respect to Contract Procedure Rules.

4.7.13.5 Written orders shall be marked with invoice details when relevant accounts are passed for payment. When an electronic procurement system is in use an appropriate entry shall be made in that system when a payment is authorised.

4.7.13.6 The key controls for ordering and paying for work, goods and services are:

- a All works, goods and services are ordered only by appropriate persons and recorded.
- b All works, goods and services shall be ordered in accordance with the Council's Procurement Strategy and Contract Procedure Rules unless they are purchased from internal sources within the Council.
- c Works, goods and services received are checked to ensure they are in accordance with the order.
- d Payments are authorised by officers who can certify that goods have been received to price, quantity and quality.
- e All payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
- f All appropriate payment documents are retained and stored for the defined period in accordance with the 'Herefordshire Council Records Management Policy'.
- g All expenditure, is accurately recorded against the right budget and any exceptions corrected.
- h That processes are in place to maintain the security and integrity of data for transacting business electronically.

4.7.14 Payments

- 4.7.14.1 Individual Directors shall ensure that payments are authorised by appropriate officers who can certify that goods and services have been received and that price, quantity and quality are in accordance with the initial order, where appropriate.
- 4.7.14.2 Directors shall provide the Director of Resources with a list of authorised officers showing their signing levels with specimen signatures. This list should be reviewed at intervals to ensure is up to date and accurate and any changes being reported promptly.
- 4.7.14.3 Unless specifically authorised otherwise by the Director of Resources:
- a Directors must authorise all payments in excess of £250,000 (excluding VAT).
 - b Heads of Service (as defined by Head of Service pay grades) may authorise payments up to £250,000 (excluding VAT).
 - c Managers who report to Heads of Service may authorise payments up to £100,000 (excluding VAT).
 - d Other officers as authorised by the Director up to £5,000 (excluding VAT).
- The above limits apply to officers employed by NHS Herefordshire (the Primary Care Trust) when carrying out functions on behalf of the council under Part 3, section 8 of the council's constitution. (paragraphs 3.8.6 and 3.8.7)
- 4.7.14.4 Authorisation limits for schools will be set by the governing body. Schools shall provide the Director of Resources with a list of authorised officers showing their signing levels with specimen signatures. This list should be reviewed at intervals to ensure is up to date and accurate and any changes being reported promptly.
- 4.7.14.5 Where an electronic file contains multiple payments, an officer may authorise the whole file with one signature if his or her authorised limit is at least the value of the highest individual amount within that file.
- 4.7.14.6 References to certification and authorisation are deemed to include those made online within a system where the identity of the user is verified using the system's identification protocols.
- 4.7.14.7 Once certified, all accounts paid through the centralised payment system must be passed to the payments section that shall ensure that the required payment is made to the correct person by the agreed method of payment and that all expenditure including VAT is accurately recorded against the correct budget.
- 4.7.14.8 Requests for payment shall be rejected by the Payments Manager unless certified by an officer using their full signature who has the appropriate level of authority.
- 4.7.14.9 The use of feeder systems to generate payments will only be allowed if the Director of Resources is satisfied that the data integrity of the corporate financial system would not be compromised and that the feeder system works in accordance with these financial procedures.
- 4.7.14.10 Invoices do not need specific authorisation for payment in an electronic system where the invoice matches the authorised order and goods receipt, and all three are correctly entered into the system.
- 4.7.14.11 All accounts should be paid promptly, having due regard to the Late Payment of Commercial Debts (Interest) Act 1998 and to maximise performance. All accounts received must be date stamped with the day of receipt. In the event of a penalty for late payment, the amount will be charged to the budget of the Directorate responsible.

4.7.14.12 The Director of Resources shall ensure that all appropriate payment documentation is retained for the required period of time in accordance with the Herefordshire Council Records Management Policy.

4.7.15 Salaries, Wages, Pensions, Travel and Subsistence

4.7.15.1 Directors shall provide the Director of Resources with a list of officers authorised to sign claims and other payroll documents showing their signing limits with specimen signatures. This list should be updated and reported promptly to reflect staff changes.

4.7.15.2 All claims for payment of allowances, subsistence, travelling and expenses must be submitted within one month of the period they relate to on the approved form, duly certified in a form approved by the Director of Resources with all required supporting evidence including VAT receipts for fuel and other expenses where appropriate. Any exceptions shall require individual certification by both the Director and the Head of Service.

4.7.15.3 The certification of claims by or on behalf of a Director or Head of Service shall be taken to mean that the certifying officer is satisfied that the journeys and the expenses incurred were necessary and authorised as being in line with the Council's policies on travel and subsistence claims.

4.7.15.4 The Director of Resources shall ensure that all appropriate payroll documents are retained for the required period of time in accordance with the 'Herefordshire Council Records Management Policy'

4.7.16 Revenue Budget Management

4.7.16.1 The Head of Financial Services shall prepare and review annually a three-year financial plan and strategy to provide an estimate of resources available to the Council and identify budget pressures.

4.7.16.2 Proposed budgets over periods of one year or longer shall be prepared by Directors, in consultation with the Director of Resources, for submission through the Cabinet to the Council.

4.7.16.3 Directors shall evaluate the financial implications of any new policy option, initiative or major project in conjunction with the Director of Resources and Head of Financial Services prior to a report to the Cabinet and/or Council.

4.7.16.4 The Cabinet shall recommend an annual budget to Council that includes the following:

- a Annual capital and revenue budget.
- b Proposed contingencies, general reserves and specific reserves.
- c Statutory Council tax calculations;
- d Treasury management policy and borrowing limits.
- e The Chief Finance Officer's statutory declaration on budget setting.
- f Virement limits.
- g Scale of fees and charges.

4.7.16.5 Budget management ensures that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for.

Budgetary control is a continual process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account managers responsible for defined elements of the budget.

- 4.7.16.6 The structure and format of the revenue budget should be sufficient to permit effective financial management.
- 4.7.16.7 The overall budget setting process for both revenue and capital is controlled by the Head of Financial Services.
- 4.7.16.8 The Head of Financial Services will produce a Budget Holders' Handbook.
- 4.7.16.9 Budgets will be distributed to budget holders for consultation. Budget holders will work with finance staff to prepare detailed income and expenditure estimates for the forthcoming year taking into account known service level changes, contractual commitments and financial constraints
- 4.7.16.10 Budget holders should provide information on any legislative changes, statutory duties, demographic changes, which impact upon service trends and activity levels to inform the financial planning and budget setting process.

4.7.17 Capital Budget Management

- 4.7.17.1 The Cabinet shall, following the submission of proposals by the Joint Management Team, recommend to Council:
 - a A capital programme for each financial year.
 - b A future indication of a capital programme over a three-year period.
 - c The recommended funding method for each capital project (including the use of Prudential Borrowing, capital receipts, revenue or other financing methods).
- 4.7.17.2 All capital spending proposals should be subject to approval through the Council's capital planning processes.
- 4.7.17.3 Following the approval of a capital programme, and subject to any conditions specified in that programme, or specified by the relevant Cabinet Member, the relevant Director shall take all appropriate action to carry into effect the approved schemes, within the budget and timescale agreed in the capital programme. Any material variation in cost or timescale shall be reported to the Cabinet.
- 4.7.17.4 If a project has not started within a specified timeframe it may need to be confirmed for it to go ahead.
- 4.7.17.5 Any report for a project or policy of a capital nature shall include details of:
 - a The estimated cost of the proposal.
 - b Any phasing of the capital expenditure.
 - c The proposed method of financing, whether by loan, revenue or otherwise.
 - d The effect on the revenue estimates in the first and subsequent years.
 - e The additional staff and grades required both initially and ultimately.
 - f An assessment and measurement of the need for the scheme and the benefits it will produce.
 - g A technical and financial appraisal of the alternative approaches to meeting the need.

4.7.17.6 In the first instance, in-year capital requirements will be presented to the CSWG via a business case for ranking and scoring and will be referred to JMT.

4.7.18 Budgetary Control

4.7.18.1 Each Director shall be responsible for monitoring the revenue and any capital budget relevant to his/her Directorate to ensure that such budgets are properly spent and not exceeded.

4.7.18.2 Any new proposal or variation which would materially affect the finances of the council shall require approval by the Cabinet. Any budget virements must comply with the council's scheme of budget virement (section 4.7.19)

4.7.18.3 The council operates within an overall annual cash limit. As a result all individual budgets are cash limited. Each budget holder is required to operate within the cash limit.

4.7.18.4 Directors shall monitor spend and income against budgets monthly and ensure that expenditure in excess of their net approved budgets is not incurred without prior approval. If actual income is expected to be below budget, this must also be actively managed.

4.7.18.5 If it appears to a Director that his/her overall cash limited budget may be exceeded, he/she shall report the details as soon as practicable to the Chief Executive, the Director of Resources and to the Cabinet Member. The relevant Cabinet Member shall then report on the matter to the Cabinet.

4.7.18.6 Action plans must be put in place by each Directorate at an early stage in the financial year in order to manage potential overspendings (e.g. due to additional spending or below target income). Directors must submit their recovery plans to the Chief Executive and the Director of Resources. Where appropriate the additional spending or below target income should be met by virements from other elements of the Directorate budgets. All Directors are required to manage expenditure within the agreed budget for their areas of responsibility. Compliance with this requirement will be dependent upon the earliest possible implementation of such action plans and rigorous supervision to achieve the required outcome.

4.7.18.7 It is the duty of Directors to ensure that responsibility for budgetary control is allocated to appropriate officers in their Directorates. Directors shall nominate a budget manager for each cost centre. As a general principle budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.

4.7.18.8 Budget Managers are accountable for their budgets and the level of service to be delivered and must understand their financial responsibilities. Budget Managers should be responsible only for income and expenditure that they can influence.

4.7.18.9 Budget managers are required to;

- a Follow an approved certification process for all expenditure.
- b Ensure that income and expenditure are properly recorded and accounted for.
- c Ensure that expenditure is committed only against an approved budget head.
- d Monitor performance levels/levels of service in conjunction with the budget and necessary action is taken to align service outputs and budget.
- e Monitor and control the gross expenditure budget position.

- f Investigate and report significant variances from approved budgets.
- 4.7.18.10 The Director of Resources shall establish an appropriate framework of budgetary control.
- 4.7.18.11 The Director of Resources shall provide Directors, budget holders and Cabinet Members with monthly financial management information reports.
- 4.7.18.12 The Director of Resources shall ensure that each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
- 4.7.18.13 The Head of Financial Services shall provide financial management training courses that all budget managers must attend.

4.7.19 Virement

- 4.7.19.1 The Council operates a scheme of budget virement. This enables budget holders to manage budgets with a degree of flexibility within the overall policy framework determined by the Council.
- 4.7.19.2 Directors have authority to vire expenditure between individual budget heads in accordance with the virement policy.
- 4.7.19.3 Key controls for the scheme of virement are:
 - a That it is administered by the Director of Resources within guidelines set by Council. Any variation from this scheme requires the approval of Council.
 - b That the overall budget is agreed by Cabinet and approved by Council. Directors and budget holders are therefore authorised to incur expenditure in accordance with those estimates. The rules below cover virement that is switching resources between budget heads. For the purposes of these Rules a budget head is considered to be the standard service sub-division as defined by CIPFA. The scheme applies equally to a reduction in income as to an increase in expenditure.
- 4.7.19.4 All virements below £150,000 must be approved by the Head of Financial Services in consultation with the relevant Head of Service or Director. All virements above £150,000 must be approved by the Director of Resources in consultation with the relevant Director. All virements above £250,000 must also be approved by the portfolio Cabinet Member. All virements of above £150,000 shall be reported in the budget monitoring report provided to Cabinet.
- 4.7.19.5 The prior approval of the Cabinet is required to any virement of £25,000 or more where it is proposed to:
 - a Vire between budgets of different portfolio Cabinet Members.
 - b Vire between budgets managed by different Corporate Directors.
- 4.7.19.6 Virement which is likely to impact on the level of service activity of another Director should be implemented only after consultation with the relevant Director.

4.7.20 Spend to Save

- 4.7.20.1 The Capital and Asset Management Strategy aims to encourage innovation and allows officers to draw down funding to pump prime creative projects that demonstrate 'spend to save/mitigate' and funding is available throughout the year.
- 4.7.20.2 The council operates a Spend to Save scheme for budget holders, who want to either pump prime a service initiative, purchase equipment or service and/or

realign their current service model, all of which must generate a revenue saving year on year.

- 4.7.20.3 Applications for funding accompanied by a Business Case shall be submitted to the Head of Financial Services.

4.7.21 Banking Arrangements and Corporate Credit Cards

- 4.7.21.1 All arrangements with the Council's bank concerning the Council's bank accounts and for the ordering and issue of cheques shall be made by, or under arrangements approved by, the Director of Resources. The Director of Resources shall be authorised to open and operate such banking accounts, as he or she may consider necessary. This authority shall include the power to give the necessary directions to the bank as to signatures for withdrawals. The Director of Resources shall report periodically to the Cabinet or Audit & Governance Committee as to the opening or closing of such accounts.
- 4.7.21.2 Apart from payments from corporate cards, petty cash, imprest accounts or schools' own local bank accounts; the normal method of payment due from the council shall be by BACS or cheque. Direct debit and periodical payment arrangements shall require the prior agreement and authorisation of the Director of Resources.
- 4.7.21.3 All cheques and cheque stationery shall be ordered only on the authority of the Director of Resources who shall be satisfied that proper arrangements are in place for their safe custody. Where the signature is printed on the cheque by a Council system, the signature shall be that of the Director of Resources.
- 4.7.21.4 The Director of Resources shall be responsible for authorising the issue of corporate credit cards and determining spending limits. Cardholders are required to comply with the guidance issued by the Director of Resources regulating the use of corporate credit cards. This guidance will include the requirement for cardholders to provide the Payments Manager with a receipt and coding slip for each item purchased using a credit card within 14 days of the monthly card statement being received.
- 4.7.21.5 Schools are permitted by the local management of schools regulations to operate their own bank account independently of the council. In order to take advantage of new ways of purchasing books, supplies and services through the internet, schools are permitted by the council to apply for a credit card provided the card is issued by a UK bank and approved by the office of government commerce. The use of the credit card must be approved by the schools governing body and the monthly card statement must be paid in full by a direct debit from the schools imprest bank account. Schools are required to comply with the guidance issued by the Director of Resources regulating the use of credit cards.

4.7.22 Insurance and Risk Management

- 4.7.22.1 All organisations, whether they are in the private or public sector, face risks to people, property and continued operations. Risk is defined as the chance or possibility of loss, damage or injury caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk.
- 4.7.22.2 Insurance has been the traditional means of protecting against loss, but this cannot be seen as the complete answer. By reducing or even preventing the incidence of losses (whether they result from crime or accident), the Council shall

benefit from reduced costs of providing insurance cover and shall also avoid the disruption and wasted time caused by losses and insurance claims.

- 4.7.22.3 It is the overall responsibility of the Cabinet to approve the authority's Risk Management Strategy and to promote a culture of risk management awareness through the Council. Monitoring of and reporting on the effectiveness of the Strategy is an essential part of the process.
- 4.7.22.4 The key controls for risk management and insurance are:
- a Robust systems are in place to identify, assess, prevent or contain significant operational risks on an integrated basis and these systems are promoted throughout the organisation.
 - b Acceptable levels of retained risk are identified and evaluated and arrangements are in place for their funding, either by internal provision or external insurance as appropriate.
 - c Managers know that they are responsible for managing relevant risks and are provided with appropriate and timely information on claims experience and risk management initiatives relating to their areas of responsibility.
 - d Procedures are in place to investigate and process claims within required timescales.
 - e A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
- 4.7.22.5 The Director of Resources shall effect all insurance cover and negotiate all claims in consultation with the relevant Monitoring Officer where appropriate.
- 4.7.22.6 Directors shall give prompt notification to the Director of Resources of all new risks, properties, vehicles and other assets that are required to be insured or any alterations affecting existing insurances.
- 4.7.22.7 Directors shall promptly notify the Director of Resources in writing of any actual or potential loss, liability or damage or any event likely to lead to an insurance claim by or against the Council.

4.7.23 Loans, Leasing and Investments

- 4.7.23.1 The Director of Resources shall report to Cabinet, on an annual basis, with recommendations to Council to determine the limits for the borrowing of monies.
- 4.7.23.2 The Director of Resources shall borrow as necessary to finance the approved capital programme and deal with all matters in connection with the raising or repayment of loans and is authorised to borrow for meeting expenses pending the receipt of revenues.
- 4.7.23.3 All investments and all borrowing shall be made in the name of the Council
- 4.7.23.4 Directors shall not enter into financial leasing arrangements except with the consent of the Director of Resources. Before entering into any lease agreement Directors shall submit details to the Financial Services Technical Accounting Team to enable a financial appraisal to be undertaken, including alternative financing options and implications for accounting treatment.
- 4.7.23.5 Loans to third parties will only be made in exceptional circumstances.

- 4.7.23.6 The Director of Resources shall arrange the borrowing and investment activities of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Authority's Treasury Policy Statement.
- 4.7.23.7 The Director of Resources shall prepare an annual strategy with regard to investments, borrowing and the repayment of external debt. These are set out in the Treasury Management Strategy approved by full council before the start of the new financial year.
- 4.7.23.8 The Treasury Management Strategy will include the following:
- Prospects for the economy and for interest rates;
 - Borrowing requirement and strategy;
 - Investment policy and strategy;
 - MRP Statement;
 - Prudential Indicators for the next three years providing assurance that the council's capital plans are affordable, prudent and sustainable; and
 - The Treasury Management Policy Statement.
- 4.7.23.9 In addition, Cabinet will receive an annual report after the end of the financial year and will recommend to Full Council for approval.
- 4.7.23.10 Cabinet and the Overview & Scrutiny Committee will also receive quarterly treasury management reports.

4.7.24 Trust Funds

- 4.7.24.1 The Director of Resources shall:
- a Arrange for all trust funds to be held wherever possible in the name of the Authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Director of Resources unless the deed otherwise provides.
 - b Arrange where funds are held on behalf of third parties for their secure administration approved by the Director of Resources and to maintain written records of all transactions.
 - c Ensure that trust funds are operated within any relevant legislation and the specific requirement for each trust.

4.7.25 Inventories and Stocks And Stores

- 4.7.25.1 Further advice can be found in the council's 'Guideline for Inventories Stocks and Stores'.
- 4.7.25.2 The Director of Resources shall:
- a Advise on the form, layout and content of inventory records to be maintained by the Council.
 - b Advise on the arrangements for the care and custody of stocks and stores in Directorates.
- 4.7.25.3 Directors shall:
- a Maintain inventories in a form approved by the Director of Resources to adequately record and describe all furniture, fittings and equipment, plant and machinery under their control.

- b Carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.
- c Ensure attractive and portable items, such as computers, cameras and video recorders are identified with security markings as belonging to the Council and appropriately controlled and secured.
- d Make sure that property is only used in the course of the Council's business unless the Director concerned has given permission otherwise.
- e Directors have discretion to write off redundant equipment up to the value of £5,000, but must seek Cabinet Member approval for write-offs in excess of £5,000. Directors shall seek independent quotations where it is not immediately obvious what the market value of the redundant item is.
- f Make arrangements for the care, custody and recording of stocks and stores in Directorates.
- g Ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- h Ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- i Write-off discrepancies of up to £5,000 and seek advice from Internal Audit on discrepancies above this limit.
- j Authorise write-off and disposal of redundant stocks and equipment by competitive quotations or auction unless, following consultation with the Director of Resources, it is decided otherwise in a particular case.
- k Seek approval from the Director of Resources and Cabinet Member to the write-off of redundant stocks and stores valued in excess of £5,000.
- l Record the reasons for the chosen method of disposing of redundant stocks and equipment if not by competitive quotation or auction.

4.7.26 Working for Third Parties and Shared Services

- 4.7.26.1 Current legislation enables the Council to provide a range of services to certain other bodies. Such work may enable the unit to maintain economies of scale and existing expertise. Arrangements must be in place to ensure that any risk associated with this work is minimised.
- 4.7.26.2 All proposals to work for a third party shall be properly costed in accordance with guidance provided by the Director of Resources. Financial advice should be obtained from the Head of Financial Services on the cost of providing the service.
- 4.7.26.3 All decisions to work for a third party shall be made in accordance with the Council's formal decision making processes as set out in the Scheme of Delegation. Formal approval in line with the Council's Functions Scheme must be obtained before any negotiations to work for third parties are concluded.
- 4.7.26.4 Officers must obtain legal advice on the implications of providing the proposed service to the third party. All contracts for providing work for a third party shall be drawn up using guidance provided by the Assistant Director – Law and Governance.

4.7.26.5 Officers shall ensure that:

- a All contracts are properly documented and a register of all contracts to supply goods and services to third parties is maintained by each Directorate.
- b Appropriate identity checks on the third party are carried out in accordance with the Council's anti money laundering policy and guidance.
- c Appropriate insurance arrangements are in place for the third party work.
- d The Council is not put at any risk of bad debts as a result of any third party work
- e Wherever possible, payment is received in advance of the delivery of the service under a third party contract.

Appendix A

Responsibilities under the Financial Procedure Rules

This appendix provides details of responsibilities under the Financial Procedure Rules. It lists in a single place responsibilities that would otherwise be repeated in various sections of the Financial Procedure Rules. It confirms the overall responsibilities of the Council's Director of Resources, the Cabinet and members of the Senior Management Team (Joint Management Team) within the Financial Procedure Rules.

A1 Cabinet Responsibilities

- A1.1 Cabinet is responsible for overseeing all aspects of the Council's finances. Day to day responsibility for the Council's finances rests with Directors and their managers as set out in these Financial Procedure Rules.
- A1.2 Each Cabinet Member shall oversee compliance with the Council's Financial Procedure Rules for those functions within their terms of reference. Each Director is responsible for ensuring those functions within their terms of reference operate within the Council's Financial Procedure Rules.

A2 Director of Resources' Responsibilities

- A2.1 The Director of Resources has been appointed under Section 151 of the Local Government Act 1972 as the officer with responsibility for the proper administration of the Council's financial affairs.
- A2.2 Reference in these Financial Procedure Rules to the Director of Resources shall be taken to include any officer nominated by the Director of Resources to act on his/her behalf.
- A2.3 The Director of Resources shall be entitled to attend a meeting of any body on which Members are represented where matters affecting the financial affairs of the Council are being discussed.
- A2.4 The Director of Resources, under the general direction of Cabinet, is responsible for determining the basis for all accounting procedures and financial records for the Council and for exercising a check over all financial matters.
- A2.5 The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and advising the Council of any additions or changes necessary.
- A2.6 The Director of Resources is responsible for reporting, where appropriate, breaches of the Financial Procedure Rules or any other element of the Constitution that relates to the proper administration of the Council's financial affairs to the Council and/or Cabinet.
- A2.7 The Director of Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules.
- A2.8 The Director of Resources is responsible for maintaining adequate and effective audit arrangements for the Council and for ensuring that Audit Services complies with the Chartered Institute of Public Accountancy's Code of Practice for Internal Audit.
- A2.9 The Director of Resources is responsible for ensuring, in conjunction with the relevant member of the Joint Management Team, that the Council's disciplinary procedures are followed where the outcome of an audit or other investigation indicates fraud or irregularity.

- A2.10 The Director of Resources is responsible for ensuring that any case of fraud or loss or financial irregularity or bribery or corruption discovered or suspected to exist which involves the Council's interest shall be dealt with in accordance with the Council's Anti-Fraud and Anti-Corruption policy.
- A2.11 The Director of Resources is responsible for appointing senior officers to be the Council's Money Laundering Reporting Officer and deputy to the Council's Money Laundering Reporting Officer.
- A2.12 The Director of Resources has overall responsibility for making payments on behalf of the Council and has sub-delegated this to the Head of Benefit and Exchequer Services.
- A2.13 The Director of Resources has overall responsibility for the Council's income and collection functions and has sub-delegated this to the Head of Benefit and Exchequer Services who is required to ensure the effective collection and recording of all monies due to the Council.
- A2.14 The Director of Resources is responsible for making payments to employees, former employees and Members on behalf of the Council and has sub-delegated this responsibility to the Head of the Benefit and Exchequer Services

A3 Joint Management Team Responsibilities

- A3.1 Members of the Joint Management Team are responsible for ensuring that all employees are aware of the content of the Financial Procedure Rules and other internal regulatory documents and that they are complied with.
- A3.2 Members of the Joint Management Team are responsible for consulting with the Director of Resources on any matter within their area of responsibility that is liable to materially affect the finances of the Council before any provisional or other commitment is incurred or before reporting the matter to a Cabinet Member.
- A3.3 Members of the Joint Management Team are responsible for supplying the Director of Resources with all information necessary for the proper administration of the Council's affairs.
- A3.4 Members of the Joint Management Team shall allow the Director of Resources and his/her authorised representatives access to all documents and records on demand.
- A3.5 Members of the Joint Management Team shall maintain a sound system of internal control.
- A3.6 Members of the Joint Management Team are responsible for ensuring those functions within their terms of reference operate within the Council's Financial Procedure Rules.
- A3.7 Members of the Joint Management Team are responsible for informing Cabinet Members promptly if the Council's Financial Procedure Rules are not being complied with.

Glossary of terms

In the Financial Procedure Rules the words and phrases in the left hand column have the meaning given in the right hand column;

Asset	Something the council owns that has value, such as premises, vehicles, equipment or cash.
Budget	A statement of the Authority's plans for revenue and capital expenditure and income over a specified period of time.
Capital	Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.
Capital Programme	A budget generally covering a 3-5 year period relating to items of capital expenditure
Capital receipts	Proceeds from the sale of fixed assets, such as land or buildings.
Cash Limit	The most that can be spent in an area in one year.
CIPFA	The Chartered Institute of Public Finance and Accountancy is the leading professional accountancy body for public services in the UK. CIPFA has responsibility for setting good practice accounting standards for local government.
Cost Centre	A division of an organisation to which costs can be specifically allocated.
Gross Expenditure	The total cost of providing the Council's services before taking into account income from Government grants and Fees and Charges for services.
Imprests	Petty cash floats.
Internal Audit	A specialist section of the Council that examines, evaluates and reports on the adequacy of internal control systems.
Internal Control	The systems of control that help ensure the Council's objectives are achieved in an economical, efficient and effective way and consistent with safeguarding the Council's assets.
Inventory	A list of equipment and furniture
Money Laundering	The practice of engaging in financial transactions in order to conceal the identity, source, and/or destination of money.
Officer	A person employed or appointed as a member of staff
Revenue budget	Budget relating to the day-to-day expenses associated with the provision of services.

Treasury Management	Management of the Council's Cash Balances on a daily basis, to obtain the best return while maintaining an acceptable level of risk.
Treasury Management Strategy	A document stating how the Council plans to borrow and optimise its return on its cash and investments in the coming financial year whilst ensuring the over-riding criterion of security of public money
Virement	Transfers of budgets between one area and another. Virements are subject to strict controls

Clarification of Post titles

Chief Executive	The Council's Head of Paid Service
Director of Resources	The Council's Section 151 officer
Assistant Director – Law and Governance	The Council's Monitoring Officer

Section 8 - The Planning Rules

COUNCILLOR INVOLVEMENT IN PLANNING APPLICATIONS

4.8.1 Initial Submission of Applications

- 4.8.1.1 All members will be informed by e-mail on the submission of a new planning application in their ward.
- 4.8.1.2 All applications will proceed and will be determined under delegated powers unless they fall within the category of applications automatically to be referred to Committee or are redirected as provided for under the redirection arrangements in these rules.
- 4.8.1.3 In addition:
- a the case officer will telephone the ward member (and/or where necessary arrange a meeting) to update the ward member on the processing of the application and any comments received.
 - b as part of this initial conversation the case officer will also identify to the ward Member(s) whether an application triggers the need for a Section 106 Agreement in accordance with the Council's adopted Planning Obligations Supplementary Planning Document.
 - c in the case of applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure that local mitigation measures are appropriately incorporated. As part of this process officers and members will be guided by Circular 5/05, the Council's adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the Planning Obligations Manager.
- 4.8.1.4 The ward member(s) for the purpose of this rule is/are the member or members in whose ward the application is located, or whose wards are materially affected by the application.

4.8.2 Determination of Application at Committee

- 4.8.2.1 Councillors at Planning Committee will determine those matters which under the Functions Scheme are to be determined by the Committee including those matters redirected under the redirection arrangements set out in these Rules.
- 4.8.2.2 At Committee the ward member will have an automatic right to start and close the member debate on the application concerned. There is no time limit on the time allowed for ward members to speak in such circumstances and in multi-member wards each, any or every ward member may speak at the start and close of the debate, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 14 paragraph 5.14.6). In the case of the ward member not being a member of the Committee he or she would be invited to address the Committee for that item. [In the case of the ward member being a member of the appropriate Committee he or she will not vote on that item, and act as the ward member as set out above.] To this extent all members have the opportunity of expressing their own views, and those of their constituents as they

see fit, outside the regulatory controls of the Committee concerned. The ward member would initially address the Committee immediately after the public speaking.

4.8.3 Post Decision

- 4.8.3.1 Ward members would be advised where appropriate by the case officer, the enforcement team, or the Planning Obligations Manager of the following events:-
- a any evolving inconsistencies between a planning permission and development taking place
 - b any appeal against the refusal of planning permission
 - c the receipt/apportionment of Section 106 Agreement monies
 - d any proposed variations to the Section 106 Agreement.

4.8.4 Redirection of Delegated Planning Decisions

The Redirection Arrangements

- 4.8.4.1 Many planning applications are delegated to the Chief Executive and determined by planning officers acting under the Chief Executive's Scheme of Delegation in accordance with the Functions Scheme (Part 3).
- 4.8.4.2 Ward Councillor(s) may choose to ask that sensitive or controversial applications be redirected for a decision by the Planning Committee. Ward Councillor(s) for the purpose of this redirection procedure are the Ward Councillor or any one of the Ward Councillors for a multi-member ward or Members whose wards are materially affected by the application.
- 4.8.4.3 Redirection needs to be made as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications.
- 4.8.4.4 Redirections should be made within 3 weeks of the application being notified to the relevant ward members.
- 4.8.4.5 A redirection will generally be justified in the following circumstances:
- a the application raises unusual or sensitive planning issues which would benefit from the consideration of the Committee, or
 - b the application has attracted an unusually high level of public interest. This might be reflected in the number of letters or e-mails or a petition received in connection with the application, or
 - c there has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.

4.8.5 Conditional Redirection

- 4.8.5.1 In some cases, Councillors may be content that the application be redirected only if planning officers are intending to grant or refuse planning permission. In that case a Councillor can ask that the matter only be redirected in accordance with this

procedure if it is either the intention of the planning officer to grant or refuse the application.

4.8.6 Other Circumstances

4.8.6.1 Any other reasons for requesting a redirection other than those set out above will be considered on its individual merits and circumstances.

4.8.7 Referrals requested after the 3 week period

4.8.7.1 Any of the circumstances set out above could justify a late redirection provided the reasons for the lateness of the request are explained when the request is made. In these circumstances, the Assistant Director Environment, Planning and Waste will make a judgement based on the issues raised, and the stage reached in the processing of the application.

4.8.8 Exceptions to redirection

4.8.8.1 A redirection should not be made in the following circumstances:

- a in order to “resolve” a disagreement between an applicant and the objector(s) to an application.
- b where the applicant considers that there is more likelihood of a grant of planning permission if the application is referred to the Committee for a decision.
- c where the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to Committee for a decision.

4.8.9 Procedure

4.8.9.1 A Councillor requesting the redirection of an application should always provide sound planning reason(s) for doing so based on the circumstances and material planning considerations of the proposal.

4.8.9.2 Any such request should be made in writing to the case officer and the Development Control Manager.

4.8.9.3 All requests for redirections will be discussed by the Assistant Director Environment, Planning and Waste and/or the Development Control Manager with the Chairman of Planning Committee and a decision whether to accept the redirection will be made by the Assistant Director Environment, Planning and Waste or Development Control Manager on the basis of guidance set out in these Rules and the circumstances and material planning consideration of the case. In the Chairman’s absence, the Vice Chairman will be consulted.

4.8.9.4 There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the application by the case officer, statutory consultees or local residents. In the event that the issue(s) which caused the application to be redirected to the Committee by the Ward Member (and supported by the appropriate officers and the Chairman of the Committee) is/are resolved the Ward Member will be at liberty to withdraw his or her request for a

Committee determination. Thereafter the decision will revert to a delegated decision.

4.8.10 Further Information Reports

4.8.10.1 The law requires that decisions should be taken in accordance with the development plan unless material considerations indicate otherwise (S38A Planning and Compensation Act 2004).

4.8.10.2 In the circumstances where the Planning Committee is minded to determine an application contrary to the officer recommendation the Monitoring Officer or his/her representative should be consulted on the legal issues. The Committee will be required to defer a proposed decision contrary to the officer recommendation where the Monitoring Officer and the Assistant Director Environment, Planning and Waste or the Development Control Manager both agree that either major policy issues are at stake or the decision will be difficult to defend if challenged and advise that a deferral should therefore be made. In the event of a deferral on these grounds a further report will be submitted to the next meeting of the Planning Committee by the Assistant Director Environment, Planning and Waste:-

- a updating Members on any additional information received
- b reporting on any discussions that have taken place with the applicants/objectors since the initial meeting
- c setting out the legal, procedure and likely financial implications of proceeding with a decision contrary to the officer recommendation
- d containing any Monitoring Officer advice.

4.8.10.3 If the Planning Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal) a detailed minute of the Committee's reasons should be made and a copy placed on the application file. In this context Members should be prepared to explain in full their reason for not agreeing with the officers' recommendation. In so doing, Members should observe the 'Wednesbury principle' which requires all relevant information (i.e. material considerations) to be taken into account and all irrelevant information (i.e. non-material matters) to be ignored.

4.8.10.4 Planning officers should also be given an opportunity at the meeting to explain the implication of the contrary decision in order to consolidate any information already provided in the Further Information Report.

4.8.11 Delegations to Officers

4.8.11.1 If the Assistant Director Environment, Planning and Waste is unavailable or unable to fulfil any of his/her functions in these Rules, he/she may nominate a substitute to exercise those functions on his/her behalf.

4.8.12 Public Speaking at Planning Committee

4.8.12.1 In the case of the Planning Committee the public will be permitted to speak at meetings when the following criteria are met:

- a the application on which he/she wishes to speak is for decision at the Planning Committee
- b the person wishing to speak has already submitted written representations within the time allowed for comment
- c once an item is on an agenda for Planning Committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the Monitoring Officer at least 48 hours before the meeting of the Planning Committee
- d if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e at the meeting a maximum of 3 minutes (at the Chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only 9 minutes will be allowed for public speaking
- f speakers may not distribute any written or other material of any kind at the meeting
- g speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h on completion of public speaking, Councillors will proceed to determine the application
- i the Chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.

Section 9 - Employment Rules

4.9.1 Employment and Dismissal of Senior Officers

- 4.9.1.1 Subject to paragraphs 4.9.1.1 to 4.9.1.4, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Head of Paid Service or his nominees.
- 4.9.1.2 Paragraph 4.9.1.1 shall not apply to the appointment or dismissal of, or disciplinary action against
- a Head of Paid Service;
 - b A statutory Chief Officer;
 - c The Deputy Chief Executive or an Assistant Chief Executive or a Director
- 4.9.1.3 Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment or dismissal of an officer designated as the Head of Paid Service, the Council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given.
- 4.9.1.4 Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in paragraph 4.9.1.2 at least one member of the Cabinet must be a member of that committee or sub-committee.
- 4.9.1.5 In paragraph 4.9.1.6 "Appointor" means, in relation to the appointment of a person as an officer of the Council, the Council or where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.
- 4.9.1.6 An offer of an appointment as an officer referred to in paragraph 4.9.1.2 must not be made by the Appointor until:
- a the Appointor has notified the proper officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment;
 - b the proper officer has notified every member of the Cabinet of:
 - i. the name of the person to whom the Appointor wishes to make the offer;
 - ii. any other particulars relevant to the appointment which the Appointor had notified to the proper officer; and
 - iii. the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - iv. the Leader has, within the period specified in the notice notified the Appointor that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
 - c the proper officer has notified the Appointor that no objection was received by him/her within that period from the Leader; or

- d the Appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 4.9.1.7 In paragraph 4.9.1.8, “Dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
- 4.9.1.8 Notice of the dismissal of an officer referred to in paragraph 4.9.1.2 must not be given by the Dismissor until:
- a the Dismissor has notified the proper officer of the name of the person who the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal;
 - b the proper officer has notified every member of the Cabinet of:
 - i. the name of the person who the Dismissor wishes to dismiss;
 - ii. any other particulars relevant to the dismissal which the Dismissor has notified to the proper officer; and
 - iii. the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and either:
 - c the Leader has, within the period specified in the notice notified the Dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
 - d the proper officer has notified the Dismissor that no objection was received by him/her within that period from the Leader; or
 - e the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 4.9.1.9 The Employment Panel shall be the appropriate body for the purposes of the functions set out in paragraphs 4.9.1.3 to 4.9.1.8 of these rules.

4.9.2 Employment Appeals Panel

- 4.9.2.1 Nothing in paragraph 4.9.1 shall prevent a Councillor from serving on the Employment Appeals Panel for the purposes of fulfilling the functions specified in the Functions Scheme (Part 3 Section 6).

4.9.3 Appointment of Officers

- 4.9.3.1 All jobs will be open to competition and appointments will be made on merit except as provided for in the Council’s employment policies and its recruitment and selection procedures and all appointments will be made in accordance with those policies and procedures.
- 4.9.3.2 Where the Council propose to appoint an officer to any post the Head of Paid Service or his nominee will:
- a draw up a statement specifying:
 - the duties of the Officer concerned; and

- any qualifications or qualities to be sought in the person to be appointed.
 - b make arrangements for the post to be advertised in such a way that is likely to bring it to the attention and attract the maximum interest of persons who are qualified to apply for it; and
 - c make arrangements for a copy of the statement mentioned in paragraph (a) above to be sent to any person on request.
- 4.9.3.3 The Head of Paid Service or his nominee shall make arrangements for the long listing, short listing and interview of applicants.
- 4.9.3.4 Where the appointment is to a post specified in paragraph 4.9.1.2 above, the Head of Paid Service or his nominee will carry out all steps related to the appointment in consultation with the Leader of the Council or his nominee.
- 4.9.3.5 Where the appointment is to the post of Head of Paid Service, the Leader of the Council will nominate an officer to carry out all the steps related to the appointment in consultation with the Leader of the Council or his nominee.
- 4.9.3.6 The short-listing and interview of candidates will be carried out by the Employment Panel.
- 4.9.3.7 Every appointment of any Officer specified in paragraph 4.9.1.2 above shall be made by the Employment Panel, save that the appointment of a Head of Paid Service must be approved by the Council Meeting.
- 4.9.3.8 The Employment Panel shall be advised by the Head of Paid Service or in the event of the appointment of the Head of Paid Service by the officer nominated for that purpose by the Leader of the Council.
- 4.9.3.9 The Leader of the Council (in relation to the appointment of the Head of Paid Service) and the Head of Paid Service in consultation with the Leader in relation to those officers to be appointed by the Employment Panel may appoint external recruitment consultants to assist or advise the Employment Panel.
- 4.9.4 Disciplinary Action – Head of Paid Service, Chief Finance Officer and Monitoring Officer**
- 4.9.4.1 No disciplinary action in respect of the Head of Paid Service, the Monitoring Officer, or the Chief Finance Officer, except action described in paragraph 4.9.4.2 below, may be taken by the Council or by any committee, sub-committee, or any other person acting on his behalf, other than in accordance with a recommendation in a report made by a Designated Independent Person.
- 4.9.4.2 The action mentioned in paragraph 4.9.4.1 is suspension of the officer for the purpose of investigating the allegation occasioning the action; or otherwise as permitted by law and any such suspension shall be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect unless extended by the Designated Independent Person.
- 4.9.4.3 The Employment Panel shall appoint the Designated Independent Person in accordance with the relevant regulations. The Proper Officer shall appoint the members of the Employment Panel for the purpose of appointing a Designated Independent Person.
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4.9.4.4 For these purposes, the Employment Panel will be advised by the Proper Officer.

4.9.5 The Employment Panel

4.9.5.1 The Head of Paid Service or in the case of the appointment of the Head of Paid Service, the officer nominated for the purpose of carrying out the functions specified in these rules, shall appoint the Employment Panel in consultation with the Group Leaders. The composition of the Employment Panel shall, as near as possible, reflect the rules on proportionality between the groups on the Council and must include at least one member of the Cabinet.

4.9.6 Terms and Conditions of Employment

4.9.6.1 The Employment Panel shall be responsible for determining the terms and conditions of employment of the officers specified in paragraph 4.9.1.2 above.

4.9.7 Voting On Appointments

4.9.7.1 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the Employment Panel in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.