

PART 4

RULES OF PROCEDURE

RULES OF PROCEDURE AT FULL COUNCIL

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1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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.

The annual meeting will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are absent, with such a person not being a member of the Executive;
- (ii) receive apologies for absence;
- (iii) receive any declarations of interest from councillors;
- (iv) elect the Mayor and Deputy Mayor;
- (v) approve the minutes of the last meeting;
- (vi) receive any announcements or communications from the Mayor and/or the Chief Executive;
- (vii) elect the Leader and Deputy Leader;
- (viii) note the Members of the Executive as appointed by the Leader of the Council (only when the Members of the Executive's terms of office have expired or where there is a vacancy amongst the members of the Executive);
- (ix) report regarding the discharge of executive functions for the year ahead;
- (x) appoint committees and to appoint Chairs and Vice-Chairs of committees for the municipal year, in accordance with 1.2 below;
- (xi) approve the calendar of meetings for the municipal year;
- (xii) make appointments to outside bodies except where a body is delegated by the Council; and
- (xiii) consider any other business set out in the notice convening the meeting.

1.2 Selection of councillors on committees, other meetings and outside bodies

At the annual meeting, the Council will –

- (a) decide which committees to establish for the municipal year, including the size of those committees;
- (b) decide the allocation of seats to political groups in accordance with the political balance rules;
- (c) appoint councillors to serve on each committee, including the Chair and Vice Chair and substitute councillors who may exercise the powers set out in Rule 6 of these rules;
- (d) appoint to those committees and outside bodies, except whether appointments to these bodies have been delegated by the Council or are exercisable by the Executive.

Before the Annual Meeting of the Council and at any other time that a review of the allocation of seats is required, the Chief Executive shall consult Group leaders on the membership of committees and report to the Annual or next following meeting of the Council. Such consultations and report shall determine the allocation to the different political groups and recommend such appointments to give effect to the wishes of the political groups.

A political group shall contain a minimum of two councillors in order to be recognised for proportionality. The group leaders will notify the Chief Executive, in writing, of the membership of each group.

1.3 Dissolution of Committees and Sub-Committees

Any Committee or Sub-Committee may be dissolved by the Council at any time save that the Council must have at least one Overview and Scrutiny Committee.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) receive apologies for absence;
- (iii) receive any declarations of interest from councillors;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements or communications from the Mayor, the Leader or the Chief Executive;
- (vi) receive any petitions;
- (vii) receive questions from the public for reply by the Leader under Rule 11;
- (viii) receive questions on notice from Members for reply under Rule 12;
- (ix) receive reports from the Leader and individual Portfolio Holders and receive questions and provide answers on any of those reports;
- (x) receive reports from the Council's committees and receive questions and provide answers on any of those reports;
- (xi) consider notices of motion submitted in accordance with Rule 13 in the order in which they are recorded as having been received;
- (xii) consider any other business specified in the summons to the meeting;
- (xiii) receive any reports that the Chief Executive, Monitoring Officer or Section 151 Officer consider appropriate;
- (xiv) deal with any business required by statute to be done;
- (xv) dispose of business (if any) remaining from the last meeting;
- (xvi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xvii) debate issues on the state of the Borough if called under Rule 17.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings

The Chief Executive may call an Extraordinary Meeting of the Council. In addition those listed below may request the Chief Executive to call Council meetings in addition to Ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Leader
- (iii) the Monitoring Officer; and
- (iv) any eight members of the Council if they have signed a requisition presented to the Mayor 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.

3.2 Business

The business to be transacted at an extraordinary meeting shall be limited to that contained in the request to call the meeting.

4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Council and notified in the summons sent by the Chief Executive.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by them (by an appropriate method) via a Pendle email address to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

6. CHAIRING THE MEETING

The person presiding at the meeting may exercise any power or duty of the Mayor or Chair. Any power or duty of the Mayor or Chair in relation to the conduct of the meeting may be exercised by the Deputy Mayor or Vice Chair, or in the absence of the Deputy Mayor or Vice Chair, the person elected to preside at the meeting. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chairs of committees and sub-committees.

7. QUORUM

The quorum of a meeting will be one quarter of the whole number of members entitled to attend. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

8. QUORUM OF COMMITTEES

The quorum of a committee is one quarter of the whole number of the committee but shall not be less than three voting councillors.

9. DURATION OF MEETING

Unless the majority of members present vote for the meeting to continue with all or any of the remaining business, any meeting that lasts up to 11.00 p.m. will adjourn immediately. Remaining business will be considered at a date and time fixed by the Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. PRESENTATION OF PETITIONS

A member of the public may present a petition on any matter relevant to the Borough on giving notice to the Chief Executive at least seven clear days before the meeting. The presentation of the petition shall take place as soon as practicable after the start of the meeting. The person presenting the petition may speak for up to five minutes in support of the petition.

11. QUESTIONS FROM THE PUBLIC

11.1 General

Members of the public may ask questions of the Mayor, Leader of the Council, Executive Member or Chair of a Committee at ordinary meetings of the Council during a period of up to 30 minutes set aside for this purpose.

11.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Mayor/Leader may group together similar questions.

11.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon three clear working days before the day of the meeting.

11.4 Number of questions

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation.

11.5 Scope of questions

Each question must provide the following information:

- Name and address and contact details of the person asking the question;
- The name of an organisation if the question is being asked on their behalf, along with contact details;
- Details of the question to be asked;
- The name or position of the member of the Council to whom the question is directed to.

The Monitoring Officer may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which the Council has powers or duties or which affect the borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months unless there has been a material change of circumstances;
- relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action; or
- requires the disclosure of confidential or exempt information.

11.6 Record of questions

The Chief Executive will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection and the questioner will be so informed.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

11.7 Asking the question at the meeting

The Mayor will invite the questioner to put the question and these will be asked in the order they were received. The questioner must read out the question in person and this must be put strictly in the form in which was submitted. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

11.8 Supplementary question

A questioner who has put a question in person may also put one supplementary question without notice to the person who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above or if the time limit in Rule 11.1 has expired.

11.9 Written answers

Any question which cannot be dealt with during public question time will be dealt with by a written answer.

11.10 Reference of questions to the Executive or a Committee

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee. Once seconded, such a motion will be voted on without discussion.

11.11 Public Question Time

Public question time will be limited to 30 minutes in total; each questioner will be allocated not more than 5 minutes, 3 minutes for the original question and 2 minutes for one supplementary question. The response to any question will not exceed 3 minutes for the initial question and 2 minutes for the supplementary question.

12. QUESTIONS BY MEMBERS

12.1 On reports of the Executive or Committees

A member of the Council may ask the Leader, Executive Member or Member of a Committee any question without notice upon an item relevant to their responsibilities. The Leader, Executive Member or of a Committee shall each have no more than **10 minutes** to respond to such questions and any supplementary questions that may be asked.

12.2 Questions on notice

Subject to Rule 12.3, a member of the Council may ask:

- * the Mayor;
- * the Leader;
- * an Executive Member;
- * the Chair of any committee; or
- * any Member appointed to a joint committee or external organisation

a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which is not otherwise before the meeting. The question shall be put without discussion.

12.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 12.4 below, a Councillor who is a member of a committee or sub-committee may ask a question on any matter in relation to which the Council has powers or duties or which affect and which fall within the terms of reference of that committee or sub-committee

The scope of the questions will be the same as in Rule 11.5 (Scope of Questions).

12.4 Notice of questions

A Member may only ask a question under Rule 12.2 if:

- (a) they have given notice at least three clear working days' notice in writing or by electronic mail of the question to the Chief Executive; or
- (b) the question relates to urgent matters; they have the consent of the Mayor and the content of the question is given to the Chief Executive by noon on the day of the meeting.

12.5 Response

An answer to a question under Rule 12.1, 12.2 and 12.3 may take the form of:

- (i) a direct oral answer or a refusal to answer;
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (iii) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and reproduced in an appendix to the minutes of the meeting.

There shall be no discussion on the answer.

12.5 Supplementary questions

Any Member may ask one supplementary question without notice to the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put without discussion. The number of such supplemental questions which may be asked shall be at the discretion of the Mayor. The responding Member shall answer once all the supplemental questions have been asked.

13. MOTIONS ON NOTICE

13.1 Notice

Except for motions which can be moved without notice under Rule 15, written notice of every motion, signed by the Member(s) giving it, must be delivered to the Chief Executive and the Monitoring Officer by electronic mail not later than 5 p.m. six clear working days before the date of the meeting. These will be entered in a record open to for public inspection on the Council's website. The submitted motions shall be subject to the satisfaction of the Monitoring Officer.

13.2 Motion set out in the agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

13.3 Scope

Motions must be about matters for which the Council has a responsibility or which directly affect the Pendle area and should not concern a matter that has been before Council within the preceding six months unless there has been a material change of circumstances. The motions should not seek to amend the agreed revenue for the Council.

13.4 Advance Notice of the Budget Proposals at the Budget Council Meeting

- (a) At a Special Budget Council meeting no revenue budget proposal which is not apparent from the agenda and reports for the meeting, may be moved by way of motion or amendment, unless written notice of it, signed by the Member(s) giving it, has been delivered to the Chief Executive not later than 5.00 p.m. five clear working days before the date of the meeting.
- (b) The Chief Executive shall list such motions or amendments in the order in which they were received and shall circulate them to all Members as soon as practicable.
- (c) Where the Mayor considers there are exceptional circumstances he may put to the meeting that this Rule of Procedure be suspended and the matter shall be decided by a simple majority of those Members voting and present in the room at the time the question is put.

14. EMERGENCY MOTIONS

The Mayor should seek the advice of the Monitoring Officer before accepting an emergency motion.

15. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (i) to appoint a Chair of the meeting at which the motion is moved;
- (ii) in relation to the accuracy of the minutes;
- (iii) to receive reports, or to adopt or otherwise recommendations of the Executive or committees, or to accept or otherwise recommendations contained in a report submitted by an officer;
- (iv) to withdraw a motion;
- (v) to proceed to the next business;
- (vi) that the question be now put;
- (vii) to adjourn a debate;
- (viii) to adjourn a meeting;
- (ix) that the meeting continue beyond 11.00 p.m.;
- (x) to suspend a particular Council procedure rule;
- (xi) to exclude the public and press in accordance with the Access to Information Rules;
- (xii) to not hear further a Member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4; and
- (xiii) to give the consent of the Council where its consent is required by this Constitution.

16. RULES OF DEBATE

16.1 No speeches until motion seconded

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

16.2 Seconded's speech

When seconding a motion or amendment, a Member may not reserve their speech until later in the debate.

16.3 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Other than a speech by the Leader on the work of the Executive or by a person who presided at a meeting in reply to questions asked of him/her under Rule 12.1 no speech may exceed 5 minutes without the consent of the Mayor.

16.4 When a Member may speak again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (i) to speak once on an amendment moved by another Member;
- (ii) to move a further amendment if the motion has been amended since he/she last spoke;
- (iii) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (iv) in exercise of a right of reply;
- (v) on a point of order; and
- (vi) by way of personal explanation.

16.5 Amendments to motions

(a) An amendment to a motion must be relevant to the motion and must either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) 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 provided that the Mayor may permit two or more amendments to be discussed (but not voted upon) together if he/she thinks this will facilitate the proper conduct of business.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.

- (d) 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.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

16.6 **Alteration of motion**

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

16.7 **Withdrawal of motion**

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.

16.8 **Right of reply**

- (a) Either the mover or the seconder of a motion may reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- (c) The mover of the amendment shall have the right of reply before the mover of the original motion replies at the end of the debate on the amendment.

16.9 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (i) to withdraw a motion;
- (ii) to amend a motion;
- (iii) to proceed to the next business;
- (iv) that the question be now put;
- (v) to adjourn a debate;
- (vi) to adjourn a meeting;
- (vii) to exclude the public and press in accordance with the Access to Information Rules; and
- (viii) to not hear further a Member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

16.10 **Closure motions**

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:

- (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

16.11 Point of order

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must at the outset state the rule or law he/she considers has been broken before explaining the point of order. A member may not, upon raising a point of order, express differences of opinion with, or contradict a speaker on the question before the meeting. The ruling of the Mayor on the matter will be final.

16.12 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. A member may not, upon a personal explanation, otherwise comment upon or answer the speech of another member to seek to clarify or add to his/her former speech. The ruling of the Mayor on the admissibility of a personal explanation will be final and not open to discussion.

16.13 Disclosable Pecuniary Interests

If a Member has a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting, and they are aware of this fact, they must not participate, or participate further, in the discussion of the matter at the meeting or participate in any vote on the matter at the meeting. They must also leave the room while the discussion and vote take place on the matter concerned.

17. STATE OF THE BOROUGH DEBATE

17.1 Calling of debate

A political group leader may call a state of the Borough debate in a form and to be held at a point in the meeting to be agreed with the Mayor and other political group leaders.

17.2 Form of debate

The form of the debate will have the aim of enabling the widest possible public involvement and publicity.

17.3 Chairing of debate

The debate will be chaired by the Mayor.

17.4 Results of debate

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area.

18. PREVIOUS DECISIONS AND MOTIONS

18.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved.

18.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved.

19. VOTING

19.1 Majority

Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question is put.

19.2 Mayor's casting vote

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

19.3 Show of hands

Unless a ballot or recorded vote is demanded under Rule 19.4 or 19.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

19.4 Recorded vote

19.4.1 If two 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.

19.4.2 Immediately after any vote is taken at a budget decision meeting of the Council there will be recorded in the minutes of the proceedings of that meeting the names of the Members who cast a vote for the decision for or against the decision or who abstained from voting.

19.5 Right to require individual vote to be recorded

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.

19.6 Voting on appointments

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.

20. MINUTES

20.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only question on the minutes that can be discussed is their accuracy.

20.2 No requirement to sign the minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (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 purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

20.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

21. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

22. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

23. MEMBERS' CONDUCT

23.1 Standing to speak

When a Member speaks he/she must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

23.2 Mayor standing

When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

23.3 Member not to be heard further

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

23.4 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

23.5 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

24. DISTURBANCE BY PUBLIC

24.1 Removal of member of the public

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

24.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared and may adjourn the meeting for so long as he/she thinks necessary.

25. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

25.1 Suspension

All of these Council Rules of Procedure except Rule 19.5 and 20 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

25.2 Amendment

Any motion to add to, vary, or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

RULES OF PROCEDURE AT COMMITTEE MEETINGS

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RULES OF PROCEDURE AT COMMITTEE MEETINGS

1. SCOPE

- 1.1 These rules apply to meetings of committees, subject to any provision to the contrary in this constitution or in law.
- 1.2 The spirit of the rules shall apply to meetings of ad hoc panels, working groups etc., as far as practicable.

2. BUSINESS

- 2.1 The order of business at a meeting shall be to:-
 - (i) elect a person to preside if the Chair and Vice-Chair are not present;
 - (ii) receive any declarations of interests from Members;
 - (iii) for a maximum of 15 minutes receive questions from members of the public on matters not on the agenda for the meeting, and where possible reply to those questions;
 - (iv) approve the minutes of the last meeting;
 - (v) consider other business listed on the agenda for the meeting, and any other business which the Chair considers should be dealt with as a matter of urgency pursuant to S100B(4) of the Local Government Act 1972.
- 2.2 The order of business may be varied at the discretion of the Chair.

3. TIME AND PLACE OF MEETINGS

- 3.1 Meetings will ordinarily start at 7.00 p.m. unless the Committee Chair decides otherwise.
- 3.2. Meetings will be held at such venues as the Committee may determine.

4. NOTICE OF AND AGENDA FOR MEETINGS

- 4.1 The Democratic Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 4.2 The Democratic Services Manager will send a copy of the agenda and accompanying reports to each member of the Committee, and a copy of the agenda to other members of the Council in either paper form or electronically.

5. CHAIRING MEETINGS

- 5.1 The Chair of committees shall be appointed by the Council.
- 5.2 An Area Committee shall appoint a Chair from the members of the Council on the Committee. Where a political group has more than half of the members of an Area Committee, that Committee shall appoint the nominees of that group as Chair and Vice-

Chair. Where no political group has more than half of the members of an Area Committee, that Committee may appoint any members of the Committee as Chair and Vice-Chair.

5.3 The committees may appoint a Vice-Chair from amongst the members of the Council on the committee.

5.4 In the absence of the Chair and Vice-Chair, a committee shall appoint a person to preside from the members of the Council on the Committee.

6. QUORUM

6.1 The quorum of a meeting of a committee shall be one third of the voting membership.

6.2 During any meeting if there is not a quorum present, then the meeting will adjourn immediately and remaining business will be considered at the next ordinary meeting.

7. DURATION OF MEETINGS

7.1 Unless the majority of Members present for the meeting vote to continue with all or any of the remaining business, any meeting that has lasted beyond 11.00 p.m. will adjourn upon conclusion of the item then under consideration. Remaining business will be considered at the next ordinary meeting.

8. PRESENTATION OF PETITIONS

8.1 A member of the public may present a petition on any matter relevant to the Borough, or an area of the Borough, at a meeting of an appropriate committee.

8.2 The presentation of the petition shall take place at an appropriate point in the meeting to be determined by the Chair. The person presenting the petition may speak for up to five minutes in support of the petition.

8.3 Unless receipt of the petition has been included on the agenda, or the petition relates to an item on the agenda, it shall stand referred without discussion to the next meeting of the Committee.

8.4 Where a petition is sent to a Council office, it shall be forwarded to the Democratic Services Manager who shall arrange for it to be reported to the next meeting of the appropriate committee.

8.5 The Democratic Services Manager shall maintain a record of all petitions presented or received.

9. PUBLIC RIGHT TO SPEAK AT MEETINGS

9.1 A member of the public may on giving notice address a committee on any matter on the agenda for a meeting, except where the public and press have been excluded from the meeting during consideration of the matter.

9.2 He/she shall normally be heard immediately prior to the discussion of the matter, at the discretion of the Chair.

- 9.3 His/her speech shall be limited to five minutes and this may be further curtailed by the Chair if the number of persons wishing to speak is so large as to impede the conduct of business at the meeting. He/she may not speak again on the same matter, other than to answer any questions from members of the committee.
- 9.4 Notice of a wish to speak shall be given verbally or in writing by 12:00 noon on the day of the meeting to Committee Services and shall specify the matter in question. On non-planning matters, the Chair at his/her discretion may allow a member of public to speak without having given such notice.
- 9.5 A record of all persons exercising the right to speak shall be included in the minutes of the meeting.
- 9.6 Appropriate information on the public right to speak shall be included on public notices for meetings.

10. CONDUCT OF MEETINGS

- 10.1 The conduct of meetings shall as far as practicable be based on the spirit of the Rules of Procedure at Full Council.
- 10.2 All motions and amendments which have been moved and seconded shall be put to the vote unless withdrawn by the mover.
- 10.3 Subject to Rules 10.1 and 10.2 above, the ruling of the Chair shall be final.

11. DISCLOSABLE PECUNIARY INTERESTS

- 11.1 If a Member has a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting, and they are aware of this fact, they must not participate, or participate further, in the discussion of the matter at the meeting or participate in any vote on the matter at the meeting. They must also leave the room while the discussion and vote take place on the matter concerned.

12. VOTING

- 12.1 Any matter will be decided by a simple majority of those Members present and voting.
- 12.2 Voting shall be by show of hands.
- 12.3 The Chair will have a second or casting vote.
- 12.4 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.

13. MINUTES

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only question on the minutes that can be discussed is their accuracy.

14. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

15. CHANGE OF POLITICAL GROUP REPRESENTATION

Where a committee is subject to the rules on political balance and a political group wishes to change its representation on that committee, notice in writing to that effect shall be given to the Democratic Services Manager prior to the start of the meeting at which the change of representation is to become effective.

16. RIGHT OF MEMBERS TO ATTEND AND SPEAK

- 16.1 A member of the Council may attend meetings of committees of which he/she is not a member and may speak on any matter.
- 16.2 A member of the Council attending a meeting of a committee of which he/she is not a member shall not be excluded from the meeting when members of the public and press are excluded pursuant to Section 100A of the Local Government Act 1972.
- 16.3 The right to attend a meeting shall not apply to:
- (i) A committee dealing with the appointment of an officer, or any grading, disciplinary or grievance matter;
 - (ii) The Licensing Committee when dealing with hearings in respect of individual applications for licences or consents;
 - (iii) A Hearings Panel when dealing with the hearing of a complaint referred to it including any procedural or other matter associated with that complaint;
 - (iv) Employment Appeals Panels.

17. CO-OPTION

- 17.1 An Area Committee may co-opt in a non-voting capacity any person who is resident in the Borough and who is not disqualified from membership of a local authority and who is:-
- (i) A member or officer of a town or parish council or parish meeting within the area of the Area Committee; or
 - (ii) A member of a tenant customer panel in the area of the Area Committee; or
 - (iii) A member of a chamber of trade or similar organisation representing business and commercial interests in the area of the Area Committee; or
 - (iv) A member of any other organisation recognised by the Council for this purpose.
- 17.2 An Area Committee may appoint as a substitute for a co-optee any person who fulfils the criteria above.

17.3 An Area Committee may at any time revoke a co-option or substitute co-option.

18. DISTURBANCE BY PUBLIC

18.1 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

19. RESTRICTION ON APPOINTMENT OF SUB-COMMITTEES

Other than the Executive a Committee may not appoint a sub-committee without the prior approval of the Council.

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE
2. ADDITIONAL RIGHTS TO INFORMATION
3. RIGHTS TO ATTEND MEETINGS
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5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING
6. SUPPLY OF COPIES
7. ACCESS TO INFORMATION AFTER THE MEETING
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11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS
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13. APPLICATION OF RULES OF THE EXECUTIVE
14. PROCEDURE BEFORE TAKING KEY DECISIONS
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16. GENERAL EXCEPTION
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20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS
21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

Rules 1-10 and 12 apply to all meetings of the Council and committees (together called meetings).

Rule 11 applies to meetings of the Hearings Panel convened to consider alleged breaches of the Council's Code of Conduct for Members.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or in the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting on the Council's website at www.pendle.gov.uk.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website www.pendle.gov.uk at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda, together with any accompanying reports and uploaded onto the website.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (i) any agenda and reports which are open to public inspection; and
- (ii) any further statements or particulars necessary to indicate the nature of the items on the agenda;

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

7. ACCESS TO INFORMATION AFTER THE MEETING

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

- (i) 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;
- (ii) the agenda for the meeting; and

- (iii) reports relating to items when the meeting was open to the public.

Minutes are kept in perpetuity.

8. BACKGROUND PAPERS

8.1 List of background papers

The Democratic Services Manager will arrange for the setting out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

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

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

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and available to the public at Nelson Town Hall.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Extent of Exclusion

The public may only be excluded under Rule 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

10.2 Confidential information – requirement to exclude public

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

10.3 Exempt information – discretion to exclude public

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

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

10.4 Meaning of confidential information

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

10.5 Meaning of exempt information

Exempt information means information falling within the categories set out below.

[NOTE: Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

	Category	Qualification	Interpretation
1.	Information relating to any individual.	The exemption applies only if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in not doing so.	
2.	Information which is likely to reveal the identity of an individual.	The Public Interest Test Qualification applies as in 1 above.	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	The Public Interest Test Qualification applies as in 1 above. ‘Financial or business affairs’ includes contemplated as well as past or current activities. Information falling within this paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993	Any reference to ‘the authority’ is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined. ‘person’ includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a	The Public Interest Test Qualification applies as in 1 above.	Any reference to ‘the authority’ is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question

	<p>Minister of the Crown and employees of, or office holders under, the authority.</p>		<p>whether information is exempt or not falls to be determined.</p> <p>‘labour relations matter’ means –</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act);</p> <p>or</p> <p>(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to officeholders under the authority as they apply in relation to employees of the authority.</p> <p>‘employee’ means a person employed under a contract of service.</p> <p>‘office-holder’ in relation to the authority means the holder of any paid office, appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
5.	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>The Public Interest Test Qualification applies as in 1 above.</p>	
6.	<p>Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p>	<p>The Public Interest Test Qualification applies as in 1 above.</p>	<p>Any reference to ‘the authority’ is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt</p>

	(b) to make an order or direction under any enactment.		or not falls to be determined.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies as in 1 above	
Exempt information relating to a Hearings Panel established to consider an alleged breach of the Code of Conduct for Members ONLY			
7.1	Information which is the subject to any obligation of confidentiality.	The Public Interest Test Qualification applies as in 1 above.	
7.2	Information which relates in any way to matters concerning national security.	The Public Interest Test Qualification applies as in 1 above.	
7.3	The deliberations of a Hearings Panel established under the provisions of Part 3 of the Local Government Act 2000 in reaching a finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	The Public Interest Test Qualification applies as in 1 above.	

NOTE: The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined – The Authority must release the information unless “*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*”.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations –

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- (a) If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.
- (b) The relevant body is requested in the agenda to confirm the action set out in 11(a) by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- (c) If the matter is considered in public, any related report will also become available to the public.

12. RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS

12.1 Material relating to previous business

All members of the Council will be entitled to inspect any document which is in the possession or under the control of committees unless it contains information falling within the categories of exempt and confidential information.

12.2 Nature of rights

These rights of a Member are additional to any other right he or she may have.

13. APPLICATION OF RULES FOR THE EXECUTIVE

Rules 14 to 21 apply to the Executive and any committees it may appoint when meeting to take key decisions. A key decision is as defined in Article 14.03 of this Constitution.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 16 (general exception) and Rule 17 (special urgency) a key decision may not be taken unless:

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

15. THE FORWARD PLAN

15.1 Period of Forward Plan

Forward Plans will be prepared by the Executive to cover a period of four months, beginning with the first day of any month. They will be prepared monthly and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

15.2 Contents of the Forward Plan

The Forward Plan will contain matters which the Executive has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) The matter in respect of which a decision is to be made.
- (b) The date on which, or the period within which, the decision will be taken.
- (c) The identity of the principal groups to be consulted before the decision is taken.
- (d) The means by which any such consultation is proposed to be undertaken.
- (e) The steps any person might take who wishes to make representations about the matter in respect of which the decision is to be made and the date by which those steps must be taken; and
- (f) A list of the documents submitted for consideration in relation to the matter.

15.3 Publicity in connection with the Forward Plan

The Forward Plan must be published at least 14 days before the start of the period covered. The Democratic Services Manager will publish once a year a notice 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 on the Council's website www.pendle.gov.uk
- (e) That each Plan will contain a list of the documents submitted for consideration in relation to the key decisions on the Plan.
- (f) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed in the Forward Plan is available.
- (g) That other documents may be submitted for consideration.
- (h) The procedure for requesting details of documents (if any) as they become available; and
- (i) The dates on each month in the following year on which each Forward Plan will be published and available on the Council's website www.pendle.gov.uk

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

16. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 17 (special urgency) 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 Head of Legal and Democratic Services has informed the Chair of the Overview and Scrutiny Committee, in writing, of the matter on which the decision is to be made.
- (c) The Democratic Services Manager has made copies of that notice available for the public to view on the Council's website www.pendle.gov.uk

(d) At least five clear working days have elapsed since the Democratic Services Manager complied with (a) and (c) above.

Where such a decision is taken, it must be taken in public.

17. SPECIAL URGENCY

If, by virtue of the date by which a decision must be taken, Rule 16 (general exception) cannot be followed, then the decision can only be taken if the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred has been obtained.

18. REPORT TO COUNCIL

18.1 When the Overview and Scrutiny Committee can require a report

If the Overview and 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 (Rule 16); or
- (c) The subject of agreement under Rule 16;

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

18.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decisions and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

18.3 Quarterly reports on Special Urgency Decisions

In any event the Executive will submit quarterly reports to the Council on any executive decisions taken in the circumstances set out in Rule 17 (special urgency) 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.

19. RECORD OF DECISIONS

After any meeting of the Executive or of any committee it may appoint, the Democratic Services Manager 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.

20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

20.1 Rights to copies

Subject to Rule 20.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which

contains material relating to any business transacted at a meeting of the Executive or its committees.

20.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (a) Any document that is in draft form; or
- (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 scrutinising or intend to scrutinise.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.1 Material Relating to Previous Business

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

21.2 Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

21.3 Nature of Rights

These rights of a member are additional to any other right he/she may have.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Executive Decisions

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

2. Process for Developing the Framework

- (a) The Executive will publicise by inclusion in the Forward Plan 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.
- (b) After consulting stakeholders in a manner appropriate to the matter under consideration and in accordance with details set out in the Forward Plan, the Executive will draw up initial proposals in relation to the plan, strategy or budget. Wherever possible the Executive shall seek the comments of an Overview and Scrutiny Committee.
- (c) The Overview and Scrutiny Committee will consider what representations it wishes to make to the Executive's initial proposals within the timescale set by the Executive.
- (d) The Executive will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committee. The report to Council will show the Executive's response to those comments.
- (e) The Council will consider the proposals of the Executive and may adopt them, amend them refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (f) The Council's decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment) it will become effective on the expiry of five working days, unless the Leader formally objects in that period.
- (g) If the Leader objects to the decision of the Council, he/she shall give written notice to the Democratic Services Manager to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received the Democratic Services Manager shall arrange for the Council to reconsider its decision at its next ordinary meeting and the decision shall not be effective pending that meeting.
- (h) At that meeting, the decision of the council shall be reconsidered in the light of the objection, which shall be available in writing for members of the Council.
- (i) The Council shall, at that meeting, make its final decision on the matter on the basis of a simple majority which shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council shall also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 (virement) and 6 (in year changes to policy framework) of these Rules. Any other changes to the budget and policy framework are reserved to the Council.

3. Decisions outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 (virement) the Executive may only take decisions which are in line with the budget and policy framework. If it wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, except as provided in paragraph 4 below (urgent decisions outside the budget and policy framework).

- (b) If the Executive wishes to make such a decision, it shall take advice from the Monitoring Officer and/or the Director of Resources as to whether the decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the matter must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 below (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent Decisions outside the Budget or Policy Framework

- (a) The Executive may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken if the Chair and two Deputy Chairs from different groups of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair the consent of the Mayor will be sufficient.

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

5. Virement

- (a) The Council shall have the budget heads as determined by the Director of Resources.
- (b) Steps taken by the Executive to implement Council policy shall not exceed those budgets allocated to each budget head. However, it shall be entitled to vire across budget heads with a limit per individual virement of £100,000. Beyond that limit, approval to any virement shall require the approval of the Full Council.

6. In-year changes to Policy Framework

The responsibility of agreeing the budget and policy framework lies with the Council and decisions by the Executive must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by the Executive except those changes:

- (a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
- (b) Are necessary to ensure compliance with the law, ministerial direction or government guidance.

7. Call In of Decisions outside the Budget or Policy Framework

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or the Director of Resources.
- (b) If the Monitoring Officer and/or Director of Resources is of the view that it is outside the budget or policy framework he/she shall report to the Executive who must decide what action to take in respect of the report including reporting on the matter to the Council.
- (c) The Council will receive the Executive's report on the matter and the advice of the Monitoring Officer and/or the Director of Resources. The Council may either:

(i) Endorse the decision as falling within the existing budget and policy framework.

OR

(ii) Amend the Council's financial regulations or policy concerned to encompass the decision and agree to the decision with immediate effect.

OR

(iii) Require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Director of Resources.

EXECUTIVE PROCEDURE RULES

1. OPERATION OF THE EXECUTIVE

1.1 Discharge of Executive Functions

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council. Executive functions may be discharged by:

- (i) The Executive as a whole.
- (ii) A committee of the Executive.
- (iii) An officer.
- (iv) An Area Committee.
- (v) Joint Arrangements; or
- (vi) Another Local Authority.

1.2 The Council's Scheme of Delegation and Executive Functions

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required for the discharge of all executive functions and will be set out in Part 3 of the Constitution.

1.3 Conflicts of Interest

These shall be dealt with as provided for in the Member Code of Conduct in Part 5 of this Constitution.

1.4 Taking Executive Decisions

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

2. CONDUCT OF EXECUTIVE MEETINGS

2.1 Executive Meetings

The Executive will meet monthly, normally on the third Thursday of the month at Nelson Town Hall.

All meetings of the Executive will be held in public except when information of a confidential or exempt nature is to be considered.

2.2 Quorum

The quorum for a meeting of the Executive, or a committee of it, shall be 3 and for a committee of the Executive, one half of the voting membership subject to a minimum of 3.

2.3 Chairing the Meeting

If the Leader is present he/she will chair the meeting. In his/her absence, then a person appointed to do so by those present shall chair it. The conduct of meetings, including the manner of debates

and the acceptance or otherwise of motions and amendments, shall be at the discretion of the Chair.

2.4 Business

At each meeting of the Executive the following business will be conducted:

- (i) Consideration of the minutes of the last meeting.
- (ii) Declarations of interest, if any.
- (iii) For a maximum of 15 minutes, questions from members of the public on matters not appearing on the agenda.
- (iv) Matters referred to the Executive by the Overview and Scrutiny Committee or by the Full Council for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.
- (v) Consideration of reports referred by the Overview and Scrutiny Committee.
- (vi) Other matters set out in the agenda for the meeting, which shall indicate which are key decisions; and
- (vii) A list of forthcoming business for the purpose of updating the Forward Plan.

2.5 Consultation

All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.6 Placing Items on the Agenda

- (a) Any member of the Executive may require that an item is placed on the agenda for the next available meeting of the Executive for consideration.
- (b) Any member of the Council may ask that an item be put on the agenda of an Executive meeting for consideration. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The Councillor will be invited to attend the meeting.
- (c) The Chief Executive and through him/her the Directors and Heads of Service Areas, may include an item for consideration on the agenda for an Executive meeting.
- (d) The Chief Executive, the Monitoring Officer, the Director of Resources and the Director of Place may require the calling of a meeting to consider a report in pursuance of their statutory duties.

2.7 Councillors' Rights of Attendance

All members of the council may attend meetings of the Executive, including those parts where the public and press are excluded, and may speak on any item.

2.8 Rights of Members of the Public

- (a) A member of the public may ask a question on a matter not appearing on the agenda during public question time.
- (b) A member of the public may, on giving notice prior to the commencement of the meeting, address the Executive on any matter on the agenda, except where the public and press have

been excluded from the meeting during consideration of the matter. He/she shall normally be heard immediately prior to the consideration of the matter. His/her speech shall be limited to five minutes and this may be further curtailed by the Chair if the number of persons wishing to speak is so large as to impede the conduct of the business. He/she shall not speak again other than to answer any questions from members of the Executive.

- (c) A member of the public may present a petition on any matter relevant to the Borough at a meeting of the Executive. He/she may speak for up to 5 minutes in support of it. Unless receipt of the petition has been included on the agenda or it relates to an item on the agenda, it shall stand referred without discussion to the meeting.

2.9 Duration of Meetings

Unless the majority of members present for the meeting resolve to continue with any or all of the remaining business, any meeting that has lasted beyond 11.00 p.m. will adjourn upon conclusion of the item then under consideration. Remaining business will then be considered at the next meeting.

2.10 Voting

- (a) Any matter will be decided by a simple majority of those members present and voting.
- (b) Voting shall be by a show of hands.
- (c) The Chair will have a second or casting vote.
- (d) Where any member requests it immediately after a 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.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Number and arrangements for overview and scrutiny committees

- (a) The Council will appoint one Overview and Scrutiny Committee as set out in Article 8 of Part 2 of this Constitution.
- (b) The terms of reference of the Overview and Scrutiny Committee are set out in Part 3 of this Constitution.

2. Membership of Overview and Scrutiny Committees

All councillors except members of the Executive may be members of the overview and scrutiny committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

The overview and scrutiny committees shall be entitled to recommend to Council the appointment of non-voting co-optees.

4. Meetings of the Overview and Scrutiny Committees

The Council shall determine at the Annual Meeting the timetable of meetings of the Overview and Scrutiny Committee and there shall be at least 4 ordinary meetings of the Overview and

Scrutiny Committee in each year. In addition special meetings may be called as and when appropriate. An overview and scrutiny committee meeting may be called by the Chair of the relevant committee/task and finish group, by any two members of the Committee or by the Chief Executive if he/she considers it necessary or appropriate.

5. Quorum

The quorum for the Overview and Scrutiny Committee shall be one third of the voting membership.

6. Leaders of Overview and Scrutiny Committees

The Chair of the Overview and Scrutiny Committee and two Deputy Chairs from different political groups will be appointed by the Council. The leader of a task and finish group shall be appointed by the councillors on the group from their number.

7. Work Programme

The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so shall take into account recommendations from the Council and Executive.

8. Agenda items

- (a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Democratic Services Manager 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 Democratic Services Manager will ensure that it is included on the next available agenda.
- (b) The Overview and Scrutiny Committee shall respond, as soon as its work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where it does so, it shall report its findings and any recommendation back to the Council and/or Executive. The Council and/or the Executive shall consider the report within two months of receiving it.

9. Policy Review and Development

- (a) 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 (within Part 4 of the Constitution).
- (b) 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 Executive or the Council in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold inquiries and investigate the available options for future direction in policy development. They 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 to address them on any matter under consideration and may pay reasonable expenses for doing so.

10. Overview and Scrutiny Reports

- (a) Once it has finalised recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Executive (if the proposals are consistent with the existing budget and policy framework) and/or to Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

11. Making sure that overview and scrutiny reports are considered by the Executive

- (a) Overview and scrutiny reports referred to the Executive shall be included on the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- (b) The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation and will be able to respond in the course of the Executive's consultation process in relation to any key decision.

12. Rights of Overview and Scrutiny Committee members to documents

- (a) In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

- (a) An 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 Executive, the Chief Executive, a Director, Heads of Service and/or other senior staff to attend before it. Other employees may be required to attend with the approval of the Chief Executive. Persons attending may be asked to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance

and it is the duty of those persons to attend if so required.

- (b) Where any Member or officer is required to attend under this provision, the Chair will inform the Democratic Services Manager who shall inform the Member or officer in writing giving at least 10 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. Where the account to be given will require the production of a briefing note, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then an alternative date for attendance will be given.

14. Attendance by others

Other people, for example residents, stakeholders and members and officers in other parts of the public sector, may be invited to attend to discuss issues of local concern, give their views and/or answer questions.

15. Call-in of Executive Decisions

- (a) When a decision is made by the Executive, the decision shall be published by electronic means within 2 working days of being made and published on the Council's website. All members of the Council will be notified of all decisions within the same timescale by the Democratic Services Manager.
- (b) That notification will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it is called in under these rules.
- (c) Within 3 days after notification any three members of the Council who are not on the Executive (representing at least two of the political groups) may sign and deliver to the Chief Executive a call-in notice stating why it is felt the decision should be reconsidered.
- (d) The Chief Executive will refer the call-in notice to the Chair and two Deputy Chairs from different groups of the Overview and Scrutiny Committee for determination as to whether the Executive should be asked to reconsider. If necessary a meeting shall be convened with the callers in to explore the merits of the issue.
- (e) If the majority view is that it be referred back to the Executive for reconsideration, the decision will be referred to the next meeting of the Executive. All action on the matter will remain suspended.
- (f) If the Executive decides not to change its decision this will be reported to the next meeting of the Overview and Scrutiny Committee who may refer the matter to the full Council.
- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay, there are the following limitations on its use:
 - (i) if the decision of the Executive was to make a recommendation to the full Council it may not be called in;
 - (ii) once a decision has been called in it may not be called in again.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. 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. The record of the decision shall state whether in the opinion of the Executive it is an urgent one and therefore not subject to call-in. The Chief Executive must agree both that the decision proposed is

reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

16. Councillor Call for Action

Councils must make arrangements for the Councillor Call for Action (CCfA) in order to comply with the requirements of the Local Government and Public Involvement in Health Act 2007.

The CCfA is a mechanism whereby individual ward Councillors can bring forward issues of local concern relating to 'a local government matter' as defined in Section 119 of the Act or "a local crime and disorder matter" as defined in Section 126 of the Act, for consideration by overview and scrutiny. It should be used only where all other methods of resolution have been exhausted.

No CCfAs will be considered during the election period.

Guidance for Members on CCfA

- (a) To refer a CCfA to an overview and scrutiny committee, details of the issue must be submitted to the Head of Legal and Democratic Services on the prescribed form. Full details of what has already been done to try and resolve the issue must be provided and the Councillor should have first referred to the Council's guidance and worked through the checklist.
- (b) The Head of Legal and Democratic Services will consult with the Chair and the two Deputy Chairs of the Overview and Scrutiny Committee to decide whether the CCfA is valid.
- (c) Where other mechanisms have not been pursued which could resolve the issue the Head of Legal and Democratic Services will advise the Councillor accordingly. Where it is agreed that the CCfA is valid, the matter will be placed on the agenda of the next meeting of the Overview and Scrutiny Committee.
- (d) The Councillor raising the call for action will be asked to address the Overview and Scrutiny Committee, which will agree whether or not to pursue the issue through the overview and scrutiny process. Where the Committee declines to pursue the matter, reasons must be given for the decision.
- (e) Where the Committee agrees to pursue the matter, an overview and scrutiny committee will investigate the issue, gathering evidence and interviewing witnesses as necessary.
- (f) The results of the review will be fed back to the Councillor and recommendations approved by the Overview and Scrutiny Committee will be submitted to the Executive, Council or partner organisation as appropriate.

When making a CCfA request, Councillors should take into account that the following matters are excluded by law from the Councillor Call for Action –

- (i) Any matter relating to a planning or licensing decision
- (ii) Any matter where there is a right of recourse to review or right of appeal

- (iii) Any matter which is vexatious and persistent; discriminatory; or is not reasonable for discussion at an overview and scrutiny committee

17. The Party Whip

When considering any scrutiny matter in respect of which he or she is subject to the party whip, the Member must declare the existence of the whip, and the nature of it, before the commencement of the Committee's deliberation on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

The phrase 'the party whip' means

"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

18. Procedure at Overview and Scrutiny Committee meetings

- (a) Agendas for scrutiny meetings shall include the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of an Executive decision;
 - (iv) responses of the Executive or the full Council to overview and scrutiny reports;
 - (v) other business set out on the agenda for the meeting.
- (b) Where a scrutiny meeting is conducting an investigation (e.g. with a view to policy development), and people have been asked to attend to give evidence, the following principles shall be followed:
 - (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, a report will be prepared and approved by the Overview and Scrutiny Committee prior to submission to the Executive and/or Council as appropriate and shall be made public.

19. Designated Crime and Disorder Committee

The Overview and Scrutiny Committee shall be the Council's designated Crime and Disorder Committee: (Police and Justice Act 2006)

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;

- (b) to make reports or recommendations to the Executive and/or full Council with respect to the discharge of those functions

Pendle Borough Council



Financial Procedure Rules

September 2023

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SECTION 1 - STATUS OF FINANCIAL PROCEDURE RULES

- 1.1 These Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Councillor and Officer of the Council and anyone acting on its behalf.
- 1.2 They identify the financial responsibilities of the full Council, the Executive, the Head of Paid Service (Chief Executive), the Monitoring Officer (Head of Legal & Democratic Services), the Section 151 Officer (Director of Resources), the Director of Place and other members of the Corporate Management Team.
- 1.3 All members of the Corporate Leadership Team and Corporate Management Team should maintain a record where decision making has been delegated to members of their staff, including seconded staff.
- 1.4 All Councillors and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.5 The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. He/she is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or the Executive.
- 1.6 The Council's detailed financial procedures, setting out how the procedures will be implemented, are contained in these Financial Procedure Rules.
- 1.7 Members of Corporate Leadership Team and Corporate Management Team are responsible for ensuring that their staff are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them.
- 1.8 The Director of Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Councillors, Officers and others acting on behalf of the Council are required to follow.
- 1.9 For the purpose of these Financial Procedure Rules, the Corporate Leadership Team (CLT) shall comprise of the following officers;
 - a. Chief Executive
 - b. Director of Resources
 - c. Director of Place
 - d. Head of Legal & Democratic Services
- 1.10 The Members of the Corporate Management Team (CMT) shall comprise the members of the CLT plus the following officers.
 - a. Assistant Director Operational Services
 - b. Assistant Director, Planning, Building Control and Regulatory Services
 - c. Head of Housing & Environmental Health
 - d. Head of Economic Growth
 - e. Head of Finance
 - f. Head of Policy & Commissioning

- 1.11 Reference in these Financial Procedure Rules to 'Manager' or 'Managers' refers to all members of Corporate Management Team.
- 1.12 Failure to comply with the requirements of Financial Procedure Rules may, if appropriate, lead to action being taken against Officers under the Council's Disciplinary Procedure and against Councillors under the Code of Conduct.

SECTION 2 - FINANCIAL MANAGEMENT STANDARDS

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

The Council

- 2.2 The Council is responsible for adopting the Council's Constitution and for approving the policy framework and budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in the Council's Constitution.

The Executive

- 2.3 The Executive is responsible for proposing the policy framework and budget to the full Council, and for discharging its functions in accordance with the policy framework and budget.

The Statutory Officers

- 2.4 The roles and responsibilities of the Statutory Officers and Managers of the Council are set out below;

Head of Paid Service (Chief Executive)

- 2.5 The Chief Executive is responsible for the overall strategic management of the Council as a whole. He or she must report to and provide information for the full Council, the Executive and other committees or panels. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Corporate Management Team, for the system of record keeping in relation to all Council decisions.

Monitoring Officer (Head of Legal & Democratic Services)

- 2.6 The Head of Legal & Democratic Services is responsible for;
- a. promoting and maintaining high standards of conduct, including financial conduct. He/she is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
 - b. ensuring that Executive decisions and the reasons for them are recorded in the Minutes and that these are made public. He/she must also ensure that all Councillors are aware of decisions made by the Executive and those made by Officers who have delegated responsibility.

- c. advising all Councillors and officers about who has authority to take a particular decision.
- d. for advising the Executive or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- e. [together with the Director of Resource] for advising the Executive and/or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget framework.

Director of Resources

- 2.7 The Director of Resources has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from;
- a. Section 151 of the 1972 Local Government Act.
 - b. The 1988 Local Government Finance Act.
 - c. The 1989 Local Government and Housing Act.
 - d. The 2022 Accounts and Audit Regulations.
 - e. The 2003 Local Government Act.

- 2.8 The Director of Resources is responsible under Section 151 of the 1972 Local Government Act for the proper administration of the Council's financial affairs.

- 2.9 Section 114 of the 1988 Local Government Finance Act requires the Director of Resources to report to the full Council, Executive and the External Auditor if the Council or one of its officers;
- a. has made, or is about to make, a decision that involves incurring unlawful expenditure,
 - b. has taken, or is about to take, an unlawful action that has resulted or would result in a loss or deficiency to the Council
 - c. is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires;

- a. the Director of Resources to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally;-
 - b. the Council to provide the Director of Resources with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.
- 2.10 Section 25 of the Local Government Act 2003 requires the Director of Resources to:
- a. report to a meeting of full Council on the robustness of the budget estimates (calculated in accordance with s31 to s36 of the Local Government Finance Act 1992)
 - b. report to a meeting of full Council on the adequacy of proposed reserves
- 2.11 Section 27 of the 2003 Act also requires the Director of Resources, in relation to the previous financial year it appears that a controlled reserve is or is likely to be inadequate, to:
- a. report on the reasons for that situation; and
 - b. report on the action, if any, which he/she considers it would be appropriate to take to prevent such a situation arising in relating to the corresponding reserve for the financial year under consideration
- 2.12 It is the responsibility of members of Corporate Management Team (and the staff within their Service) to consult with the Director of Resources and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred. Members of Corporate Management Team are responsible for:

- a. ensuring that Executive Members, Committees, Working Groups and Panels are advised of the financial implications of all proposals and that the Director of Resources has agreed the financial implications.
- b. signing certain contracts on behalf of the Council (in compliance with the Contract Procedure Rules).

Scheme of Virement (Revenue)

2.13 Virement is the switching of resources between approved budgets in order to achieve Council or Service objectives. Details are as set out below;

- a. The scheme of virement is intended to enable the Executive, the Chief Executive, Corporate Management Team and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources. It is administered by the Director of Resources within guidelines set by the full Council and any variation from this scheme requires the approval of the full Council.
- b. The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- c. Members of Corporate Management Team are responsible for agreeing in-year virements in accordance with the virement scheme. They must notify the Director of Resources of all proposed virements.
- d. Corporate Management Team and designated budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget.

2.14 Virement does **not** create additional overall budget provision. Managers are expected to exercise their discretion in managing their budgets responsibly and prudently having regard to the following;

- a. fortuitous or one-off savings shall not be used to fund new, continuing or longer term commitments.
- b. Any savings in the budget for capital financing costs (including lease rentals), investment income, internal recharges and insurances shall not be used to fund new expenditure on other heads of expenditure.
- c. In the case of a budget for employee costs, any virement must be net of the annual vacancy (or turnover) factor budget.
- d. Any additional costs arising in the following financial year are to be financed from further savings in the budget, unless agreed otherwise by full Council as part of the annual budget framework.
- e. Virement will not be permitted from any income budget until the budgeted level of income in any one financial year has been achieved within that financial year.

2.15 Members of Corporate Management Team shall;

- a. In consultation with the Director of Resources, exercise virement on budgets within his or her budget for individual amounts up to £100,000.
- b. Virement that will impact on the budget of two or more service activities may only be implemented after agreement with the relevant Managers and following consultation with Corporate Leadership Team.
- c. notify the Director of Resources of virements agreed so that the necessary changes can be made to the budget. The Director of Resources shall maintain a record of all budget virements implemented and report these to the Executive as appropriate.

2.16 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that the amount is used in accordance with the purposes for which it has been established and the Executive has approved the basis and the terms, including financial limits, on which it will be allocated. Allocations in excess of the financial limits should be reported back to the Executive for approval.

Supplementary Revenue Estimates

2.17 Supplementary Revenue Estimates are additional revenue budget provisions over and above that approved by Council as part of the annual budget setting process. Details are as set out below;

- a. No revenue expenditure shall be incurred in connection with the adoption of any new policy without the prior approval of the Council.
- b. Any proposed expenditure that is not included in the approved Budget Estimates or any likely overspending which cannot be met by a budget transfer in accordance with the approved scheme of virement as outlined above shall not be incurred without the granting of a supplementary revenue estimate approved by the Executive.

2.18 Supplementary Revenue Estimates up to £100,000 can be approved by the Chief Executive, in consultation with the Director of Resources and the Director of Place provided that:-

- a. any such Supplementary Revenue Estimates do not create an on-going financial commitment for the Council. In the event of such a Supplementary Revenue Estimate, it must be approved by the Executive;
- a. due regard is given to the effect of the Supplementary Revenue Estimate(s) on the Council's Medium Term Financial Strategy;
- b. that any such Supplementary Revenue Estimates do not result in the Council's General Fund Balance falling below the minimum working balance.

2.19 Where, any single Supplementary Revenue Estimates, or the total of Supplementary Revenue Estimates in any one year, exceed £100,000, approval of the Executive must be sought where;

- a. Where, as a result of a proposed Supplementary Revenue Estimate, the Council's approved Minimum Working Balance would be breached, any such Supplementary Revenue Estimate must only be approved by the Council after consideration of a report to the Executive from the Director of Resources on the adequacy of the General Fund Working Balance.
- b. The Council receives external funding related to specific proposed revenue expenditure, either by virtue of conditions associated with the external funding or by a decision of the Executive, relevant Managers may, in consultation with the Director of Resources, create additional budget provision and incur expenditure as appropriate, equivalent to the amount of external funding receivable.
- c. such external funding receivable must, before any additional budget provision is created or expenditure is incurred, either have been received or be confirmed in writing by the Funder. Under no circumstances should Managers commit to, or incur expenditure without written confirmation of, and agreement to, the funding and associated conditions. Managers must consult both the Director of Resources and Director of Place on any such conditions prior to accepting an offer of external funding.

Budget Slippage

2.20 Budget slippage is unspent budget provision in one financial year that relates to an expenditure commitment in the next. Budget Slippage relates to an unspent budget estimate

for which there is an actual, and not possible, commitment to incur expenditure in the future. Ordinarily, this will apply when the commitment is to be incurred in a financial year following the budget underspend.

- 2.21 Subject to the approval of the Director of Resources, Managers may request the carry forward from one financial year to the next financial year an unspent budget estimate relating to an actual commitment provided that:
- a. the controllable budget for which the Manager is responsible is not overspent in total.
 - b. the Manager is able to demonstrate that there is an actual, and not possible, commitment to incur expenditure. For example, there is a specific Executive resolution to incur the expenditure, an order has been placed for goods and services, the works for which the budget estimate relates are on-going and not yet complete or an offer of grant has been made by the Council but has not yet been taken up (subject to time limits placed on the grant offer).
- 2.22 Where, any budget slippage, or the total of budget slippage in any one year, exceed £100,000, approval of the Executive must be sought.
- 2.23 Any budget slippage which has not been applied to the associated commitment within six months of the financial year end will be removed from the service budget and transferred back to reserves unless otherwise agreed by the Director of Resources.

Accounting Policies

- 2.24 The Director of Resources is responsible for selecting accounting policies and ensuring that they are applied consistently as set out below;
- 2.25 The Director of Resources shall prepare the Council's Statement of Accounts in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) for each financial year ending 31 March.
- 2.26 The key controls for accounting policies are:
- a. systems of internal control are in place that ensure that financial transactions are lawful.
 - b. suitable accounting policies are selected and applied consistently.
 - c. proper accounting records are maintained.
 - d. financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.
 - e. judgements and estimates that are reasonable and prudent.
 - f. a timetable for final accounts preparation is drawn up to advise staff and external auditors accordingly.
- 2.27 The accounting policies shall cover such items as:
- a. separate accounts for capital and revenue transactions.
 - b. the basis on which debtors and creditors at year end are included in the accounts.
 - c. plant, property and equipment.
 - d. employee benefits.
 - e. financial instruments.
 - f. accounting for value added tax.
 - g. grants and contributions.
 - h. Leases.

i. Related Party Transactions

2.28 Members of Corporate Management Team shall;

- a. adhere to the accounting policies and guidelines approved by the Director of Resources.
- b. Support the Director of Resources to ensure the proper administration of the financial affairs of the Council.
- c. Support a monitoring system to review compliance with financial standards, regular comparisons of performance indicators and benchmark standards to be reported to Managers, Councillors, the Executive, other Committees and full Council as appropriate.
- d. To ensure that financial information is made available for the purposes of any applicable national and local financial performance indicators.
- e. To promote sound financial practices in relation to the standards, performance and development of staff in their services.

2.29 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to give a true and fair view of its operations during the year.

2.30 The key controls for accounting records and returns are:

- a. finance staff and budget managers operate within the required accounting standards and timetables.
- b. all financial transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis.
- c. reconciliation procedures are carried out to ensure transactions are correctly recorded.
- d. prime documents are retained in accordance with legislative and other requirements.
- e. Where possible, separate the duties of staff providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them.
- f. employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- g. ensure that all claims for funds including grants are made by the due date.
- h. maintain adequate records to provide a management/audit trail leading from the source of income/expenditure through to the accounting statements.
- i. supply any information required to enable the Statement of Accounts to be completed in accordance with statutory requirements and timescales.

Statement of Accounts

2.31 The Statement of Accounts shall be prepared in accordance with the above policies and further a set out below;

- a. The Statement of Accounts are subject to External Audit. This audit provides independent assurance that the accounts are prepared properly, that proper accounting practices have been followed and that arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.
- b. Prior to approval by the Accounts and Audit Committee, the Director of Resources shall sign and date the statement of accounts, stating that it presents a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the financial year ended 31 March.

Responsibilities of Councillors

- 2.32 In accordance with the Accounts and Audit Regulations, the Council's Statement of Accounts must be signed and dated by the Chairman of the Accounts and Audit Committee at the meeting at which it is approved.
- 2.33 All Councillors shall complete any request for information in respect of Related Party Transactions.

3 SECTION 3 - FINANCIAL PLANNING

- 3.1 Each local Council has a statutory responsibility to publish various performance plans. The purpose of these performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The full Council is responsible for agreeing the Council's policy framework and budget. In terms of financial planning, the key elements are the:
- a. Corporate Plan
 - b. Medium Term Financial Forecast
 - c. Revenue Budget
 - d. Treasury Management Strategy (incorporating the Prudential Limits and Indicators, Policy on Minimum Revenue Provision and Annual Investment Strategy);
 - e. Capital Programme
 - f. Capital Strategy and the Asset Management Plan.
- 3.2 The Council is responsible for;
- a. approving the policy framework and budget as set out in the Constitution.
 - b. approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the full Council by the Head of Legal & Democratic Services.
 - c. for setting the level at which the Executive, notwithstanding the approved Scheme of Virement, may reallocate budget funds from one service to another. The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the overall financial limits set by the Council.

Corporate Plans & Performance Monitoring

- 3.3 The Chief Executive is responsible for proposing the Corporate Plan to the Executive for consideration before its submission to the full Council for approval.
- 3.4 The key controls for performance plans are:
- a. to ensure that all relevant plans are produced and that they are consistent with Corporate Priorities.
 - b. to produce plans in accordance with statutory requirements.
 - c. to meet the timetables set.
 - d. to ensure that all performance information is accurate, complete and up to date.
 - e. to provide improvement targets which are meaningful, realistic and challenging.
- 3.5 Members of Corporate Management Team shall;
- a. contribute to the development of performance plans in line with statutory requirements.
 - b. advise and supply the required financial information for inclusion in performance plans in accordance with statutory requirements and agreed timetables.

- c. contribute to the development of corporate and service targets and objectives and performance information.
- d. ensure that systems are in place for their area(s) of responsibility to measure activity and collect accurate information for use as performance indicators.
- e. ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met for their area(s) of responsibility.

Medium Term Financial Planning

- 3.6 The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities and objectives that have been agreed by the Council. The budget is the financial expression of the Council's plans and policies.
- 3.7 Medium-term planning (over a three to five-year period) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.
- 3.8 The revenue budget must be constructed to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent.
- 3.9 The key controls for budgets and medium-term planning are:
- a. specific budget approval for all expenditure.
 - b. budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by Council/Committee for their budgets and the level of service to be delivered.
 - c. a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.
- 3.10 The Director of Resources shall prepare and submit reports on budget forecasts to Corporate Management Team and Council, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 3.11 To encourage the best use of resources and value for money by working with Corporate Management Team to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 3.12 To assist the Director of Resources in the preparation of estimates to be submitted to Council having regard to:
- a. spending patterns and pressures revealed through the budget monitoring process
 - b. legal requirements
 - c. policy requirements as defined by the full Council in the approved policy framework
 - d. initiatives already under way.
- 3.13 To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Executive and/or the Director of Resources. The format should be as prescribed by the Director of Resources in accordance with the full Council's general directions.

3.14 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

Budgeting Setting & Format

3.15 The general format of the budget will be approved by Council and proposed by the Executive on the advice of the Director of Resources. The draft budget should include allocation to different services and projects, proposed local taxation levels and any use of reserves and/or balances.

3.16 The Director of Resources is responsible for ensuring that a revenue budget is prepared on an annual basis together with a medium-term revenue forecast and presented to the Executive for consideration, prior to submission to the full Council. The full Council may amend the budget or ask the Executive to reconsider it before approving it in accordance with the statutory deadline.

3.17 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shall comply with all legal requirements including CIPFA's Code of Practice.

3.18 Members of Corporate Management Team shall comply with accounting guidance provided by the Director of Resources.

Budget Monitoring and Control

3.19 The Director of Resources is responsible for providing Councillors and Officers with appropriate financial information to enable budgets to be monitored effectively. He/she must put in place arrangements for the monitoring and control of capital and revenue expenditure against budget allocations.

3.20 It is the responsibility of members of Corporate Management Team to monitor and control income and expenditure within their capital and revenue budgets and to monitor performance, taking account of financial information made available by the Director of Resources. In accordance with the arrangements and timetable issued by the Director of Resources, Services should comment on variances within their own areas and agree the reporting of such information to the Executive. They should also take any appropriate action necessary to avoid exceeding their budget allocation and alert the Director of Resources to problems, and proposed remedies, as soon as they are identified.

3.21 The Director of Resources will issue guidelines on budget preparation. The guidelines will take account of:

- a. legal requirements
- b. medium-term planning projections
- c. the Strategic Plan
- d. available resources
- e. spending pressures and other relevant government guidelines
- f. other internal policy documents
- g. cross-cutting issues (where relevant).

3.22 Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that holds to

account, managers responsible for defined elements of the budget.

- 3.23 By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- 3.24 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by a Manager's agreed scheme of delegation.
- 3.25 The key controls for managing and controlling the revenue budget are:
- a. budget managers should be responsible only for income and expenditure that they can influence.
 - b. there is a nominated budget manager for each cost centre heading.
 - c. budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
 - d. budget managers follow the approved certification process for all expenditure.
 - e. income and expenditure are properly recorded and accounted for.
 - f. performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget
 - g. compliance with the agreed scheme of virement.
 - h. budget management is exercised within annual cash limits unless the full Council agrees otherwise.
 - i. each Manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
 - j. expenditure is committed only against an approved budget head.
 - k. all officers responsible for committing expenditure comply with relevant guidance, and the Financial Procedure Rules
 - l. significant variances from approved budgets are investigated and reported by budget managers regularly.
 - m. reports to Corporate management Team, Executive and Council highlight any material variances during the financial year.
- 3.26 Members of Corporate Management Team shall;
- a. maintain budgetary control within their Service to ensure that all income and expenditure is properly recorded and accounted for.
 - b. ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Manager (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
 - c. ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
 - d. ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
 - e. ensure prior approval by the full Council or the Executive for new proposals, of whatever amount, that:
 - f. create financial commitments in future years (where required).

- g. agree with any other relevant member of Corporate Management Team where it appears that a budget proposal, including a virement proposal, may impact materially on another service area.
- h. update existing policies, initiate new policies or cease existing policies.

3.27 Reports on new proposals must explain the full financial implications following consultation with the Director of Resources. Managers should aim to contain the implications of such proposals within their approved budgets.

Capital Programme

3.28 The Director of Resources is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Executive before submission to the full Council.

3.29 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

3.30 The Prudential Code for Capital Finance in Local Authorities governs the financing capacity of the Council. Authorities are required by Regulation to have regard to the Prudential Code when carrying out their duties in England and Wales under Part 1 of the Local Government Act 2003. The objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable. Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

3.31 The key controls for capital programmes are:

- a. specific approval by the full Council for the programme of capital expenditure
- b. the development and implementation of asset management plans.
- c. accountability for each proposal is accepted by a named manager
- d. For each new scheme a Capital Appraisal shall be carried out and approved by Corporate Management Team prior to the agreement of Executive and then Council.
- e. monitoring of progress in conjunction with expenditure and comparison with approved budget.
- f. scheme of virement for capital projects

3.32 The Director of Resources shall;

- a. prepare capital estimates jointly with the Corporate Management Team and to report them to Council for approval.
- b. prepare and submit reports on, amongst other things, the affordability, sustainability and prudence of the Council's proposed capital programme in accordance with the Prudential Code for Capital Finance in Local Authorities.
- c. prepare and submit reports on the projected income, expenditure and resources compared with the approved estimates.
- d. issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Director of Resources, having regard to government regulations and applicable accounting guidance.
- e. provide periodic reports outlining progress on the overall capital programme indicating where amendments may be required to reflect changing circumstances and to ensure the necessary approval mechanisms for virement or supplementary capital estimates are complied with.

- f. obtain authorisation from the Executive for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount (currently this is 5% of the original capital budget approved).

3.33 Members of Corporate Management Team shall;

- a. comply with guidance concerning capital schemes and controls issued by the Director of Resources.
- b. ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Director of Resources (Appendix A).
- c. implement capital schemes within the approved timescale and to submit regular returns of estimated final costs of schemes in the approved capital programme to and as required by the Director of Resources.
- d. ensure that adequate records are maintained for all capital contracts.
- e. proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Director of Resources, where required.
- f. submit reports, jointly with the Director of Resources, to the Executive where the estimated costs of a scheme vary by more than 5% of the original capital budget approved.
- g. prepare and submit reports, jointly with the Director of Resources, to the appropriate Committee, on completion of all contracts.
- h. ensure that credit arrangements, such as leasing agreements (including office equipment), are not entered into without the prior approval of the Director of Resources and, if applicable, approval of the scheme through the capital programme.

Scheme of Virement (Capital Programme)

3.34 The scheme of virement for the Capital Programme is intended to enable members of Corporate Management Team and their staff to manage the Capital Programme with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources in the delivery of services to achieve the corporate priorities of the Council.

3.35 The scheme is administered by the Director of Resources within guidelines set by the full Council. Any variation from this scheme requires the approval of Council.

3.36 Virement in the capital programme does not create additional overall budget provision. Service Managers are expected to exercise their discretion in managing their capital programme budgets responsibly and prudently taking note of the following;

- a. fortuitous or one-off savings shall not be used to fund new, continuing or longer term commitments;
- b. virement will not be permitted from the budget of a capital project which is financed by way of external funding where the effect of the virement will be to reduce the amount of external funding receivable by the Council, assets to be leased or internal recharges;
- c. the relevant Manager, in conjunction with the Director of Resources and the Director of Place, must seek the approval of the Executive before undertaking a virement where the effect of the virement represents a change to an existing policy decision.
- d. The Director of Resources shall agree and maintain a record of all capital programme virements implemented and to report these to the Executive as appropriate.
- e. all proposed capital virements not covered by the above or totalling over £100,000 (in any financial year) must be approved by the Executive.

- 3.37 Where an approved budget in the Capital Programme is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- a. the amount is used in accordance with the purposes for which it has been established;
 - b. the Executive has approved the basis and the terms, including financial limits, on which it will be allocated. Allocations in excess of the financial limits should be reported back to the relevant Committee for approval.

Supplementary Capital Estimates

- 3.38 No capital expenditure shall be incurred in connection with the adoption of any new policy without the prior approval of the Council.
- 3.39 Any proposed capital expenditure that is not included in the approved capital programme or any likely overspending which cannot be met by a budget transfer in accordance with the approved scheme of virement as outlined above shall not be incurred without the granting of a supplementary capital estimate approved by the Council after consideration of a report from the Executive.
- 3.40 Supplementary Capital Estimates up to £100,000 can be approved by the Chief Executive, in consultation with the Director of Resources, provided that
- a. the total of all Supplementary Capital Estimates approved by the Chief Executive in any one financial year does not exceed £100,000); and
 - b. where any such proposal for a Supplementary Capital Estimate is a new addition to the capital programme, and is not in connection with the adoption of a new policy, it has been subject to a capital project appraisal as determined by the Director of Resources.
 - c. any such Supplementary Capital Estimates do not create an on-going financial commitment for the Council. In the event of a such Supplementary Capital Estimate, it must be approved by Council after consideration of a report from the Executive;
 - d. due regard is given to the effect of the Supplementary Capital Estimate(s) on the Council's Medium Term Financial Strategy (incorporating the Medium Term Capital Programme);
 - e. where the total of Supplementary Capital Estimates in any one year exceeds £100,000, any subsequent Supplementary Capital Estimates for that same financial year must be approved by the Council after consideration of a report from the Executive. Any such report must be prepared by the relevant Managers, in conjunction with the Director of Resources.
 - f. Where the Council receives external funding related to specific proposed capital expenditure, either by virtue of conditions associated with the external funding or by a decision of the Executive, Managers may, in consultation with the Director of Resources, create additional capital budget provision and incur capital expenditure as appropriate, equivalent to the amount of external funding receivable.
 - g. Any such external funding receivable must, before any additional capital budget provision is created or expenditure is incurred, either have been received or be confirmed in writing by the Funder. Under no circumstances should Managers commit to, or incur expenditure without, written confirmation of, and agreement to, the funding and associated conditions. Service Managers must consult both the Director of Resources and Director of Place on any such conditions prior to accepting an offer of external funding.
- 3.41 Managers must ensure that, where it is applicable, any additional revenue expenditure arising from a capital scheme funded from external funding can be contained within his/her approved budget or, where this is not the case, that any additional budget provision is

created in accordance with FPR 1.10 to 1.17 (Revenue Virement), FPR1.18 to 1.24 (Supplementary Estimates) or FPR 1.25 to 1.29 (Budget Slippage).

Maintenance of Reserves

- 3.42 It is the responsibility of the Director of Resources to advise the Executive and the full Council on prudent levels of balances and reserves for the Authority. The Council shall maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) and agreed accounting policies.
- 3.43 The Council must decide the level of general balances and reserves it wishes to maintain before it can decide the level of Council Tax. Balances and reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items. For each reserve established, the purpose, usage and basis of transactions must be clearly identified.

4 SECTION 4 – Risk Management and Control of Resources

- 4.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event.
- 4.2 Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 4.3 Robust, integrated system should be developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- 4.4 The Executive is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management including the content of the Council's Strategic Risk Register. The Executive is responsible for ensuring that proper insurance exists where appropriate and to promote a culture of risk management awareness throughout the Council.
- 4.5 The Director of Resources is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Executive on the proper level of insurance cover where appropriate.
- 4.6 The key controls for risk management are:
- a. procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council.
 - b. 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.
 - c. managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiative.

- d. provision is made for losses that might result from the risks that remain.
- e. procedures are in place to investigate claims within required timescales
- f. acceptable levels of risk are determined and insured against where appropriate.
- g. the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

- 4.7 The Director of Resources is responsible for;
- a. in conjunction with the Chief Executive to prepare and promote the Council's risk management statement.
 - b. develop risk management controls in conjunction with other members of Corporate Management Team.
 - c. lead the Corporate Governance Steering Group to oversee corporate governance and risk.
 - d. maintain under continuous review the Council's Strategic Risk Register in conjunction with the Council's Corporate Governance Working Group.
 - e. To prepare and submit reports on Risk Management to the Executive and the Accounts and Audit Committee.
 - f. To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
 - g. to effect and maintain corporate insurance cover, through external insurance (and internal funding where considered appropriate to do so).

- 4.8 Members of Corporate Management Team shall;
- a. notify the Head of Legal Services and the Director of Resources immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Director of Resources or the Council's insurers.
 - b. share responsibility for risk management, having regard to advice from the Director of Resources and specialist officers (e.g. crime prevention, fire prevention, health and safety) and to report any risk management implications to Councillors as appropriate.
 - c. ensure that there are regular reviews of risk within their service and that any such risks are notified to the Director of Resources to be considered for inclusion on the Council's Strategic Risk Register.
 - d. notify the Director of Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

- 4.9 The Head of Legal & Democratic Services will be responsible for any negotiations on claims in consultation with other officers where necessary. They will consult the Director of Resources and the Director of Place on the terms of any indemnity that the Council is requested to give and ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

Internal Controls

- 4.10 The Council is a complex organisation and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 4.11 Internal control refers to the systems of control devised to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

- 4.12 The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations and to manage wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives.
- 4.13 The key controls and control objectives for internal control systems are:
- a. key controls should be reviewed on a regular basis and the Council should, in accordance with the Accounts and Audit Regulations prepare a formal Annual Governance Statement annually to the effect that it is satisfied that the systems of corporate governance, including those relating to internal control, are operating effectively.
 - b. managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.
 - c. financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
 - d. an effective internal audit function that is properly resourced. It should operate in accordance with public sector internal auditing standards or guidance and with any other statutory obligations and regulations.
 - e. prior to approval by the Accounts and Audit Committee, the Council's Leader (as the most senior member) and Chief Executive must sign and date the Council's Annual Governance Statement.
- 4.14 The Executive is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.15 The Director of Resources shall put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 4.16 Members of Corporate Management Team shall;
- a. establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial and service performance targets.
 - b. manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
 - c. review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Director of Resources. Corporate Management Team should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
 - d. ensure staff have a clear understanding of the consequences of lack of control.

Internal Audit

- 4.17 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015,

regulation 5, more specifically requires that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.

- 4.18 Accordingly, internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. Pendle Borough Council’s internal Audit function is currently undertaken by MIAA under an external contract.
- 4.19 The key controls for internal audit are:
- a. that it is independent in its planning and operation
 - b. the Internal Audit Manager has direct access to the Head of Paid Service, all levels of management and directly to elected Councillors
 - c. the Internal Audit Manager complies with CIPFA’s Public Sector Internal Audit Standards and associated guidance contained in the Local Government Application Note.
- 4.20 The Director of Resources shall ensure that the Internal Audit Manager has the authority to:
- a. access Council premises at reasonable times
 - b. access all assets, records, documents, correspondence and control systems
 - c. receive any information and explanation considered necessary concerning any matter under consideration
 - d. require any employee of the Council to account for cash, stores or any other Council asset under his or her control
 - e. access records belonging to third parties, such as contractors, when required
 - f. directly access the Head of Paid Service, the Chair of the Accounts and Audit Committee and the Executive
- 4.21 The Director of Resources shall consult with Managers and to present for Committee approval the Strategic and Annual audit plans prepared by the Internal Audit Manager, which take account of the characteristics and relative risks of the activities involved and ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- 4.22 Members of Corporate Management Team shall;
- a. ensure that the Internal Audit Manager is given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
 - b. ensure that the Internal Audit Manager is provided with any information and explanations that he/she seeks in the course of his/her work.
 - c. consider and respond promptly to recommendations in audit reports.
 - d. ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
 - e. notify the Director of Resources immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council’s property or resources. Pending investigation and reporting, Managers should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
 - f. ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Internal Audit Manager prior to implementation.

External Audit

- 4.23 Public Sector Audit Appointments Ltd (PSAA) has been specified as an appointing person under the provisions of the Local Audit and Accountability Act 2014 and regulation 3 of the

Local Audit (Appointing Person) Regulations 2015. For audits of the accounts from 2018/19, PSAA appoints an auditor to relevant principal local government authorities that have opted into its national scheme. Appointments are made for the duration of the five-year appointing period, covering the audits of the accounts for 2023/24 onwards. The Council's external auditor will remain Grant Thornton UK LLP for the five year term from April 2023.

- 4.24 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the National Audit Office to prepare a Code of Audit Practice, which external auditors follow when carrying out their duties. The Code of Audit Practice sets out the auditor's objectives to form and express an opinion on:
- a. the financial statements (including the Annual Governance Statement) that have been prepared by management with the oversight of those charged with governance (the Accounts and Audit Committee); and
 - b. the Value for Money arrangements in place at the Council for securing economy, efficiency and effectiveness in its use of resources.
- 4.25 The Council's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts give a true and fair view of the financial position of the Council and its income and expenditure for the year in question and complies with legal requirements.
- 4.26 The responsibilities of the Director of Resources are;
- a. To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
 - b. To ensure there is effective liaison between external and internal audit.
 - c. To work with the external auditor and advise the full Council, Councillors, and Corporate Management Team in their responsibilities in relation to external audit.
- 4.27 Members of Corporate Management Team shall;
- a. ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
 - b. ensure that all records and systems are up to date and available for inspection.
- 4.28 The Council may, from time to time, also be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

Preventing Fraud & Corruption

- 4.29 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Councillors and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 4.30 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.
- 4.31 The key controls regarding the prevention of financial irregularities are that:
- a. the Council has effective anti-fraud, theft and corruption and Bribery policies and maintains a culture that will not tolerate fraud or corruption.

- b. all Councillors and Staff act with integrity and lead by example, following the Nolan Principles.
- c. senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.
- d. high standards of conduct are promoted amongst Councillors by the Council's Standards Committee.
- e. Members follow the LGA Code of Conduct.
- f. Officers and Members complete registers of interests and registers for the recording of hospitality or gifts accepted.
- g. whistle blowing procedures are in place and operate effectively.
- h. legislation including the Public Interest Disclosure Act 1998 is adhered to.

4.32 The Director of Resources shall maintain adequate and effective internal control arrangements and ensure that all suspected irregularities are reported to the Internal Audit Manager at MIAA, the Corporate Leadership Team and the Accounts and Audit Committee.

4.33 Members of Corporate Management Team shall;

- a. ensure that all suspected irregularities are reported to the Director of Resources and the Internal Audit Manager.
- b. instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour and warrants disciplinary action in consultation with the Human Resources Manager.
- c. ensure that where financial impropriety is discovered, the Director of Resources is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the Police are called in to determine with the Crown Prosecution Service whether any prosecution will take place. Such action to be discussed and agreed with the Director of Resources.
- d. Ensure staff complete entries in the register of interests of staff and a register of gifts and hospitality.

Assets

4.34 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

4.35 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- a. resources are used only for the purposes of the Council and are properly accounted for.
- b. resources are available for use when required.
- c. resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits.
- d. an asset register is maintained for the Council, assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset.
- e. all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- f. all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information

held on them and compliance with the Council's computer and internet security policies.

4.36 The Director of Resources shall

- a. ensure that an asset register is maintained in accordance with good practice for all fixed assets. The function of the asset register is to provide the Council with information about fixed assets so that they are safeguarded, used efficiently and effectively and adequately maintained.
- b. receive the information required for accounting, costing and financial records from each member of Corporate Management Team.
- c. ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).

4.37 Corporate Management Team shall;

- a. ensure that records and assets are properly maintained and securely held. They shall also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- b. ensure that the appropriate Manager (currently the Property Services Manager (Liberata UK Ltd) shall maintain a property database in a form approved by the Director of Resources for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property other than for responsibilities and duration of use
- c. ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Director of Place has been established as appropriate.
- d. ensure the proper security of all buildings and other assets under their control.
- e. where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report between Estates and the Property Services Manager to the Executive.
- f. pass title deeds to the Head of Legal & Democratic Services who shall be responsible for their safe custody.
- g. ensure that no Council asset is subject to personal use by an employee without proper authority.
- h. ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- i. ensure that the service area maintains a register of moveable assets in accordance with arrangements defined by the Director of Resources.
- j. ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- k. consult the Director of Resources and Internal Audit Manager in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- l. ensure cash holdings on premises are kept to a minimum and in compliance with any provisions agreed with the Council's insurers.
- m. ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times and that any loss is reported.
- n. record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, the Executive approves the use of the negotiated tender procedure.
- o. arrange for the valuation of assets for accounting purposes to meet requirements specified by the Director of Resources.
- p. ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some

intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

- q. To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery.
- r. To carry out, at least on an annual basis, a 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. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.
- s. provide the Director of Resources with a copy of the inventory on an annual basis.
- t. To make sure that property is only used in the course of the Council's business, unless a designated Manager has given permission otherwise.
- u. make arrangements for the care and custody of stocks and stores in their service.
- v. ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- w. investigate and remove from the Council's records (i.e. write off) discrepancies as necessary with the prior approval of the Director of Resources unless the Executive's approval is required in which case the matter will be reported jointly by the Director of Resources and the Manager concerned.

4.38 In consultation with the Director of Resources to identify for write-off or disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless the Executive decides otherwise in a particular case.

4.39 To seek the prior approval of the Director of Resources to the write-off of redundant stocks and equipment valued up to £100,000 and the approval of the Executive for items valued in excess of £100,000.

Intellectual Property

4.40 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.

4.41 Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

4.42 In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved disposal procedures.

4.43 Members of Corporate Management Team shall ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of the employer's rights with regard to intellectual property.

Asset Disposals

4.44 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance

with the law and the regulations of the Council.

- 4.45 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Council and, subject to legislative concessions, the best price is obtained, bearing in mind other factors, such as environmental issues. All disposals should be in accordance with Contract Procedure Rules (Section 6).
- 4.46 The Director of Resources shall ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.
- 4.47 Members of Corporate Management Team shall;
- a. seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
 - b. ensure that income received for the disposal of an asset is properly banked and coded.
 - c. consult with the Director of Resources and the Head of Legal & Democratic Services on all assets proposed for disposal.
 - d. ensure only those assets owned by the Council are disposed (i.e. as opposed to those that are leased).

Treasury Management and Banking

- 4.48 CIPFAs Code of Practice on Treasury Management aims to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum. The Council has adopted the key recommendations of CIPFA's Code of Practice for Treasury Management in the Public Services.
- 4.49 The Council will create and maintain, as the cornerstones for effective treasury management:
- a. a treasury management policy statement (TMPS), stating the policies, objectives and approach to risk management of its treasury management activities;
 - b. suitable treasury management practices (TMP's) setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
 - c. the content of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
 - d. The Council will receive for approval an annual strategy and plan in advance of the year which will set the framework within which treasury management activity will be conducted during the year.
- 4.50 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Executive. The Executive shall receive reports during the year including a mid-year review and an annual report. The Council delegates responsibility for the execution and administration of treasury management decisions to the Director of Resources, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management
- 4.51 This Council nominates the Accounts and Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

4.52 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, namely the Director of Resources.

4.53 The Director of Resources is responsible for;

- a. reporting to the Executive during the financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.
- b. taking all executive decisions on borrowing, investment and financing acting at all times in such a manner as to comply with the CIPFA Code of Practice on Treasury Management in the Public Services, The Prudential Code for Capital Investment and the Council's treasury management policy statement and strategy.
- c. to secure banking facilities and operate bank accounts as are considered necessary within the terms agreed by the Council's bankers – opening or closing any bank account shall require the approval of the Director of Resources.
- d. to ensure that all investments of money are made in the name of the Council and in accordance with the Council's approved Treasury Management Policy Statement, The Prudential Code for Capital Investment and approved Treasury Management Practices.
- e. to ensure that all securities that are the property of the Council and the title deeds of all property in the Council's ownership are held in the custody of the Head of Legal Services.
- f. to act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.
- g. all trust funds shall be operated within any relevant legislation and the specific requirements for each trust.

4.54 Members of Corporate Management Team shall ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Executive or full Council.

Imprest Accounts

4.55 Members of Corporate management Team shall ensure that employees operating an imprest account shall:

- a. obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained.
- b. make adequate arrangements for the safe custody of the account produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest amount.
- c. record transactions promptly
- d. reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- e. provide the Director of Resources with a certificate of the value of the account held at 31 March each year
- f. ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- g. on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Director of Resources for the amount advanced to him or her.

5 SECTION 5 – Systems & Procedures

- 5.1 Sound systems and procedures are essential to an effective framework of accountability and control. Service areas have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. They are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 5.2 The key controls for systems and procedures are:
- a. basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated.
 - b. performance is communicated to the appropriate managers on an accurate, complete and timely basis.
 - c. early warning is provided of deviations from target, plans and budgets that require management attention.
 - d. operating systems and procedures are secure.
- 5.3 The Director of Resources has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes. They are responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Service Managers to the existing financial systems or the establishment of new systems must be approved in advance by the Director of Resources.
- 5.4 Members of Corporate Management Team are responsible for the proper operation of financial processes in their own service areas including to make arrangements for the proper administration of the Council's financial affairs, including:
- a. issue advice, guidance and procedures for officers and others acting on the Council's behalf.
 - b. determine the accounting systems, form of accounts and supporting financial records.
 - c. establish arrangements for audit of the Council's financial affairs.
 - d. approve any new financial systems to be introduced.
 - e. approve any changes to be made to existing financial systems.
 - f. ensure that their staff receive relevant financial training that has been approved by the Director of Resources.
 - g. where appropriate, computer and other systems are registered in accordance with Data Protection legislation. All such systems must be notified to the Council's Data Protection Officer. Corporate Management Team must ensure that staff are aware of their responsibilities under Freedom of Information and Data Protection legislation.
 - h. ensure that accounting records are properly maintained and held securely.
 - i. ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Director of Resources.
 - j. ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
 - k. incorporate appropriate controls to ensure that all input is genuine, complete, accurate and timely.
 - l. ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
 - m. develop and maintain a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
 - n. ensure that systems are documented and staff trained in operations.

- o. consult with the Director of Resources before changing any existing system or introducing new systems.
- p. ensure that effective contingency arrangements, including back-up procedures, exist for computer systems.

Income

- 5.5 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.
- 5.6 The key controls for income are:
- a. all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which should be reviewed regularly.
 - b. all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery.
 - c. all money received by an employee on behalf of the Council is paid without delay to the Revenue and Benefits Manager (Liberata UK Ltd) or, as he or she directs, to the Council's bank account, and properly recorded. The responsibility for cash collection should be separated from that for identifying the amount due and that for reconciling the amount due to the amount received.
 - d. effective action is taken to pursue non-payment within defined timescales
 - e. formal approval for debt write-off is obtained.
 - f. appropriate write-off action is taken within defined timescales.
 - g. appropriate accounting adjustments are made following write-off action.
 - h. all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule.
 - i. money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.
- 5.7 The Revenues and Benefits Manager (Liberata UK Ltd) shall;
- a. establish effective arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
 - b. order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
 - c. In consultation with the Director of Resources, to agree the write-off of individual bad debts (in accordance with the Scheme of Delegation) and to refer larger sums to the Executive.
 - d. to advise the Director of Resources of any accounting adjustments required following write-off action.
- 5.8 Members of Corporate Management Team shall;
- a. establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with the corporate Fees & Charges policy ensuring that all income due to the Council is recorded in the accounts.
 - b. separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
 - c. issue official receipts or to maintain other documentation for income collection.
 - d. ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
 - e. hold securely receipts, tickets and other records of income for the appropriate period.

- f. lock away in appropriate secure locations all income to safeguard against loss or theft, and to ensure the security of cash handling.
- g. ensure that income is paid fully and promptly into the Cashiers Section or the Council's bank account(s) in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- h. ensure income is not used to cash personal cheques or other payments.
- i. establish and initiate appropriate recovery procedures, including legal action (via legal services) where necessary, for debts that are not paid promptly.
- j. recommend to the Revenue and Benefits Manager (Liberata UK Ltd) all debts to be written off and to keep a record of all sums written off up to the approved limit.
- k. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- l. notify the Director of Resources of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Director of Resources as part of the annual closedown process of the Council's accounts.

Ordering and Paying for Goods & Services

- 5.9 Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve value for money. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Contract Procedure Rules.
- 5.10 The key controls for ordering and paying for work, goods and services are:
- a. all goods and services are ordered only by appropriate persons and are correctly recorded.
 - b. wherever possible, if order to maintain separation of duties, authorised signatories should refrain from raising orders which they can approve themselves.
 - c. all goods and services shall be ordered in accordance with the Council's Contract Procedure Rules.
 - d. goods and services received are checked to ensure they are in accordance with the order. Where possible, goods should not be received by the person who placed the order.
 - e. payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards.
 - f. all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
 - g. all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule.
 - h. all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
 - i. orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.
 - j. Official orders must be in a form approved by the Director of Resources.
 - k. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Director of Resources.

Financial Limits for Ordering and Paying Invoices

5.11 Officers shall follow the following approval limits for all orders and payments of invoices.

Officer	Financial Approval Limit	
Chief Executive Director of Resources Director of Place	Over £100,000	Key Decision may be required.
Corporate Management Team	Up to £100,000	
Authorised Signatory Level	Up to £20,000	As agreed by relevant member of CMT

5.12 The Director of Resources shall;

- a. ensure that all the Council's financial systems and procedures are sound and properly administered.
- b. approve any changes to existing financial systems and to approve any new systems before they are introduced.
- c. make payments from the Council's funds on the Manager's (or duly authorised officer acting with delegated authority) authorisation that the expenditure has been duly incurred in accordance with Financial and Contract Procedure Rules.
- d. make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- e. make payments to contractors on the certificate of the appropriate Manager, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

5.13 Members of Corporate Management Team shall ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming;

- a. receipt of goods or service.
- b. that the invoice has not previously been paid.
- c. that expenditure has been properly incurred and is within budget provision
- d. that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices.
- e. correct accounting treatment of tax.
- f. that the invoice is correctly coded.
- g. that discounts have been taken where available.
- h. to ensure that invoices are passed for payment as promptly as possible
- i. where possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- j. maintain a list of staff approved to authorise invoices and limits (as defined by the Director of Resources).
- k. payments made by direct debit have the prior approval of the Director of Resources.
- l. ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Director of Resources.
- m. notify the Director of Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Director of Resources as part of the closedown of the Council's accounts.
- n. notify the Director of Resources immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

5.14 With regard to contracts for construction and alterations to buildings and for civil engineering works. Managers shall document and agree with the Director of Resources the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

Payments to Employees & Councillors

5.15 Staff costs form the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Councillors' Allowances are authorised in accordance with the scheme adopted by the full Council.

5.16 The key controls for payments to Employees and Councillors are;

- a. proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to starters, leavers, variations, enhancements and that payments are made on the basis of approved timesheets or claims.
- b. frequent reconciliation of payroll expenditure against approved budget and bank account
- c. all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.
- d. that HM Revenue and Customs regulations are complied with.

5.17 The Human Resources Manager (Liberata UK Ltd) is responsible for;

- a. all payments of salaries and wages to all staff, including payments for overtime, and for deductions of income tax.
- b. arranging and controlling secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- c. recording and making arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- d. making arrangements for payment of all travel and subsistence claims that have been properly completed and authorised by the appropriate officer.
- e. ensuring that there are adequate arrangements for administering pension matters on a day to day basis.

5.18 Members of Corporate Management Team shall;

- a. ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- b. notify the Human Resources Manager (Liberata UK Ltd) of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale laid down by the Human Resources Manager (Liberata UK Ltd).
- c. ensure that payments are only authorised to bona fide employees.
- d. Ensure that payments are only made where there is a valid entitlement.
- e. ensure that conditions and contracts of employment are correctly applied.
- f. employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- g. ensure that payroll transactions (including those accruing taxable benefits to employees of the Council) are processed only through the payroll system. [Managers should give careful consideration to the employment status of individuals employed on a self-

employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Human Resources Manager (Liberata UK Ltd).]

- h. certify travel and subsistence claims and other allowances.
- i. ensure that the Human Resources Manager (Liberata UK Ltd) is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- j. ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

5.19 Councillors must submit claims for travel and subsistence and children / dependent carer allowances (where these form part of the approved scheme of allowances) to the Chief Executive on a monthly basis and, in any event, within one month of the year end.

Taxation

5.20 Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

5.21 The key controls for taxation are:

- a. budget managers are provided with relevant information and kept up to date on tax issues.
- b. budget managers are instructed on required record keeping.
- c. all taxable transactions are identified, properly carried out and accounted for within stipulated timescales.
- d. records are maintained in accordance with instructions.
- e. returns are made to the appropriate authorities (e.g. HMRC) within the stipulated timescale.

5.22 The Director of Resources is responsible for advising, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.

5.23 The Director of Resources will consult with external tax specialist as required in order to properly account for any transaction.

5.24 Members of Corporate Management Team shall;

- a. ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations.
- b. ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- c. ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

Trading Accounts & Business Units

5.25 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under current rules authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

5.26 Member of Corporate Management Team shall;

- a. consult with the Director of Resources where a business/trading unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- b. observe any statutory requirements in relation to trading/business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- c. ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- d. ensure that each trading/business unit prepares an annual budget and associated service/business plan.

6 Section 6 – External Arrangements

- 6.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities work in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 6.2 Local authorities can mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations.
- 6.3 The Council provides a leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- 6.4 The Council is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary, faith and community sector organisations to address local needs. Functions including those relating to partnerships can be delegated to officers by the Executive. These are set out in the Scheme of Delegation that forms part of the Council's Constitution. Where functions are delegated, the Executive remains accountable for them to the full Council.
- 6.5 The key controls for the Council's partners are:
 - a. if appropriate, to be aware of and to comply with their responsibilities under these Financial Procedure Rules and Contract Procedure Rules.
 - b. to ensure that risk management processes are in place to identify and assess all known risks.
 - c. to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
 - d. to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences.
 - e. to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.
- 6.6 The main reasons for entering into a partnership are:
 - a. the desire to find new ways to share risk.
 - b. the ability to access new resources.
 - c. to provide new and better ways of delivering services.

- d. to forge new relationships.
- 6.7 A partner is defined as either:
- a. an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
 - b. a body whose nature or status give it a right or obligation to support the project.
- 6.8 Partners participate in projects by:
- a. acting as a project deliverer or sponsor, solely or in concert with others.
 - b. acting as a project funder or part funder.
 - c. being the beneficiary group of the activity undertaken in a project.
- 6.9 Partners have common responsibilities:
- a. to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation.
 - b. to act in good faith at all times and in the best interests of the partnership's aims and objectives.
 - c. be open about any conflict of interests that might arise.
 - d. to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors.
 - e. to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature.
 - f. to act wherever possible as ambassadors for the project.
- 6.10 The Director of Place and appointed Councillors represent the Council on a range of partnerships and external bodies.
- 6.11 The Director of Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider;
- a. the overall corporate governance arrangements and legal issues in conjunction with the Head of Legal & Democratic Services.
 - b. ensure that the risks have been fully appraised before agreements are entered into with external bodies.
 - c. advise on the key elements of funding a project.
 - d. undertake a scheme appraisal for financial viability in both the current and future years.
 - e. risk appraisal and risk management.
 - f. resourcing, including taxation issues.
 - g. audit, security and control requirements.
 - h. carry-forward arrangements.
- 6.12 Members of Corporate Management Team shall;
- a. ensure that appropriate approvals from the Executive are obtained before any negotiations are concluded in relation to work with external bodies.
 - b. maintain a record of all contracts entered into with external bodies in accordance with procedures specified by the Director of Resources.
 - c. ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Director of Resources as appropriate.
 - d. ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
 - e. ensure that all agreements and arrangements are properly documented.
 - f. provide appropriate information to the Director of Resources to enable a note to be entered into the Council's Statement of Accounts concerning material items.

6.13 To ensure that the accounting arrangements are satisfactory and that both Internal Audit and External Audit have access to the Council's records relating to partnerships.

Accountable Body Status

6.14 There will be occasions when the Council may be required to act in the capacity of Accountable Body. This may be as a result of a request by an external organisation to act on its behalf as the Accountable Body for a particular partnership or project.

6.15 Accountable Body status in this instance is defined as:
'The Council having responsibility for the overall financial management, accountability and legal responsibility for the income, expenditure and governance arrangements of a specific project or partnership (whether formally constituted or not)'

6.16 The Director of Resources has delegated authority to give approval to the Council acting as Accountable Body for specific projects provided that the estimate of combined income/expenditure does not exceed £100,000. In all other circumstances, the approval of the Executive is required.

6.17 Member of Corporate Management Team are responsible for obtaining appropriate approvals from the Executive for the Council to act as Accountable Body and/or before any negotiations are concluded in relation to work with external bodies.

6.18 The Director of Resources shall;

- a. maintain a register of bodies for which the Council acts as Accountable Body.
- b. establish and maintain proper accounting records;

External funding

6.19 External funding is an important source of income. However, funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from Government and external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

6.20 The key controls for external funding are:

- a. to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- b. to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council.
- c. to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements

6.21 The Chief Executive, Director of Place and Corporate Management Team are responsible for notifying the Director of Resources of all potential sources of external funding and consult him/her on any applications proposed to be submitted in the name of the Council. The Director of Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts in accordance with any specific requirements that may apply to it as the "accountable body" where the Council has agreed to

operate as such.

6.22 The Director of Resources shall;

- a. advise on the financial implications of bids for funding.
- b. ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- c. ensure that the match-funding requirements and any revenue implications are considered prior to entering into the agreements.
- d. ensure that audit requirements are met.

6.23 Members of Corporate Management Team shall;

- a. notify the Director of Resources of all proposed bids for external funding
- b. ensure that all claims for funds are made by the due date.
- c. ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

Work for third parties

6.24 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies. Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires (i.e. within the Council's legal powers to do it).

6.25 The key controls for working with third parties are:

- a. ensure that proposals are costed properly in accordance with guidance provided by the Director of Resources.
- b. ensure that contracts are drawn up and that the formal approvals process is adhered to.
- c. issue guidance with regard to the financial aspects of third party contracts.

6.26 The Director of Resources shall issue guidance with regard to the financial aspects including insurance of third party contracts and the maintenance of the contract register.

6.27 Members of Corporate Management Team shall;

- a. ensure that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.
- b. maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Director of Resources.
- c. ensure that appropriate insurance arrangements are made.
- d. ensure that the Council is not put at risk from any bad debts.
- e. ensure that no contract is subsidised by the Council (without the prior approval of the Executive).
- f. ensure that, wherever possible, payment is received in advance of the delivery of the service.
- g. ensure that the service area has the appropriate expertise to undertake the contract.
- h. ensure that such contracts do not impact adversely upon the services provided for the Council.
- i. ensure that all contracts are properly documented.
- j. provide appropriate information to the Director of Resources to enable a note to be entered into the Statement of Accounts.

APPENDIX A

Pendle Borough Council - Capital Programme Appraisal Form

1.0 Summary

Scheme Name
High Level Description (include outputs and funding summary)
Directorate – Section - Lead Officer

2.0 Key Risks

Project Risks – Set out the key Legal, Financial, Procurement, Land, Staffing risks associated with the scheme and any mitigating factors (further details can be given in Section 3.0).

3.0 Scheme Details

Appraisal	Comment
How does the scheme fit in to the Council's Corporate Plan or wider priorities?	
Is the scheme being delivered by a Council Joint Venture Company?	
Does the scheme create a new Council asset or enhance an existing asset?	
Is the scheme above de minimis for Capital Scheme (£10k or greater)?	
Are there any on going revenue costs? If so how will these be funded?	
Funding mechanism for the scheme. i.e. external grant funding, capital receipt, S106, other third party contribution, prudential borrowing, revenue contribution.	
Could the scheme be funded through Invest to Save?	
If external funded, is there a requirement to match funding from the Authority? Can the grant be used to fund internal staff costs?	
Does the scheme involve a transfer of Council assets to a third party?	
Will the scheme generate a capital receipt?	

Appraisal	Comment
If Yes, what is the estimated value and how has this been calculated?	
Set out the Procurement process for the scheme?	
Is the scheme required under health and safety guidance?	
Who will deliver the scheme?	
What are the expected outputs for the scheme? Are these linked to external funding?	
Explain the Governance arrangements for the scheme.	

4.0 Summary of Estimated Cost & Funding Required (update as required)

£'m / £'000	Year 1 202x/2x	Year 2 202x/2x	Year 3 202x/2x	Year 4 202x/2x	Total
Land Purchase					
Construction Cost					
Professional Fees					
Capital Salaries					
Other					
Gross Expenditure (A)					
Grant Funding					
Capital Receipt					
Revenue Contribution					
S106					
Gross Income (B)					
Net Capital Funding Required (A – B)					

5.0 Project Plan and Key Milestones (update as required)

Milestone	Expected Date
Approval by Council	
Grant Award	
Planning Permission (if required)	
Tender process and Award	
Construction Start	
Construction Completion	

6.0 Completion and Submission

Officer Name
Date

***Send completed forms to Laina Donnelly, Technical Accountant
(laina.donnelly@pendle.gov.uk)***

7.0 Review & Approval Process

Approved by Director of Place	
Approved by Director of Resources	
Approval by CMT	
Capital Project Code	

Pendle Borough Council



Contract Procedure Rules

September 2023

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CONTRACT PROCEDURE RULES

INTERPRETATION

1. These Contract Procedure Rules are standing orders of the Council (made pursuant to Section 135 of the Local Government Act 1972) with respect to the making of Contracts.
2. In these Rules, each of the expressions in the left-hand column below shall have the meaning stated against that expression in the right-hand column.

CPR	Contract Procedure Rule.
Chief Officer	is the Chief Executive, Director of Resources or Director of Place.
Contract	is any agreement between the Council and one or more Providers for the supply of goods or materials to the Council, for the execution of works for or on behalf of the Council, or for the provision of services to the Council or to others on its behalf (including but not limited to the provision of services, wholly or partly, in return for a concession).
Contractor	is any provider supplying or offering to supply goods, works, or services (including concessions) to the Council and includes any individual, firm, agent, company, partnership, public authority or other organisation.
Executive	means Pendle Borough Council's Executive.
EU Contract	is a Contract covered by the Public Works / Supplies / Services / Utilities Contract Regulations.
Corporate Leadership Team	includes the Chief Officers and the Head of Legal & Democratic Services
Corporate Management Team	includes the members of Corporate Leadership Team and the following; <ul style="list-style-type: none">- Head of Legal and Democratic Services- Head of Policy and Commissioning- Head of Finance- Assistant Director of Operational Services- Assistant Director of Planning, Building Control and Regulatory Services- Head of Environmental Housing and Health- Head of Economic Growth
Manager(s)	All members of Corporate Management Team.
Monitoring Officer	is the officer designated as such under s5 of the Local Government and Housing Act 1989 (currently the Head of Legal and Democratic Services).

Responsible Officer any permanent or temporary staff member who is properly authorised to carry out any of the Council's contracts functions.

Section 151 Officer is the officer with responsibility for the proper administration of the financial affairs of the Council in accordance with Section 151 of the Local Government Act 1972 (currently the Director of Resources) or the Deputy S151 Officer (the Head of Finance).

System Accountant is the lead procurement officer for the Council

3. References to monetary values in these Contract Procedure Rules **exclude VAT**.

4. References to Contract Value are defined as either;

- a) where the contract is for a fixed period, by taking the total estimated price to be paid during the whole of the fixed period (but inclusive of any possible period of extension);
- b) where the contract is for an uncertain or undetermined duration, by multiplying the monthly payment by 48 (or the annual payment multiplied by 4);
- c) for nominated suppliers and sub contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub contractor.

5. Where reference is made in these Contract Procedure Rules to the Director of Resources, in the absence of that officer the Head of Finance is the authorised substitute. In the absence of the Head of Legal & Democratic Services, the Legal Services Manager will be the authorised substitute.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

CPR1 BASIC PRINCIPLES

- 1.1 All purchasing and disposal procedures must;
 - a) achieve value for money for public money spent;
 - b) be consistent with the highest standards of integrity;
 - c) ensure fairness and equity in allocating public contracts;
 - d) comply with all legal requirements;
 - e) ensure that non commercial considerations do not influence any contracting decision;
 - f) support the Council's corporate and service aims and policies;
 - g) comply with the Council's Procurement Policy and Strategy.
- 1.2 No Officer shall seek to enter into a contract, or purport to enter into a contract, for the supply of works, goods or services unless there is adequate provision in the Council's Revenue Budget and/or Capital Programme.
- 1.3 Under no circumstances should Contracts be broken down in size so as to have the effect of lowering the Contract value or to avoid the requirements for tendering or the need for written quotations.

CPR2 SCOPE AND APPLICATION

- 2.1 These Procedure Rules shall apply to any Contract, with the exceptions listed in CPR 2.2, and also to the nomination of sub-contracts under any such Contract (whether in each case the Council is contracting or nominating on its own behalf or wholly or partly on behalf of others).
- 2.2 These Procedure Rules DO NOT apply to transactions of the following types;
 - a) Purchases or sales by auction or at public fairs or markets;
 - b) Contracts for the engagement of Counsel, or for the engagement of external Solicitors to represent the Council in specified legal proceedings;
 - c) Orders placed under a corporate contract;
 - d) Contracts with statutory undertaking(s) for work which only they can carry out;
 - e) Contracts of employment ;
 - f) Contracts formalising the funding of particular voluntary sector bodies where the purpose of the contract is to establish the general conditions whereby the body may be funded by the Council.

CPR3 RESPONSIBLE OFFICERS' DUTIES

- 3.1 All employees of the Council and firms/advisors employed to act in any capacity to manage or supervise a Contract must comply with these Procedure Rules, the Council's Financial Procedure Rules, the Code of Conduct and with all binding UK legal requirements. Responsible Officers must ensure that any agent, Consultants and contractual partners acting on their behalf also comply.
- 3.2 Responsible Officers shall always;
 - a) seek value for money;
 - b) show no favour or disfavour to any Provider nor discriminate against Providers;
 - c) conduct tendering and price testing in accordance with proper practices and the highest standards of propriety;

- d) do nothing that contravenes domestic law;
- e) ensure that adequate Contract records are kept for all Contracts upon which they are engaged.
- f) have regard to any purchasing guidance that may be available;
- g) check whether a corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to do so;
- h) take all necessary legal, financial and professional advice.

3.3 When any employee either of the Council or of a Service Provider may be affected by transfer arrangements, Responsible Officers must ensure the Transfer of Undertaking (Protection of Employment)(TUPE) issues are considered and obtain legal advice before proceeding with inviting tenders or quotations.

CPR4 COMPLIANCE WITH CONTRACT PROCEDURE RULES AND LEGISLATION

- 4.1 Every Contract made by the Council or on its behalf shall comply with the all relevant domestic legislation, these Contract Procedure Rules and Codes of Practice and the Council's Financial Procedure Rules subject to the following provision. Guidance on best practice for procurement for public sector organisations, together with supporting documentation can be found on the Government website;
<https://www.gov.uk/government/collections/procurement-policy-notes>
- 4.2 Arrangements made to meet the requirements of any present or future domestic legislation shall take precedence over any provision of these Contract Procedure Rules.

CPR5 EXEMPTIONS FROM CONTRACT PROCEDURE RULES

- 5.1 Exemptions from the requirements of these Contract Procedure Rules are to be the exception and not the rule. They must not be granted as a matter of administrative convenience and must be supported by documented and evidenced reasons as to the legitimate need for the exemption to be granted.
- 5.2 When an exemption is sought from tendering or the requirement to obtain written quotations, the relevant Manager will need to justify the use of an alternative method of selection so that propriety, value for money and compliance with domestic legislation can be demonstrated. It will also include reasons such as, but not limited to, the following:
- a) that only one Provider is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive or proprietary rights.
 - b) that time limits required for tendering cannot be met for reasons of extreme urgency and which were unforeseen and unattributable to the Council.
 - c) that additional goods, works or services are required which, through unforeseen circumstances, were not included in the original contract and which are either strictly necessary for the completion of the Contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience/additional costs.
 - d) that goods are required as a partial replacement for or in addition to existing goods or installations and obtaining them from another Provider would result in incompatibility or disproportionate technical difficulties in operation or maintenance.
 - e) That despite seeking the relevant number of quotations, insufficient quotations have been obtained.
- 5.3 The Manager must complete a Request for an Exemption to Contract Procedure Rules and seek the prior agreement of the Director of Resources. See Appendix A.

- 5.4 The Director of Resources must then report to the next possible meeting of the Accounts & Audit Committee details of such exemptions.
- 5.5 Any Exemptions over £100,000 must be agreed by The Executive prior to agreement.
- 5.6 Exemption (on grounds other than 5.2 (a) to e)) from any of the following provisions of these Procedure Rules may be made only by the direction of the Executive where it is satisfied that the exemption is justified in special circumstances.
- (a) No exemption may be granted which would result in a breach of UK law;
 - (b) from CPR 27 (Acceptance of Tenders); unless on grounds of extreme urgency (e.g. during civil emergency) from CPR 29 (Form of Contract); or from CPR 30 (Execution of Contracts).

CPR6 JOINT, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

- 6.1 In order to secure value for money, the Council may enter into joint or collaborative procurement arrangements. Prior to any purchases or contracts being made, Responsible Officers should seek advice from the System Accountant on these matters and must consult the Director of Resources where the purchase is to be made using a joint or collaborative procurement arrangement with another local authority, government department, statutory undertaker or public service consortium.
- 6.2 Collaborative and Partnership Agreements are subject to all UK procurement legislation and must, therefore, follow these Contract Procedure Rules. If in doubt, Responsible Officers must seek advice from the Director of Resources and/or the System Accountant before embarking on a procurement process.
- 6.3 All purchases made via a bona-fide local authority purchasing and distribution consortium are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the relevant threshold must be let under the relevant procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the procedures on behalf of the Council and other consortium members. The Responsible Officer must be satisfied that the relevant procedures have been applied.
- 6.4 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedures Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required.
- 6.5 The use of e-Procurement technology does not negate the requirement to comply with all elements of these Contract Procedure Rules particularly those relating to competition and value for money unless specific exemptions apply.

SECTION 2: COMMON REQUIREMENTS

CPR7 STEPS PRIOR TO PURCHASE

- 7.1 Responsible Officers must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance available from the Accountancy Section, by;
- a) taking into account the requirements of any relevant service/efficiency review;
 - b) appraising the need for the expenditure and its priority;
 - c) defining the objectives of the purchase;
 - d) assessing the risks associated with the purchase and how to manage them;
 - e) considering what procurement method is most likely to achieve the purchasing objectives, including;
 - internal and external sourcing;
 - partnering;
 - packaging strategy;
 - collaborative arrangements.
 - f) consulting users as appropriate about the proposed procurement method, contract standards and performance user satisfaction monitoring;
 - g) drafting the terms and conditions that are to apply to the contract;
 - h) having regard to the requirements of the Public Services (Social Value) Act 2012. The Act places a requirement on commissioners to consider the economic, environmental and social benefits of their approaches to procurement before the process starts including whether to consult on these issues.
- 7.2 There should also be confirmation that;
- a) there is Councillor delegated approval for the expenditure and the purchase accords with the approved policy framework and Scheme of Delegation as set out in the Council's Constitution;
 - b) if the purchase is considered to be a Key Decision, all appropriate steps have been taken.

CPR8 INTERESTS OF OFFICERS IN CONTRACT MATTERS

- 8.1 Managers, Responsible Officers and any other person (whether or not in the employment of the Council) assisting any of them in connection with any part of the procurement process shall comply with all requirements applicable from time to time of the law and of the Council's Code of Conduct for Employees as regards:
- a) the declaration of interests (either generally or in relation to a particular procurement matter), and;
 - b) refraining from participation in some or all stages of particular procurement matters.

NB: At the time of adoption of these Rules, the Current provisions are:

- Section 117(1) of the Local Government Act 1972;
- The Council's Code of Conduct for Employees, (issued February 2012).

CPR9 PREVENTION OF CORRUPTION

- 9.1 The Responsible Officer must comply with the Employee Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It

will be for the Responsible Officer to demonstrate that anything received was not received corruptly. High standards of conduct are obligatory.

- 9.2 For the avoidance of doubt, all Gifts and Hospitality shall be recorded in the Council's Gift & Hospitality Register.
- 9.3 The Council also maintains an Anti-Fraud, Bribery and Corruption policy which sets out the Council's policy for dealing with these issues. Every organisation, whether large or small, is at risk from fraud and councils are no exception to this. All councils have a duty to protect the public purse and a major part of this is by limiting exposure to fraud and corruption and reducing risk through effective prevention and detection.

CPR10 RECORDS

Financial records shall normally be retained for a period of 6 years plus the current financial year. Some external funding may require longer periods of retention.

10.1 Where the value of the contract is less than £50,000, the following records must be retained by the Responsible Officer;

- a) invitations to quote and quotations
- b) a record of;
 - o any exemption and the reason for them;
 - o the reason if the lowest price is not accepted.
- c) records of communications with the successful contractor

10.2 Where the value of the contract exceeds £50,000, the Responsible Officer must record;

- a) the method of obtaining the tenders (see Rule 20);
- b) any contracting decisions and the reasons for it;
- c) any exemption under Rule 5 together with the reasons for it;
- d) the award criteria in descending order of importance;
- e) tender documents sent to and received from candidates (where these are not returned to/retained by Democratic and Legal Services);
- f) pre-tender market research;
- g) clarification and post tender negotiation(s) (to include minutes of meetings where applicable);
- h) the contract documents;
- i) post contract evaluation and monitoring;
- j) communications with all candidates and with the successful contractor throughout the period of the contract.

CPR11 ADVERTISING

11.1 Responsible Officers shall ensure that, where proposed contracts, irrespective of their value, might be of interest to potential candidates, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders the wider the coverage of the advertisement should be. Examples of where such advertisements might be placed include;

- a) The CHEST
- b) the Council's website;
- c) portal websites specifically created for contract advertisements including Contracts Finder <https://www.gov.uk/contracts-finder>
- d) national official journals; or

- 11.2 Responsible Officers are responsible for ensuring that all potential candidates for a contract are suitably assessed. For contracts below the threshold for goods and services, this assessment process can be determined by the Responsible Officer but must, at least, ensure that candidates have sound;
- a) economic and financial standing, and;
 - b) technical and professional ability.
- 11.3 For contracts / procurements above the threshold for goods and services, subject to Rule 5 on Exemptions, the Responsible Officer must have regard to guidance issued by the Cabinet Office in relation to the qualitative selection of economic operators. The exception to this Rule is where potential candidates are identified from an Approved List where these selection requirements have already been addressed.
- 11.4 In practical terms, this means that pre-qualification questionnaires (PQQs) used as part of a pre-qualification stage are not permitted (for below threshold contracts). However, contracting authorities may ask questions relating to a potential supplier provided that the questions are relevant to the subject matter of the procurement and proportionate. For contracts with a value above the threshold a specimen copy of the standard PQQ issued by the Crown Commercial Service is available on line or via the System Accountant.

CPR12 DYNAMIC PURCHASING SYSTEMS

- 12.1 Dynamic Purchasing Systems should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot be used where the procedure applies.
- 12.2 In consultation with the System Accountant, Responsible Officers may draw up;
- a) Approved Lists of contractors ready to perform contracts to supply goods and services of particular types on the basis of agreed contract terms; and
 - b) Criteria for shortlisting from the Lists.
- 12.3 No contractor may be entered on an Approved List until they have been satisfactorily assessed by the Responsible Officer, having regard to the questions that may be asked of the supplier/provider per guidance issued by the Cabinet Office per 11.3 above.
- 12.4 Approved Lists may be drawn up after an advertisement inviting applications for inclusion on the List. The advertisement must be placed to secure the widest publicity among relevant suppliers throughout all member states of the European Union. Contractors may be entered on a List between the initial advertisement and re-advertisement provided the requirements of Rule 12.3 are met.
- 12.5 The List and Shortlisting criteria must be reviewed at least annually by the Responsible Officer and re-advertised every three years. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to re-apply. Review means;
- a) completing a new assessment based on questions that are relevant to the subject matter of the procurement and proportionate;
 - b) the deletion of those contractors no longer qualified, with a written record kept justifying that decision.

12.6 All Approved Lists shall be maintained in an open, fair and transparent manner and be open to public inspection via The CHEST or Council website.

12.7 A register of pre-qualified contractors and consultants maintained by or on behalf of central government (e.g. Constructionline) shall be deemed to be an Approved List for the purpose of these Contract Procedure Rules and shall not be subject to Rules 12.2 to 12.5 above.

CPR13 FRAMEWORK AGREEMENTS

13.1 Contracts based on Framework Agreements may be awarded by either;

- a) applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- b) where the terms laid down in the Framework Agreement are not precise enough to complete the particular call-off, by holding a mini competition in accordance with the following procedures;
 - inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written tenders;
 - fixing a time limit which is sufficiently long to allow tenders for each specific contract to be submitted taking into account factors such as the complexity of the subject of the contract;
 - awarding each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specification of the Framework Agreement.

CPR14 STANDARDS AND AWARD CRITERIA

14.1 The Responsible Officer must ascertain what relevant UK or international standards apply to the subject matter of the contract and ensure that those standards are considered and attained before awarding a contract.

14.2 The Responsible Officer must, before tendering the contract, define the award criteria that are appropriate to the purchase and designed to ensure an outcome giving value for money for the Council. The basic criteria will be;

- 'lowest price' where payment is to be made by the Council;
- 'highest price' where payment is to be received by the Council;
- 'most economically advantageous' where considerations other than price also apply.

14.3 The most economically advantageous tender (MEAT) criterion enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision. If this criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales service, technical assistance and any other relevant matter.

14.4 Price should account for at least 50% of the score.

14.5 Award criteria must not include;

- Non-commercial considerations (excluding social value);
- matters which would discriminate against suppliers.

CPR15 INVITATION TO TENDER (ITT)/QUOTATIONS – GENERAL RULES

15.1 Invitations to Tender (ITT) shall state that no tender will be considered unless it is received by the date and time stipulated in the ITT. No tender delivered in contravention of this clause shall be considered unless in the opinion of the Head of Legal and Democratic Services, there is clear evidence that the tender was posted or hand delivered before the date for receipt of tenders in which case the Responsible Officer shall have discretion to admit the tender to opening and consideration. Subject to this exception tenders which are received late shall be retained unopened by the Head of Legal and Democratic Services until after the result of the tendering process has been published to tenderers.

15.2 All ITT shall include, but not be limited to, the following;

- a) a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
- b) a requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such disclosure is made in confidence for a necessary purpose);
- c) a requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non collusion;
- d) notification that tenders are submitted to the Council on the basis that they are compiled at the tenderers expense;
- e) a description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance;
- f) notification that no tender will be considered unless it is enclosed in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates, but no other name or mark indicating the sender;
- g) a stipulation that tenders submitted by fax or other electronic means will not be considered (unless they have been sought in accordance with an electronic tendering system approved by the Head of Legal and Democratic Services and the Director of Resources e.g. the CHEST).
- h) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with. In particular, the overall price prevails over the rates in the tender or vice versa.

15.3 All ITT or Quotations must specify the goods, services or works that are required, together with the terms and conditions that will apply.

15.4 The ITT or Quotation must state that the Council is not bound to accept any quotation or tender.

15.5 All potential tenderers invited to submit a tender or quotation must be provided with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

CPR16 ESTIMATES OF CONTRACT VALUE

16.1 Before seeking quotes or inviting tenders for the execution of any work or for the provision of any goods or services the Responsible Officer shall record an estimate in writing of the likely expense of executing the work, or the provision of goods or services in a suitable manner.

CPR17 PRE-TENDER/QUOTATION ENQUIRIES

17.1 Enquiries of Contractors may be made before tenders or quotations are invited in order to:

- a) establish whether the goods, works or services the Council wishes to purchase are available and within what price range;
- b) prepare tender documents, price estimates and contract documents;
- c) establish whether particular Providers wish to be invited to tender or quote.

17.2 In making enquiries:

- a) no information will be disclosed to one Provider which is not then disclosed to all those of which enquiries are made or which are subsequently invited to tender or quote;
- b) no Provider will be led to believe that the information they offer will necessarily lead to them being invited to tender or quote or be awarded the Contract.

17.3 Responsible Officers must not, however, seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Contractors or distort competition.

CPR18 PURCHASING – COMPETITION REQUIREMENTS

18.1 Note that the Council's constitution states that all contracts over £100,000 shall be designated as Key Decisions and therefore require prior approval of The Executive before contracts are awarded. However, these Contract Procedure Rules apply to all contracts, irrespective of their value and the procedures set out should be followed at all times.

18.2 Where the estimated value of the proposed contract is within the values in the first column below, the award procedure in the second column must be followed;

Contract Value	Award Procedure	Shortlisting
Up to £10,000	<ul style="list-style-type: none">○ Minimum of one written quotation should be obtained.○ The lowest tender should be accepted.○ The tender price should be within the agreed budget estimate.○ An official order shall be issued.	Responsible Officer
£10,001 to £50,000	<ul style="list-style-type: none">○ Minimum of three written quotations must be obtained.○ The lowest tender should be accepted.○ The tender price should be within the agreed budget estimate.○ An official order shall be issued	Manager and Responsible Officer

Contract Value	Award Procedure	Shortlisting
£50,001 to £100,000	<ul style="list-style-type: none"> ○ Tenders should be invited using an Invitation to Tender made available by The CHEST or advertisement. ○ The lowest tender should be accepted. ○ The tender price should be within the agreed budget estimate. 	Manager and Responsible Officer
£100,001 to threshold (£177,897)	<ul style="list-style-type: none"> ○ Tenders should be invited using an Invitation to Tender made available by The CHEST or advertisement. ○ The lowest tender should be accepted. ○ The tender price should be within the agreed budget estimate. ○ Formal Legal Contract used. 	Requires prior approval of The Executive Manager and Responsible Officer
Above Threshold (£177,898)	<ul style="list-style-type: none"> ○ Relevant procedure or, where this does not apply, Invitation to Tender by advertisement to at least four potential contractors. 	Requires prior approval of The Executive Member of Corporate Leadership Team Manager and Responsible Officer

18.3 For all contracts irrespective of value (unless it is not practical to do so), an official order shall be placed using the Council's approved Order Form using the Civica Financials system.

For contracts of value between £10,000 and £50,000, where the relevant number of quotations has been sought, but fewer quotations have been obtained, the Responsible Officer may seek an exemption from the requirement to obtain the number of quotations specified above with the written agreement of the Director of Resources.

18.4 In all cases, except where it is impracticable for reasons of extreme urgency, confirmation of the Contractor's terms of business (usually via a quotation) shall be obtained before an order is placed.

18.5 The Responsible Officer shall record the Contractors approached, their responses, details of any quotations provided, the subject matter of the quotation, the name of the Contractor, the time and date of the quotation, details of the price offered and any other trading terms.

Engagement of Consultants

18.6 The engagement of consultants shall follow the principles for appointing contractors as set out in these Contract Procedure Rules with the proviso that, in circumstances requiring flexibility or specialised need, and within thresholds, the Manager may seek an Exception with the Director of Resources.

18.7 Negotiated fee tenders may be contemplated in exceptional circumstances where;

- there is insufficient time to obtain competitive tenders; or

- systems or designs may be specific to a particular consultant (e.g. propriety systems); or
- in the view of the Chief Officer, it would be in the Council's best interest to negotiate a fee with the consultant due to their previous involvement in a project.

18.8 It shall be a condition of the engagement of the services of a consultant responsible for the supervision of a contract on behalf of the Council that, in relation to the contract, he/she shall;

- comply with the Council's Financial Procedure Rules and these Contract Procedure Rules as though he/she were a member of the Corporate Management Team;
- at any time during the discharge of the contract, produce to any relevant officer on request all the records maintained by him/her in relation to the contract; and
- on completion of the contract, forward all records to the relevant Manager, Responsible Officer or other designated Officer.

18.9 Throughout the commission, the relevant Manager, Responsible Officer or other designated Officer shall ensure that appropriate monitoring arrangements are put in place.

18.10 Exemption shall be reported to the next Accounts & Audit committee in line with CPR5.

CPR19 AWARD OF CONTRACTS – BASIC PRINCIPLES

19.1 No Contract may be awarded unless the proposed expenditure involved has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of, the Council. The Responsible Officer shall ensure that evidence of authority to spend, and the budget code to be used, is recorded on the Contract file.

19.2 Contracts with a quoted value of £100,000 or less may be awarded on behalf of the Council by the relevant member of Corporate Management Team to the Contractor who offers the lowest price or whose offer is considered by the Manager to be the most economically advantageous to the Council, provided in both cases the price quoted is within the budgetary limits approved by the Executive.

19.3 Contracts with a quoted value in excess of £100,000 may be awarded on behalf of the Council by the relevant Chief Officer, following a report to the Executive, to the Provider who offers the lowest price or whose offer is considered by the Chief Officer to be the most economically advantageous to the Council provided in both cases the price quoted is within the budgetary limits approved by the Council or Committee appointed for that purpose.

19.4 No contract with a quoted value in excess of £100,000 shall be awarded until the Director of Resources has checked the Contractor's financial standing and provided written confirmation that this is satisfactory for the Contract to be undertaken.

19.5 The Responsible Officer shall ensure compliance for the publication of Contract Award Notices and provide copies of the Notice(s) to the Director of Resources and the Head of Legal and Democratic Services.

19.6 Details of all Contract awards exceeding £50,000 shall be forwarded to the Accountancy Section for inclusion in the Council's Contracts Register as soon as possible after the award and prior to works commencing. Such notification to also include evidence of the authority to enter into the Contract.

19.7 In compliance with the Council's promotion of equality, Responsible Officer's should ensure they consider and comply with the Council's legal obligations under the Equality Act 2010

and its associated Public Sector Equality Duty. More information on this is provided at [Appendix B](#).

CPR20 COMPETITIVE TENDERING – CONTRACTS OVER £50,000

20.1 No Contract, the estimated value of which exceeds £50,000, shall be made unless:

- a) at least 21 days' public notice has been given in one or more of the local newspapers, in Contracts Finder and in such trade journals as the Responsible Officer shall consider desirable, stating the nature and purpose of the Contract, inviting tenders and stating the last date when tenders will be received; or
- b) tenders for the Contract (being a Contract for the execution of work) have been invited by the Responsible Officer from amongst the appropriate approved list of Providers compiled under CPR 12; or
- c) public notice has been given in respect of a particular Contract in the manner described in CPR 12 inviting applications from Providers to be placed on a list to be approved by the Council from which Providers selected by the Responsible Officer will be invited to submit tenders; or
- d) the proposed Contract, being a Contract for the execution of work, forms part of a serial programme the terms having been settled with the Contractor on the basis of the application of a stated addition or deduction to the rates and prices contained in an initial Contract awarded competitively following an invitation to tender in accordance with the provisions of (a), (b), or (c) above subject to a maximum extension under this Rule not exceeding 100% of the original Contract value or £100,000 whichever is the lower.

CPR21 TENDER INVITATION

21.1 When tenders are invited following public advertisement Contract documents will be sent within five working days of request provided, if applicable, any specified fee has been paid.

21.2 Reasonable requests for further information relating to the Contract documents will be granted provided the request enables the Council to supply the information not less than six days (or four days in cases of emergency) before the date specified for receipt of tenders. Information supplied to one Provider will be shared with all Providers unless in the opinion of the Responsible Officer and following consultation with the Head of Legal and Democratic Services there are appropriate grounds for not doing so.

21.3 Every invitation to tender will state that a tender will only be considered if it is;

- a) addressed to the Head of Legal and Democratic Services in a plain sealed envelope or package which shall bear the word "Tender" followed by the subject to which it relates, but shall not bear any name or mark indicating the sender;
- b) accompanied by an undertaking which shall become a condition of the Contract that the amount of the tender has not been calculated by agreement or arrangement with any person other than the Council and that the amount of the tender has not been communicated to any person other than the Council and will not be communicated to any person until after the closing date for the submission of tenders (except for the purposes of obtaining any bond/surety where this is a requirement of the proposed Contract).

21.4 Tenders submitted by facsimile or electronic transmission will not be considered unless they have been sought in accordance with an electronic tendering system approved by the Head of Legal and Democratic Services and the Director of Resources (e.g. the CHEST).

CPR22 RECEIPT OF TENDERS

- 22.1 Envelopes and packages received in accordance with the provision of CPR 21 shall immediately on receipt be consecutively numbered and be placed in the custody of the Head of Legal and Democratic Services until the time appointed for the opening.
- 22.2 An Officer receiving tenders shall indicate on the envelope or package the date and time of its receipt by him/her.
- 22.3 Any tender received after the date and time indicated for the receipt of tenders shall not be considered unless in the opinion of the Head of Legal and Democratic Services there is clear evidence that the tender was posted or hand delivered before the date for receipt of tenders in which case the Responsible Officer shall have discretion to admit the tender to opening and consideration. Subject to this exception tenders which are received late shall be retained unopened by the Head of Legal and Democratic Services until after the result of the tendering process has been published to tenderers.

CPR23 OPENING OF TENDERS

- 23.1 All tenders with an estimated value in excess of £100,000 will be opened by the relevant member of Corporate Management Team or his/her nominated representative in the presence of the Head of Legal and Democratic Services or his/her nominated representative.
- 23.2 All tenders will be opened at the same time and place and shall be immediately signed and dated by the Officers required to be present in accordance with CPR 23.1 above.
- 23.3 The Head of Legal and Democratic Services or his/her nominated representative will, at the time the tenders are opened, record;
- a) the nature of the goods or materials to be supplied or the work to be executed;
 - b) the name of each Provider by or on whose behalf a tender was submitted together with the consecutive number endorsed on the tender envelope;
 - c) the amount of each tender;
 - d) the date and time of the opening of the tender;
 - e) the names of the persons present at the opening of the tenders.
- 23.4 The relevant Manager will keep securely all tenders with the envelopes received for a period of at least 12 months after the award of the Contract or such longer period as may be required by domestic or EU legislation.

CPR24 ERRORS OR DISCREPANCIES IN TENDERS ETC.

- 24.1 Where examination of tenders reveals arithmetical or copying errors present in the documents submitted at the time of tender these shall be corrected by the Responsible Officer and details shall be recorded and maintained on the appropriate Contract file. If the correction has the effect that the tender is no longer the most competitive tender then the next tender in competitive order is to be examined and dealt with in the same way.

24.2 Where examination of tenders or checking of a priced bill or specification submitted at the Council's request after tenders have been opened reveals errors or discrepancies (other than arithmetical errors in documents submitted at the time of tender as in CPR 24.1 above) which would affect the tender figure(s) in an otherwise successful tender, the Provider is to be given details of such errors and discrepancies but no other information and afforded an opportunity of confirming or withdrawing his tender in writing. If the tenderer confirms his tender all the rates and prices on which it was based shall be adjusted (upwards or downwards) by the same percentage so as to correspond with the tender figure (corrected in accordance with CPR 24.1 above if there was also an error or discrepancy requiring to be dealt with under that CPR).

24.3 If the Provider withdraws, the next tender in competitive order is to be examined and dealt with in the same way. Any exception to the procedure outlined above may be authorised only by the Executive after consideration of a report from the Responsible Officer concerned.

CPR25 SHORTLISTING

25.1 Any shortlisting must have regard to the financial and technical standards relevant to the contract and the award criteria. Special rules apply in respect of the EU procedure.

25.2 Details of Officers responsible for shortlisting are provided in Rule 18.1.

25.3 Where Approved Lists are used, shortlisting may be done by the Responsible Officer in accordance with the shortlisting criteria drawn up when the Approved List was compiled (see Rule 12.2). However, where the EU procedure applies, Approved Lists may not be used.

CPR26 CONTRACT NEGOTIATIONS

26.1 The Responsible Officer may negotiate the contract in the manner set out in CPR 26.2 below provided the terms of the contract remain substantially unaltered;

- a) where tendering produced no tenders or inappropriate tenders, for example where the tender figure in an otherwise successful tender exceeds approved or budgeted expenditure, or where the sum has changed since tenders were invited; or
- b) where tendering was discontinued because of irregular tenders, for example because tenders fail to meet the requirements specified in the Contract documents or offer variations on them or the works, supplies or goods fail to meet the tender specification.

26.2 The Responsible Officer shall invite all tenderers to amend their tenders, in writing, in such matters (e.g. unit price, delivery, discounts or by removing elements of the specification or bill of quantities) as the Responsible Officer specifies. All negotiations shall be conducted by at least two officers, one of whom should not be otherwise involved in the contract award. The Responsible Officer shall keep a written record of all negotiations, including notes of all meetings and the names of those people present.

CPR27 ACCEPTANCE OF TENDERS

27.1 A tender other than the lowest tender if payment is to be made by the Council or the highest tender if payment is to be received by the Council, or the tender which in the opinion of the Responsible Officer is the most economically advantageous to the Council (having regard to price, quality and technical considerations) shall not be accepted until the Executive has considered and approved a written report from the Responsible Officer.

- 27.2 No Contract may be awarded unless the expenditure involved has been included in approved estimates or in capital or revenue accounts or has been otherwise approved by or on behalf of the Council.
- 27.3 The only exception permitted under this Procedure Rule is where works/supplies/services are ordered on grounds of extreme urgency (e.g. responding to a civil emergency). The Responsible Officer should consult with the Director of Resources and appraise him/her of the position so that as soon as practicable arrangements can be made to report the matter to the Executive.
- 27.4 No contract with a quoted value in excess of £50,000 shall be awarded until the Director of Resources has checked the Provider's financial standing and provided written confirmation that this is satisfactory for the Contract to be undertaken.
- 27.5 The Responsible Officer shall ensure compliance for the publication of Contract Award Notices and provide copies of the Notice(s) to the Head of Legal and Democratic Services.
- 27.6 Details of all Contract awards exceeding £50,000 shall be forwarded to the Accountancy Section for inclusion in the Council's Contracts Register as soon as possible after the award and prior to works commencing. Such notification to also include evidence of the authority to enter into the Contract.

CPR28 NOMINATED SUB-CONTRACTORS AND SUPPLIERS

- 28.1 Contract Procedure Rules apply to the nomination of a sub-contractor or supplier for carrying out works or services or supplying goods or materials.
- 28.2 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £50,000 then unless in the opinion of the Responsible Officer there are grounds for exemption, competitive written quotations shall be sought in accordance with CPR 18.
- 28.3 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £50,000 then unless in the opinion of the responsible Service Manager there are grounds for exemption, tenders shall be invited in accordance with CPR 20.
- 28.4 Any exemption from these Procedure Rule requirements must comply with CPR 5.

SECTION 4: CONTRACTS AND OTHER FORMALITIES

CPR29 FORM OF CONTRACT

29.1 Every Contract exceeding £100,000 in value and in any other case where the Director of Resources so decides, shall either be documented using an approved Standard Form of Contract or be in writing in a form approved by the Director of Resources and shall specify:

- a) the works or services to be performed and/or the goods or materials to be supplied;
- b) the parties to the contract including any guarantor;
- c) the price to be paid with a statement of discounts or other appropriate adjustments;
- d) the time within which the Contract is to be performed or carried out;
- e) that the Provider will not assign the Contract without the written consent of the Council;
- f) any appropriate restriction on sub-contracting by the Provider;
- g) where appropriate that the Provider will pay liquidated damages or other damages to the Council should the terms of the Contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable;
- h) any performance bond or parent company guarantee required and the Responsible Officer shall consult with the Head of Legal and Democratic Services before including or excluding such a requirement in the tender documents;
- i) that the Provider will adopt safe methods of work and comply with all other requirements of the Health and Safety at Work Act 1974;
- j) that the Council may cancel the Contract and recover any loss if the Provider, its employees, agents and sub-providers offer any reward relating to the Contract or commit any offence under the Prevention of Corruption Acts 1889 to 1916 or have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972;
- k) that the Provider shall comply with UK Data Protection legislation and indemnify the Council in respect of the use, disclosure or transfer of personal data by the Provider, its employees, agents and sub-Providers.
- l) that services will be delivered to all customers fairly and without unlawful discrimination in support of the Council's obligations under the Public Sector Equality Duty as set out in the Equality Act 2010. The Provider shall not unlawfully discriminate within the meaning of the Race Relations Act 1976 or any comparable statutory provision relating to discrimination in employment, and shall ensure that all employees, agents and sub-contractors do not unlawfully discriminate, and shall comply with all relevant codes of practice issued by the Equalities and Human Rights Commission, or comparable body and, so far as is practicable, operate an equal opportunities policy which complies with the practical guidance and recommendations contained in such codes of practice;
- m) Payment arrangements, including reference to the payment of valid, undisputed invoices by the Council within 30 days. It will be a condition of the contract that the Contractor/Supplier is required to include similar provisions in their contracts, and so on, down the supply chain.

29.2 In every contract, the Contractor shall be required to indemnify the Council against;

- a) any claim which may be made in respect of employers' liability against the Council or the Contractor by any workmen employed by the Contract or any Sub Contractor in the execution of the works or the provision of goods and services;
- b) any claim for bodily injury to or damage to property of third parties;

- c) any claim which be may be made under the Health and Safety at Work etc Act 1974 against the Council or the Contractor unless such claim is substantially due to the neglect of the Council or any of its Officers.

29.3 In respect of 29.2 above, the Contractor shall be required by the Head of Legal and Democratic Services to produce satisfactory evidence that he is insured against any such claims.

29.4 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that, as the case may be, all goods and materials used or supplied and all workmanship shall be in accordance with that Standard.

CPR30 EXECUTION OF CONTRACTS

30.1 Contracts with a value of less than £50,000 may be signed by the relevant member of Corporate Management Team.

30.2 Every Contract which exceeds £50,000 in value shall either be signed or sealed for and on behalf of the Council by the Director or be executed as a deed.

CPR31 CONTRACT VARIATION

31.1 Where by reason of any extra or variation (other than a Contract extension under CPR 20.1(d)) it is apparent that:

- a) the tender sum is to be exceeded by 10 per cent; or
- b) the variation would extend the Contract period by more than three months or 50 per cent of the original Contract period; or
- c) if the works, services or goods to be added or deleted from the Contract are substantially different in scope

31.2 The Responsible Officer shall report the same to the Director of Resources and the Head of Legal and Democratic Services.

31.3 Should further variations as set out in CPR 31.1 above arise after the Responsible Officer's report, these further variations shall also be reported as set out in CPR 31.2 above.

31.4 Details of all variations shall be reported to the Executive on a regular basis as part of the regular monitoring / budgetary control process ensuring compliance with Financial

31.5 Procedure Rules.

CPR32 UNSATISFACTORY PROGRESS

32.1 If the Executive is satisfied following consideration of a report from a Responsible Officer that a Contractor has not completed a contract in a satisfactory manner, such Contractor shall not thereafter for a period of three years be invited to tender, be included on an Approved List or, if the said Contractor submits a tender in response to a public advertisement, that tender shall not be considered.

SECTION 5: CONTRACT MANAGEMENT

CPR 33 MANAGING CONTRACTS

33.1 Members of Corporate Management Team are responsible for allocating contract management responsibilities for all new contracts. All contracts must have a named Contract Manager for the entirety of the contract.

CPR34 RISK ASSESSMENT AND CONTINGENCY PLANNING

34.1 A business case must be prepared for all procurements with a potential value over the EU threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

34.2 For all contracts with a value over £100,000, contract managers must;

- a) maintain a risk register during the contract period;
- b) undertake appropriate risk assessments; and
- c) for identified risks, ensure contingency measures are in place.

CPR35 CONTRACT MONITORING, EVALUATION AND REVIEW

35.1 All contracts which have a value higher than the UK threshold limits or, irrespective of value, which the Executive designates, must be subject to regular formal reviews with the contractor.

35.2 During the life of the Contract, the Responsible Officer must monitor in respect of, but not limited to, the following;

- a) performance;
- b) compliance with specification and contract;
- c) cost;
- d) any value for money requirements;
- e) risk management;
- f) user satisfaction.

SECTION 6: CONTRACTS FOR THE SALE OF ASSETS

CPR36 DISPOSAL OF ASSETS

36.1 Before negotiations on the disposal of an asset reach the stage of provisional agreement for sale or tenders are invited for the disposal of land, the Executive shall have declared the asset surplus to the Council's requirements to be marketed for sale or, if there is unlikely to be any competition, shall have approved negotiations with one party (CPR 42). If appropriate, approval will have been granted for the submission of a planning application for development.

CPR37 DISPOSAL OF ASSETS – ESTIMATED VALUE NOT EXCEEDING £10,000

37.1 Sales of assets (including land) which have a value of less of £10,000 or less, disposal should be by competitive tender or public auction with notification via the Council's website, or as per the procedures below and in accordance with the Officer Scheme of Delegation.

CPR38 DISPOSAL OF ASSETS – ESTIMATED VALUE EXCEEDING £10,000

38.1 Sales of assets (including land) which have a value of less of £10,000 or less, disposal should be by competitive tender or public auction with notification via the Council's website, or as per the procedures below and in accordance with the Officer Scheme of Delegation.

CPR39 ADVERTISEMENT

39.1 Where an asset (land or property) is marketed for sale, sales particulars will be produced and the asset will be advertised widely, including electronically, and by other means most appropriate for the subject asset. Sealed tenders will be invited by a specified closing date and may include the requirement for a binding contract pack together with payment of a 10% deposit to be submitted with the Tender. Any deposit would be refunded to unsuccessful tenderers. The sales particulars will advise interested parties that the Council is **not** obliged to accept any tender.

39.2 Sealed tenders will be opened and recorded in writing by the Head of Legal and Democratic Services or his/her nominated representative.

39.3 The highest offer will be accepted and reported to the Executive (except where delegated powers to officers allow the sale to be completed without reporting back to Executive). All marketing of the asset will cease at this stage.

39.4 In the event of a late tender which is higher than the highest tender received within 15 working days of the notified last date for tenders, all tenderers will be advised of the amount of the late tender and be requested to submit their 'best and final' financial tender in the form of a sealed bid by a set date no more than 15 working days following the receipt of the late tender. Only the first late tender received shall trigger the process by which best and final sealed tenders are invited. The tenders will be opened in accordance with Rule 39.2. The highest tender at that date must be accepted and no further offers shall be considered. Subject to the Executive's approval to accept the higher tender, Legal Services must then be instructed to complete the sale with early exchange of contracts.

39.5 Subject to the agreement of the Director of Resources, an exemption from Rules 39.1 will be granted if;

- a) the assets to be disposed of are so specialised that only a limited number of potential buyers are available but in such cases a reasonable number of those potential buyers shall be invited to submit tenders;
- b) there would be no genuine competition (for whatever reason);
- c) sales are to be by Auction.
- d) Disposal is to be in accordance with CPR40, CPR41 or CPR42.

The reason for the exemption will be included in the report to the Executive recommending that the asset is declared surplus for disposal.

CPR40 DISPOSAL OF LAND AT A DISCOUNT

40.1 Ordinarily, in accordance with s123 of the Local Government Act 1972, the Council is required to obtain 'best consideration' for the disposal of land. However, the General Disposal Consent (England) 2003 includes provisions to allow disposal of land at less than 'best consideration'.

40.2 In addition to compliance with these Contract Procedure Rules where applicable, any disposal of land at a value less than 'best consideration' must only be undertaken;

- a) in accordance with the General Disposal Consent (England) 2003 which, amongst other things, limits the value of any discount to £2million; and
- b) with the approval of the Executive following a report including;
 - unrestricted value of the land (i.e. the best price reasonably obtainable for the land on terms that are intended to maximise consideration (and assessed in accordance with the General Disposal Consent (England) 2003);
 - the value of discount being given; the reasons for giving the discount;
 - the restricted value.

CPR41 LAND EXCHANGE (OTHERWISE REFERRED TO AS 'LAND SWAPS')

41.1 In the event that a land exchange is proposed to the Council, the prospective purchaser should express interest in acquiring the land in writing and specify the particular purposes for which the land is required and the equivalent land being exchanged. The Council's land should not be exchanged for speculative purposes. No respective land values should be discussed or agreed at this stage.

41.2 Following a report from the Responsible Officer setting out the benefits and disadvantages of the proposal and any financial and legal implications including respective independent valuations of each area of land, the Executive will consider the proposed land exchange and the reasons why it is being recommended. The Executive will decide (acting on behalf of the Council in its capacity as Vendor) if the proposal is acceptable in principle and whether to agree in the particular circumstances (which will be recorded) that the negotiations should proceed following this procedure.

41.3 Following approval in principle by the Executive, the Responsible Officer will inform the prospective purchaser that;

- a) the Council is following this procedure;
- b) until such time as a legally binding agreement to dispose of the land is entered into, the Council is obliged to consider any other offers for the land which may be received.

41.4 Negotiations must be in writing.

41.5 Subject to the proposed land exchange being considered reasonable, the terms and conditions of the disposal will be reported to the Executive for approval.

41.6 In the event that the land exchange needs to be dealt with urgently, the approval of the Strategic Director in consultation with the Group Leaders will be sought and the terms reported to the next meeting of the Executive. The application of this rule should be by exception and should not be the normal procedure for land exchanges.

41.7 If applicable, exchange of contracts for the land exchange should be conditional upon planning permission being obtained for the use proposed by the purchaser. In the event that planning permission is not granted, the Council will not be liable to the prospective purchaser for any costs relating to the proposed exchange.

CPR42 DISPOSAL BY WAY OF NEGOTIATED TENDER PROCEDURE FOR SALE TO ONE PARTY

42.1 The prospective purchaser should express interest in acquiring the land in writing and specify the particular purposes for which the land is required. The land should not be required for speculative purposes. No price should be discussed at this stage.

42.2 The Executive will consider the proposed use of the land and the reasons why it is being recommended that negotiations should proceed by way of negotiated tender for disposal to one party.

42.3 The Executive will then decide (acting on behalf of the Council in its capacity as Vendor) if the proposed use is acceptable, whether to declare the land surplus to requirements and whether to agree in the particular circumstances (which will be recorded) that the negotiations should proceed following this procedure. Prior to this, Property Services should establish whether any planning uses other than the one proposed by the purchaser will yield a higher value and inform the Executive if this is the case so that this can be considered as part of the decision to dispose of the asset. Negotiations must be in writing.

42.4 The prospective purchaser should be informed that:

- a) the Council is following this procedure;
- b) until such time as a legally binding agreement to dispose of the land is entered into, the Council is obliged to consider any other offers for the land which may be received.

42.5 The prospective purchaser should be invited to make a 'best and final' financial offer for the land taking into account any terms and conditions of the sale, state and condition of the land.

42.6 If the 'best and final' financial offer is considered to be reasonable, the terms and conditions of the disposal will be reported to the Executive for approval.

42.7 In the event that the disposal needs to be dealt with urgently, the approval of the Strategic Director in consultation with the Group Leaders will be sought and the terms reported to the next meeting of the Executive. The application of this rule should be by exception and should not be the normal procedure for disposal.

42.8 If appropriate the exchange of contracts to dispose of the land to the prospective purchaser may be conditional upon planning permission being obtained for the use proposed by the purchaser. In the event planning permission is not granted, the Council will not be liable to the prospective purchaser for any costs incurred relating to the proposed disposal.

CPR43 CONTRACTS TO BE IN WRITING

43.1 Unless the assets to be disposed of are such that the title passes on delivery, every contract shall be in writing.

APPLICATION FOR EXEMPTION FROM CONTRACT PROCEDURE RULES

Contact Officer:	Date of request:
Directorate:	Service:
Name of Contractor:	
Amount of the contract <i>(estimated or actual)</i>	Expenditure Code and Budget Provision <i>(please provide the expenditure code and confirm whether or not the scheme is grant funded)</i>
Nature of Contract: <i>(include contractor details, items/services to be provided commencement date and expected duration)</i>	
Is the Request retrospective? Yes / No	
Are there any Conflicts of Interest with this request? Yes / No	
Please outline the CPR's you wish to exempt <i>(please quote para no.)</i>	
Please explain why you want an exemption to the above CPR and how you have satisfied yourself that the procurement requirements do not apply? See CPR 5.	
How was this particular contractor selected and what evidence do you have to demonstrate value for money? Have any alternative arrangements been considered?	
What is the proposed action to be taken at the end of the exception? <i>(i.e. contract terminates or to be re-commissioned/procured- if the latter please provide further details of</i>	

how this will be achieved.)

APPROVAL

The information provided on this form is correct. The proposed expenditure is within Budget and Policy Framework and is in accordance with the requirements of the Contract Procedure Rules with the exception of those for which an exemption is being applied for.

Signature of Director / Head of Service	Date:
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Please email completed forms to Phil Hartup, System Accountant, Finance.

FINAL SIGN OFF BY DIRECTOR OF RESOURCES

TO BE DELETED AS APPROPRIATED

Accepted

I have no objections to the exemption sought and I am satisfied that value for money can be demonstrated.

Signature of Director of Resources	Date:
Date reported to Accounts and Audit Committee:	

Declined

Signature of Director of Resources	Date:
Reasons for declining	

EQUALITY CONSIDERATIONS IN PROCUREMENT

Background

When conducting procurement activities, the Council must ensure it meets the legal obligations under the Equality Act 2010 and its associated Public Sector Equality Duty in a way that is consistent with achieving value for money and relevant public procurement law.

What is the Public Sector Equality Duty?

The PSED is contained within section 149 of the Equality Act 2010. It requires those public bodies which are subject to the duty, to have due regard to the three aims of the duty:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it.

The PSED should help to ensure that public goods and services are accessible to, and meet the diverse needs of all users to ensure that no one group is disadvantaged in accessing public goods and services.

Who does the duty apply to?

The PSED applies to the public bodies listed in Schedule 19 to the Equality Act 2010 (when they are exercising their functions, including procurement) and to other organisations when carrying out a public function¹. In terms of public procurement, departments should be aware of the following:

- Contracting out a service to which the PSED applies – if a department is contracting out a service to which the PSED applies, the department will need to consider whether the contractor would need to meet certain requirements of the PSED in carrying out that service so that the department can fulfil its duty.
- Contracting out a public function – the successful contractor will be required to fulfil the requirements of the PSED in respect of the public function that it is performing but not beyond that function, e.g. in its wider business/functions. Although this is a statutory duty on the contractor, it would usually be set out in the contract conditions. In addition to the statutory duty on the contractor, the department's PSED itself is non-delegable and so, the public body subject to the PSED remains liable for compliance with its duty and not the contractor.

'Due regard' and assessing relevance

The public procurement rules allow for equality-related issues to be taken into account in the procurement process where they are relevant to the subject matter, or relate to the performance, of the contract. 'Due regard' in the context of public procurement means consciously considering the relevance of the three aims of the duty to the individual procurement and ensuring that where

equality issues are incorporated into the procurement process, it is done in a proportionate way (i.e. the actions taken are proportionate to the degree of relevance of the equality issue to the individual procurement), taking into account value for money. It is important that the issues are looked at substantively and with an open mind, it is not enough to just note that there will be no negative impact, as there are parts of the duty which look at whether positive improvements can be made. It is good practice for those subject to the PSED to keep a record of the process of consideration to help demonstrate they have given real consideration to the three aims (whether or not equality is relevant to what is being procured). Departments should also be aware of their obligations to publish certain information under the Equality Act 2010 (Specific Duties Regulations)

The degree of relevance of equality will vary depending on the individual procurement.

For services, the degree of relevance is likely to be greater if:

- The service involves direct contact with the public
- The service combines technical performance with provision directly to the public, for example, transport services and communication services;
- The service will be performed on the public authority's premises, where the contractor's workforce will be in contact with the public authority's employees, for example, facilities management services.

For goods, the degree of relevance of equality is likely to be greater if:

- The goods need to meet specific technical needs of the user, for example, meeting the needs of disabled people to ensure that the goods are fit for purpose.

For works, the degree of relevance of equality is likely to be greater if:

- The works need to ensure accessibility for disabled people, for example, building accessibility for disabled people;
- The works are being performed on the public authority's premises where the contractor's workforce will be in contact with the public authority's employees or members of the public.

The extent to which equality can be reflected in the procurement process varies depending on both the degree of relevance of equality to the individual procurement and on the stage of the procurement process. A case-by-case assessment is needed. If in doubt, departments should seek advice from Legal Services.

Where it is clear from the start of the procurement, having conducted pre-procurement engagement and in identifying the need, that equality is not relevant to what is being procured, no further consideration or actions are required. The PSED is a continuing duty so if equality is a relevant consideration in what is being procured it should be considered at an early stage and throughout the procurement process (both beforehand and at the time a relevant decision is being made). As a matter of good practice, departments may wish to keep some formal record to show that they have considered the duty in conducting a procurement exercise.

Ensuring transparency

In keeping with relevant procurement law and the Government's commitment to be more transparent about how public money is spent, where equality requirements are being incorporated into the procurement process, this must be clearly set out in the tender documents and resulting contract documents.

Under the Government's transparency policy, all central government tender documents and contract for procurements over the value of £10,000 must be published on Contracts Finder. Greater transparency of tender documents and contracts will provide some indication as to whether and how equality has been incorporated into a particular procurement. This information will allow potential providers and the public to hold the Council to account where they believe that relevant equality considerations are not adequately addressed in a particular procurement or where they believe that such matters have not been incorporated in a proportionate way.

Procurement Policy Note 10/21 – Thresholds and Inclusion of VAT

<https://www.gov.uk/government/publications/procurement-policy-note-0921-thresholds-and-inclusion-of-vat>

UK Limit £213,477 (including VAT), £177,898 (excluding VAT)

Agent	A person or organisations acting on behalf of the Council or on behalf of another person
Approved List	A list drawn up in accordance with Rule CPR 12
Award Criteria	The criteria by which the successful quotation or tender is be selected
Award Procedure	The procedure for awarding a contract as specified in Rules CPR19,20, and 27
Best Value	<p>The duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council.</p> <p>The terminology has now in many cases been superseded by Value for Money.</p>
Bond	An insurance policy: if the contractor does not do what it has promised to do under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of costs arising from the contractor's failure.
Candidate	Any person who asks or is invited to submit a quotation or tender
Chief Officer	The officers defined as such in the Council's Constitution
Code of Conduct (employee)	The code regulating the conduct of Officers
Committee	A committee which has the power to make decision for the Council, for example a joint committee with another local authority, but not a scrutiny committee
Constitution	<p>The constitutional documents approved by the Council which;</p> <ul style="list-style-type: none"> • Allocates powers and responsibilities within the Council and between it and others • Delegates authority to act to the Executive, Committees and Officers • Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertaken the work
Contracting Decision	<p>Any of the following decisions;</p> <ul style="list-style-type: none"> • Composition of approved lists • Withdrawal of invitation to tender • Whom to invite to submit a quotation or tender • Shortlisting • Award of contract • Any decision to terminate a contract
Democratic and Legal Services Manager	As identified in the Council's Constitution.
EU Procedure	The procedure required by the EU where the total value of the contract exceeds the EU threshold

European Economic Area	For details view http://www.companieshouse.gov.uk/about/miscellaneous/listeeaCountries.shtml
Financial Procedure Rules	The Financial Procedure Rules outlining officer responsibilities for financial matters issued by the Director of Resources in accordance with the Council's Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, on particular with regard to price, and where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs.
Invitation to Tender (ITT)	Invitation to Tender documents in the form required by these Contract Procedure Rules.
Nominated Suppliers and Sub Contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non Commercial Considerations	<ul style="list-style-type: none"> • The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters'); • Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self employed persons of their services only; • Any involvement of the business activities or interests of contractors with irrelevant field of government policy; • The conduct of contractors or workers in industrial disputes between them or any involvement in the business activities of contractors in industrial disputes between other persons; • The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests, of contractors; • Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees; • Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support; • Use or non use by contractors of technical or professional services provided by the authority under the Building Act 1984 <p>Workforce matters and industrial disputes as defined above cease to be non commercial considerations to the extent necessary or expedient to comply with Best Value, or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.</p>
Parent Company Guarantee	A contract which binds a parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next few years.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).

Relevant Contract	Contracts to which these Contract Procedure Rules apply.
Responsible Officer	The officer designated by the Chief Officer to deal with the contract in question. Ordinarily, this will be a member of Corporate Management Team.
Shortlisting	The process of selecting candidates who are to be invited to quote or bid or to proceed to final evaluation.
Tender	A candidate's proposal submitted in response to an Invitation to Tender.
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows;</p> <ul style="list-style-type: none"> • Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period; • Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months; • Where the contract is for an uncertain duration, by multiplying the monthly payment by 48 months or the annual payment by 4 years; • For feasibility studies, the value of the scheme or contracts which may be awarded as a result; • For nominated suppliers and sub contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated suppliers and sub contractors.
Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) SI 2006 No 246	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
Value for Money	Value for money is not the lowest price possible; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.