

SECTION 2 - COUNCIL FUNCTIONS

1. These are local authority functions which cannot be the responsibility of the Executive. References to the Regulations are to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. The functions in Column 1 are reserved or delegated to the body or officer specified in Column 2. Matters reserved to a specific group or committee or sub-committee are specified in Section 5 of this part of the Constitution. The extent of delegation to the Chief Executive and Directors is shown at Section [78](#) of this part of the Constitution in the Scheme of Delegation to Officers.

Function Column 1	Reservation or Delegation of Function Column 2
All those functions for which the Council is responsible relating to town and country planning and development control set out in Regulation 2 and Schedule 1 of the Regulations	Planning Committee/Strategic Director of Place
All those functions for which the Council is responsible relating to the protection and treatment of hedgerows and the preservation of trees set out in Regulation 2 and Schedule 1 of the Regulations	Planning Committee/Strategic Director of Place
All those functions for which the Council is responsible relating to public rights of way set out in Regulation 2 and Schedule 1 of the Regulations	Planning Committee/Strategic Director of Place
All those functions for which the Council is responsible relating to licensing and registration and the grant of consents and refusals set out in Regulation 2 and Schedule 1 of the Regulations	Licensing Committee/ Strategic Director of Place
All those functions for which the Council is responsible governing health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations	Strategic Director of Place

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Function Column 1	Reservation or Delegation of Function Column 2
All those functions relating to elections set out in Regulation 2 and Schedule 1 of the Regulations	Council/Chief Executive
Functions relating to the name and status of areas and individuals set out in Regulation 2 and Schedule 1 of the Regulations	Council
Power to make, amend, revoke, re-enact or enforce byelaws set out in Regulation 2 and Schedule 1 of the Regulations	Council
Power to promote or oppose local or personal bills set out in Regulation 2 and Schedule 1 of the Regulations	Council
Power to make and amend procedure rules	Council
Power to make contract standing orders	Council
Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council/Chief Executive and Directors
Duty to make arrangements for the proper administration of financial affairs	Council
Power to appoint officers for particular purposes (appointment of Proper Officers)	Council/Monitoring Officer
Duty to designate an officer as the Head of the Authority's Paid service	Council
Duty to designate an officer as the Monitoring Officer and to provide staff	Council

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Function Column 1	Reservation or Delegation of Function Column 2
Duty to approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts	Audit and Governance Committee
Power to make a closing order on a takeaway food shop	Chief Executive <u>and Strategic Director of Place</u>
Powers relating to scrutiny	Council

SECTION 3 - RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

1. The Council has the discretion to choose which part of the structure should be responsible for certain functions (known as "Local Choice Functions"). These are set out in Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Regulations). The Council has determined that these functions will be the responsibility of the bodies set out in Column 2. In turn, the decision making body delegates may delegate to the person or body specified in Column 3.

1. Function	2. Decision Making Body	3. Delegation of Function
Functions under local Acts (other than a function specified in Regulation 2 and Schedule 1 of the Regulations)	Cabinet	Heads of Service
<u>The conduct of best value reviews under Local Government Act 1999</u>	<u>Cabinet</u>	<u>Chief Executive</u>
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	Strategic Director of Place
<u>Any function relating to contaminated land</u>	<u>Cabinet</u>	<u>Strategic Director of Place</u>
The service of an abatement notice for a statutory nuisance	Cabinet	Strategic Director of Place
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Cabinet	
Inspections for statutory nuisance	Cabinet	Strategic Director of Place

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1. Function	2. Decision Making Body	3. Delegation of Function
Investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Strategic Director of Place
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Cabinet	Strategic Director of Place
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Cabinet	Heads of Service
The appointment or revocation of appointment of any individual to any office/body other than the Council	Council	Chief Executive
The making of agreements with other local authorities and external agencies for the placing of staff and joint working arrangements	Council	Chief Executive
All those functions for which the Council is responsible relating to Community Governance Reviews as set out in Part 4 of Chapter 3 of the Local Government and Public Involvement in Health Act 2007	Council	Chief Executive

SECTION 4 - RESPONSIBILITY FOR EXECUTIVE ARRANGEMENTS

1. EXECUTIVE ARRANGEMENTS

“Executive arrangements” are arrangements by the Authority for the creation and operation of an executive of the Authority under which certain functions of the Authority are the responsibility of the executive. The law vests all Executive responsibilities in the Leader of the Council who may choose to delegate them in any manner allowed by law. The Leader can decide that decisions of the Executive may be taken by:

the Executive (known as the Cabinet)

a member of the Cabinet (subject to the provisions set out in paragraph 4 below)

a committee of the Cabinet (subject to the provisions set out in paragraph 4 below)

an officer

by another authority

by joint arrangements, such as a joint committee

At each annual Council meeting the Leader will inform Council of how he/she intends Executive powers to be exercised over the ensuing municipal year. He/she may alter these at any time during his/her period of office. Such changes may be reported to Council by the Leader.

2. CABINET

Membership: The Leader together with five members appointed by the Leader.

Quorum: Three councillors

Functions:

1. To be responsible for strategic and policy co-ordination.
2. To recommend major new policies (and amendments or revisions of existing policies) to the Council for approval as a part of the Authority’s Budget and Policy Framework (Article 4 of this Constitution).
3. To prepare and agree other policies and strategies ([including the Medium Term Financial Strategy](#)) for implementation and to respond to consultation documents.

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4. To recommend to the Council the annual budget, including the Capital and Revenue Budgets and the level of Council Tax and The Council Tax base.
5. To consider, at least annually, the level of reserves, provisions, and balances held by the Authority and recommend any changes to the Council.
6. To ensure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time. This will include recommending to Council any changes to policy that will materially reduce or increase the services of the Authority or create significant financial commitments in future years.
7. To take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the full Council.
8. To exercise the Authority's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
9. To oversee the implementation of Best Value.
10. To consider and respond to recommendations and reports from the [Scrutiny CommitteesPolicy Development Group](#) and other Council Committees and Bodies.
11. To monitor expenditure on the capital programme.
12. To approve those major service developments or reductions which also constitute Key Decisions.
13. To receive and consider reports from the External Auditor (including the Management Letter) and agree any appropriate action.
14. To consider the reports of external review bodies on key aspects of overall service delivery.
15. To ensure that the promotion of the rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services.
16. To carry out the Authority's responsibilities for improving the economic, social and environmental well-being of the District and increasing the availability and equality of access to employment.
17. To review and monitor the Authority's strategy and overall implementation on e-Government, telecommunications, information systems and information technology, making recommendations to the Council as required.

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18. To oversee the provision of all the Council's services other than those functions reserved to the Council.
19. To manage and maintain the Authority's housing stock.
20. To manage and maintain the Authority's other property portfolio.
21. To collect the Council Tax, National Non-Domestic Rates, periodic income and sundry debts.
22. To provide, manage and keep under review the concessionary bus fares scheme.
23. To exercise the Authority's powers for planning and responding to civil emergencies.
24. To exercise the Authority's functions as Local Planning Authority (except to the extent that those functions are by law the responsibility of the Council), including supplementary planning guidance, and designating conservation areas.
25. To oversee the Authority's overall policy on the voluntary and community sector.
26. To approve:
26.1 the purchase, ~~sale~~ or appropriation of land and buildings where the market value of the transaction exceeds £10030,000 and to approve leasing (or otherwise) property where throughout the term the annual rental will exceed £2040,000; and
26.2 the disposal of land and buildings where the market value of the transaction exceeds £30,000 and to approve the grant and renewal of leases of land and buildings where the annual rental exceeds £40,000.
27. To authorise the making of compulsory purchase and control orders.
28. To write off debts of more than £10,000.
29. To write off stocks, stores and other assets and to write off any losses of money or stores or to settle claims.
30. To write off as non-refundable credits on accounts of more than £10,000.
31. To accept tenders and award contracts, including those which exceed budgetary provision and are within the Council's agreed budget (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).

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32. To receive reports on contract overspends in accordance with limits set out in the Financial Procedure Rules and agree the action to be taken.
33. To give grants or loans to charitable, voluntary bodies or other bodies where permitted by law.
34. To promote and develop international exchanges and links with towns and cities in other countries.
35. To exercise the powers and duties of the Authority under Sections 13 and 14 of the Public Order Act 1986.
36. To be the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs.
37. To confer with other local authorities, government departments, statutory bodies, voluntary bodies, the police or other external agencies in order to discharge the responsibilities vested in the Cabinet.
38. To resolve any matters in dispute between Cabinet members.
39. To determine and deal with all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by the Cabinet.
40. To make decisions where no other tier of government has responsibility or where a policy or strategy does not exist.
41. To approve any waiver of Contract Procedure Rules, in accordance with a written report which has been approved by the Monitoring Officer and a report for information to the next convenient meeting of Cabinet.
42. Dealing with any petitions referred to Cabinet in accordance with the Council's adopted petition scheme.
43. To oversee the Authority's Food Law and Enforcement Service Plan.

SECTION 7 - SCHEME OF DELEGATION TO STAFF - COUNCIL AND EXECUTIVE FUNCTIONS

1. SCOPE OF THE SCHEME

This scheme sets out the extent to which the powers and duties of the Authority are delegated to officers.

2. EXERCISE OF DELEGATED POWERS

- 2.1** Functions, tasks and responsibilities listed in this scheme of delegation may be exercised by the nominated officer(s) and includes anything which facilitates, or is conducive or incidental to, the discharge of these functions, tasks, or responsibilities.
- 2.2** Where an officer has been given delegated authority by this scheme he or she may authorise any member of his or her staff to act on his or her behalf except the signatories to financial documents (paragraph 10 post) on matters relating to the Council's banking.
- 2.3** An officer may always refer a delegated matter to the Cabinet or the Council or to one of its Boards or Committees for consultation or decision rather than take the decision him/herself.
- 2.4** When exercising delegated powers officers must always have regard to the financial, legal and human resource implications of the decision. When necessary, advice should be taken.
- 2.5** Before taking a decision under delegated powers, an officer shall notify the relevant portfolio holder of any action which is likely to be contentious or politically sensitive.
- 2.6** The Chief Executive, Strategic Director of Housing & Customer Services and Strategic Director of Place shall keep portfolio holders informed of the work of their service area.
- 2.7** When exercising delegated powers officers shall consult with staff in another service area if the decision is likely to impact on the work of that service area.
- 2.8** When exercising delegated powers an officer shall always have regard to the requirements of the Constitution.
- 2.9** The Chief Executive may authorise one officer to exercise the delegated powers of another officer in the absence of the latter except the signatories to financial documents (paragraph 10 post) on matters relating to the Council's banking.
- 2.10** This scheme does not delegate to an officer any matter which:

- 2.10.1** has been reserved to the full Council
- 2.10.2** has been reserved to any board or committee
- 2.10.3** has been reserved to the Cabinet
- 2.10.4** may not by law be delegated to an officer.

3. GENERAL FUNCTIONS TO BE DISCHARGED BY THE CHIEF EXECUTIVE AND DIRECTORS

- 3.1** To take such action as may in his or her opinion be necessary or appropriate in connection with:
 - 3.1.1** all operational management matters for these functions and service areas for which he or she has responsibility under this Constitution and the enforcement of all legislation relating to his/her functions and service areas;
 - 3.1.2** persons and/or property for which he or she and his or her service has responsibility;
 - 3.1.3** the implementation of decisions properly authorised by the Council or a board or committee of the Council, the Cabinet or an individual member of the Cabinet or by an officer acting under delegated powers;
 - 3.1.4** the performance of any action for which he or she is specified as responsible in any policy, procedure or other document approved or adopted by the Council or a board or committee of the Council, the Cabinet or an individual member of the Cabinet or by an officer acting under delegated powers.
 - 3.1.5** The response to consultation documents following consultation with the relevant portfolio holder(s).
- 3.2** To serve a requisition for information about an interest in land using powers relevant to the operation of the service area.
- 3.3** To authorise officers to conduct directed surveillance or the use of covert human intelligence sources and the accessing of communications data in accordance with the Regulation of Investigatory Powers Act 2000. (Such authorisation to be presented to the Magistrates Court for approval). The use of juveniles and vulnerable individuals as covert human intelligence sources shall only be authorised by the Chief Executive.
- 3.4** To award contracts within budget up to the value set out in the table in paragraph 5.10 of the Contract Procedure Rules (and such authority is delegated to subordinate officers based on their level of financial authorisation

as set out in paragraph 5.9 of the Contract Procedure Rules) unless the contract is in respect of a matter that has been previously approved by Cabinet in which case the Directors may award contracts of a higher value than set out in the table in paragraph 5.10 of the Contract Procedure Rules subject to it being within the approved budget for that scheme (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).

- 3.5** To sign contracts of a value below £25,000 or some other officer authorised by him or her to do so.
- 3.6** To approve jointly with the Section 151 Officer acquisitions of land in respect of their service area up to a capital value of £10030,000 per site in consultation with the relevant Portfolio Holder.
- 3.7** To approve jointly with the Section 151 Officer disposals of land in respect of their service area up to a capital value of £30,000 per site in consultation with the relevant Portfolio Holder.

4. CHIEF EXECUTIVE

4.1 Head of Paid Service

- 4.1.1** To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and in this role:
 - a) to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
 - b) to give professional advice to all parties in the decision making process (the Cabinet, Scrutiny Bodies, the Council, Boards and Committees);
 - c) to ensure that the Authority has a system of record keeping for all key and executive decisions (a key decision is defined at page 26);
 - d) to ensure that the Authority achieves and delivers its objectives; and
 - e) to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).
- 4.1.2** To co-ordinate, direct and monitor the Authority's initiatives to achieve Best Value in the delivery of its functions.
- 4.1.3** To be responsible for performance review issues.

- 4.1.4** After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.
- 4.1.5** To suspend the Strategic Director of Place, Strategic Director of Housing & Customer Services and Heads of Service where their continued presence at work may prejudice an investigation or where there is a *prima facie* case of gross misconduct; the members of the Cabinet to be notified as soon as possible after the action is taken in accordance with the Employment Procedure Rules contained in the Constitution.
- 4.1.6** To make interim appointments to fill vacancies, and to make interim designations as Chief Finance Officer and Monitoring Officer where a vacancy arises in such position, the term of each such appointment or designation not to extend beyond 18 months without the confirmation of the Appointments Panel.
- 4.1.7** All activities in connection with the Council's Human Resources function including:
 - (a) To determine all staffing matters in accordance with the Officer Employment Procedure Rules. This includes determining matters relating to structure (additions, reductions and other changes to the establishment) as she considers appropriate following consultation with the Leader and Deputy Leader.
 - (b) The appointment, dismissal or discipline of staff, except in relation to those posts listed in paragraph 1.2 of the said Rules.
 - (c) Where the decision of the Head of Paid Service taken under (a) above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the Cabinet, provided that the remit of the Cabinet shall be limited to decisions on financial matters only.
 - (d) The Head of Paid Service may delegate the discharge of this function to another officer.
- 4.1.8** To make agreements with other local authorities and external agencies in compliance with the Council's CPRs for the placing of staff and joint working arrangements (including committing expenditure within authorised budgets).
- 4.1.9** To authorise the use of juveniles and vulnerable adults as covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.

4.2 Elections

4.2.1 To act as Returning Officer, Local, Acting or Deputy Returning Officer in:

- a) Local Elections
- b) Parliamentary Elections
- c) European Elections
- d) Police and Crime Commissioners' Elections
- e) Referenda

4.2.2 To undertake the duties of Electoral Registration Officer.

4.3 Corporate Leadership

4.3.1 To lead the Corporate Leadership Team.

4.3.2 After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.

4.3.3 To consider and co-ordinate any investigation by the Local Government Ombudsman.

4.3.4 To consider and report on any report of the Local Government Ombudsman and to decide on and implement the action to be taken.

4.3.5 To take urgent action necessary to protect the interests of the Authority, some or all of the Authority's area or some or all of the inhabitants of the Authority's area.

4.4 Civic Functions

4.4.1 All activities in connection with the Council's civic/ceremonial function.

4.5 Service Functions

4.5.1 Key strategic partnerships including LLEP

4.5.2 Performance management

4.5.3 Project management

4.5.4 Local strategic partnerships/LEPs.

4.5.5 Health and safety (internal).

4.5.6 Risk management.

4.5.7 Communications and consultations.

- 4.5.8** Media management, public relations and marketing.
- 4.5.9** Corporate overview on diversity issues.
- 4.5.10** Information management including Data Protection and Freedom of Information.
- 4.5.11** Elections and electoral registration.
- 4.5.12** National Land and Property Gazetteer.
- 4.5.13** Legal services (without prejudice to the statutory role and function of the Monitoring Officer)
- 4.5.14** Members' services and members' development (xv) Strategic asset management including land sales.
- 4.5.15** Administration of meetings of the Council, Boards, Committees a Sub-committees and typing and clerical services.
- 4.5.16** Internal Audit.
- 4.5.27** Human Resources.
- 4.5.18** Emergency Planning.
- 4.5.19** Street naming and numbering and replacement of street nameplates.
- 4.5.20** Corporate complaints procedure.

5. STRATEGIC DIRECTOR OF PLACE

- 5.1** The officer is authorised by the Council to discharge the following functions and determine directly or in consultation with the Chief Executive all matters except those reserved by or referred to Council, the Cabinet or Committees.

5.2 Service Functions

- 5.2.1** All activities in relation to the discharge of the Council's function as Local Planning Authority, including planning policy, development control, land reclamation and drainage.
- 5.2.2** All activities in relation to the discharge of the Council's functions as the Local Building Regulation Authority and "Building Control Body" (excluding street naming and numbering and replacement of street nameplates).
- 5.2.3** All functions in relation to waste, recycling and street cleansing and street scene.

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- 5.2.4** Economic development and regeneration.
- 5.2.5** Engineering design.
- 5.2.6** Enforcement of byelaws and orders of the Council including car parking.
- 5.2.7** Cemeteries, burials and closed church yards.
- 5.2.8** Public conveniences.
- 5.2.9** Town centre management including markets/fairs (including farmers' markets).
- 5.2.10** Fleet management.
- 5.2.11** Green space including allotments.
- 5.2.12** Sanitation including cesspools, septic tanks, etc.
- 5.2.13** Land charges.
- 5.2.14** Awarding schedule of rates contracts.
- 5.2.15** Social inclusion.
- 5.2.16** Community safety and CCTV.
- 5.2.17** Community health, development and social regeneration.
- 5.2.18** Leisure facilities - management and operation including sports and recreation facilities.
- 5.2.19** Cultural services.
- 5.2.20** Arts, entertainment, heritage and tourism and tourist information.
- 5.2.21** Sports and leisure development.
- 5.2.22** Gypsies and travellers.
- 5.2.23** Community enterprise.
- 5.2.24** External resources, grants and bids support.
- 5.2.25** Private sector housing (including affordable housing).

SPECIFIC FUNCTIONS

5.3 Council Functions

- 5.3.1** Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning town and country planning and development control set out in Regulation 2 and Schedule 1 of the Regulations and in particular:
- (a) to agree non-material variations to conditions of permissions and consents where no objections have been received and no demonstrable harm would be caused to an interest of acknowledged importance;
 - (b) to decide details submitted in compliance with conditions on planning permissions;
 - (c) to negotiate obligations under Section 106 of the Town and Country Planning Act 1990, including any obligations that may be required in connection with any appeal proceedings;
 - (d) to serve building preservation notices or listed building notices in an emergency.
- 5.3.2** Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning the protection and treatment of hedgerows and the preservation of trees set out in Regulation 2 and Schedule 1 of the Regulations and in particular:
- (a) to give permission to cut down or lop trees protected by a tree preservation order or by virtue of their location in a conservation area;
 - (b) to determine complaints received under the provisions of the High Hedges Regulations 2005 and specify remedial action to resolve the complaint in accordance with the national guidance and initiate enforcement action as necessary.
- 5.3.3** Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.
- 5.3.4** To exercise all those functions for which the Council is responsible concerning health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.

5.4 Executive Functions

- 5.4.1** To make or revoke a direction under Article 4 of the General Development Order 1995.
- 5.4.2** To recommend to Cabinet the designation or extension of an area as a conservation area.
- 5.4.3** To exercise any function related to contaminated land.
- 5.4.4** To inspect for a statutory nuisance and to investigate any complaint about the existence of a statutory nuisance.
- 5.4.5** To serve an abatement notice for a statutory nuisance.
- 5.4.6** To administer the Building Regulations.
- 5.4.7** All activities relating to the discharge of the function as a Licensing Authority under all relevant legislation.
- 5.4.8** Subject to those matters reserved for decision by the Licensing Committee, the Licensing Sub-committee and the Taxi and Private Hire Sub-committee, to exercise all those functions for which the Council is responsible concerning licensing and registration and the grant of consents and refusals set out in Regulation 2 and Schedule 1 of the Regulations including the determination of applications for licences, permits and registrations.
- 5.4.9** All activities in relation to the discharge of the environmental health function of the Council, including environmental protection/enforcement, occupational health and safety, food safety, animal welfare, environmental strategy, pest control and the appointment of Port Medical Officer(s) and/or Consultants for Communicable Disease Control.
- 5.4.10** To issue a closing order on a takeaway food shop.

6. STRATEGIC DIRECTOR OF HOUSING & CUSTOMER SERVICES

6.1 Housing

The officer is authorised by the Council to discharge all activities in relation to the discharge of the Council's function as Local Housing Authority either directly or in consultation with the Chief Executive all matters except those reserved by or referred to Council, the Cabinet or Committees.

- 6.1.1** To operate the housing allocations scheme, allocate properties and make nominations to registered social landlords or other approved providers.
- 6.1.2** To determine whether people are homeless and whether they are in priority need.
- 6.1.3** To allocate temporary accommodation.
- 6.1.4** To collect rent, arrears of rent, charges and sundry debts.
- 6.1.5** In addition to the Head of Legal and Commercial Services, to institute, defend or participate in any legal proceedings in the county court insofar as they relate to:
 - (a) former tenant rent arrears, and
 - (b) rent possession hearings,
 - (c) and in conjunction with this to designate nominated officers to carry out this function on his or her behalf, including the signing of any related document necessary to any legal procedure or proceedings.
- 6.1.6** To represent the Authority and appear as an advocate on the Authority's behalf in any related legal proceedings.
- 6.1.7** To serve notice of seeking possession, notice to quit and applying for possession orders.
- 6.1.8** To determine applications by tenants to alter their homes.
- 6.1.9** To reimburse tenants for tenants' improvements.
- 6.1.10** To transfer tenancies into joint names and vice-versa.
- 6.1.11** To agree mutual exchange.
- 6.1.12** To take immediate action to secure the removal of trespassers from housing land and property.
- 6.1.13** To determine the eligibility of applicants to right to buy.
- 6.1.14** To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, after consulting with tenants and Ward Members, and in consultation with the Portfolio Holder.
- 6.1.15** To sign a Closure Notice issued under the Anti-Social Behaviour Crime and Policing Act 2014.

6.2 Property Services

The officer is authorised by the Council to discharge all activities in relation to the management and maintenance of all of the Council's non-housing property, assets and facilities including:

- 6.2.1** ~~To administer all aspects of housing benefit and Council Tax benefit.~~
- 6.2.2** ~~To discharge the Authority's responsibilities for billing, collection and enforcement of Council Tax, non-domestic rates and all valuation matters.~~
- 6.2.3** ~~To deal with demands and notices, liabilities, reliefs and exemptions, and for non-domestic rates to recommend to the Cabinet guidelines for the granting of discretionary rate relief, partially occupied properties and hardship relief and administer the scheme in accordance with the approved guidelines.~~
- 6.2.4** ~~In addition to the Head of Legal and Commercial Services to represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings involving the executive functions referred to paragraph 5.4.1 and 5.4.2 above.~~
- 6.2.51** To grant and determine temporary lettings and licences of Council owned land and buildings.
- 6.2.26** To enter into deeds of dedication on such terms as the DirectorChief Executive sees fit.
- 6.2.73** To agree perpetual and fixed term easements and wayleaves on such terms as the DirectorChief Executive sees fit.
- 6.2.48** To determine rent reviews and to instigate and participate in arbitrations.
- 6.2.95** To agree terms for the surrender of leases.
- 6.2.106** To authorise action to determine a lease in the event of rent arrears or other breach of covenant.
- 6.2.117** To agree terms for waiving covenants, whether freehold or leasehold.
- 6.2.128** To approve and issue consents for assignments, sub-lettings, alterations, additions and changes of use.
- 6.2.139** To make and settle claims for dilapidation.

- 6.2.1410** To appropriate land belonging to the Authority at proper value.
- 6.2.115** To agree the grant and renewal of leases of land and buildings where the annual rental does not exceed £40,000.
- 6.2.126** To dispose of freehold land where the market value does not exceed £30,000.
- 6.2.137** Following consultation with Asset Management Group, to approve the Asset Management Policy.
- 6.2.148** Notwithstanding the above, to undertake acquisitions and disposals of land up to a value of £10,000 per site in accordance with and to give effect to the Council's policies and programmes (subject to provision of a monthly list of such acquisitions and disposals to the appropriate Cabinet member and the Policy Development Group).
- 6.2.19** ~~To determine applications for discretionary non-domestic rural rate relief following consultation with the ward member(s) for the settlement concerned and the portfolio holder.~~

6.3 Customer Services

The officer is authorised by the Council to discharge all activities in relation effectively acknowledging and responding to enquiries made by citizens, including:

- 6.3.1** Development and maintenance of the Council's ICT infrastructure.
- 6.3.2** the Council's customer services structure.

6.4 Finance

- 6.4.1** Accountancy services.
- 6.4.2** Finance, financial planning and procurement.

6.4.3

6.5 Revenues and benefits.

The officer is authorised by the Council to discharge all activities in relation to the Council's function as a revenues and benefits authority, including:

6.25.1 To administer all aspects of housing benefit and Council Tax benefit.

6.25.2 To discharge the Authority's responsibilities for billing, collection and enforcement of Council Tax, non-domestic rates and all valuation matters.

6.25.3 To deal with demands and notices, liabilities, reliefs and exemptions, and for non-domestic rates to recommend to the Cabinet guidelines for the granting of discretionary rate relief, partially occupied properties and hardship relief and administer the scheme in accordance with the approved guidelines.

6.25.4 In addition to the Head of Legal and Commercial Services to represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings involving the executive functions referred to in paragraphs 56.45.1 andto 56.45.23 above.

6.5.5 To determine applications for discretionary non-domestic rural rate relief following consultation with the ward member(s) for the settlement concerned and the portfolio holder.

7. AND ARISING FROM HIS/HER RESPECTIVE FUNCTIONS THE CHIEF EXECUTIVE AND DIRECTORS ARE AUTHORISED:

- 7.1** To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.
- 7.2** To co-ordinate and monitor work through approved plans and policies, ensuring compliance with targets and performance to the relevant Board or committee.
- 7.3** To determine the level of charges for Council services in order to maximise income and in accordance with agreed charging policies.
- 7.4** To ensure compliance with and discharge of all relevant legislation, Acts of Parliament orders, regulations and directives and the Council's policies and procedures (including all enforcement matters).
- 7.5** To provide and submit a bid for resources in accordance with the approved budget process.
- 7.6** To support members in their monitoring and community governance roles.
- 7.7** To recommend to the Head of Legal and Commercial Services the prosecution or instigation of any legal proceedings on behalf of the Council.
- 7.8** To issue licences and registrations relating to any of the approved functions.
- 7.9** To support the Cabinet in the development of the Council's policy framework.

- 7.10** In the absence of the Chief Executive and in accordance with the agreed rota, to undertake on his/her behalf such actions as are required to enable the Council to fulfil its functions.

8. HEAD OF LEGAL AND COMMERCIAL SERVICES

8.1 Monitoring Officer

- 8.1.1** To exercise the functions of the Authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- 8.1.2** Whilst changes to the “[executive arrangements](#)” [within the](#) Constitution may only be [made](#)[changed](#) by resolution of the full Council after consideration of the proposal by the Monitoring Officer [\(unless they are changes to “executive arrangements” which may be made at the discretion of the Leader\)](#), the Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and [to implement](#) decisions of the Council and of the Cabinet.

8.2 Legal Proceedings

- 8.2.1** Acting on the recommendations of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.
- 8.2.2** To negotiate and settle claims and disputes without recourse to court proceeding including the use of alternative dispute resolution.
- 8.2.3** To represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings.
- 8.2.4** To apply for an anti-social behaviour order.

8.3 Urgent Action

- 8.3.1** In any circumstances where urgent action is required, acting on the recommendation of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, or where otherwise duly authorised, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council and to take immediate

legal action to enforce rights or obligations when he or she considers it to be in the interests of the Authority to do so.

8.4 Authority to Sign Documents in Legal Proceedings

8.4.1 To sign the following on behalf of the Council:

- (a) Any document necessary in legal proceedings on behalf of the Council and
- (b) Informations and complaints, and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless Statute provides otherwise.

8.5 Authority to Sign Contracts and Other Documents

8.5.1 To sign any contract and other documents whether under seal or not.

8.6 Arbitration

8.6.1 Acting on the recommendation of the Chief Executive or the Directors, to refer contractual disputes to arbitration and to give agreement as to the appointment of such arbitrator.

8.7 Compensation

8.7.1 After consultation with the Chairman of the Audit and Governance Committee, to make compensation payments of up to £500 to victims of maladministration.

8.8 Counsel

8.8.1 To instruct Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Authority.

8.9 Proper Officers

8.9.1 To designate “Proper Officers” for the purpose of particular statutory functions and to make any changes needed to the table at Section 8 in Part 3 of the Constitution.

9. SPECIFIC DELEGATION TO OFFICERS IN CONSULTATION WITH OTHERS

9.1 Chief Executive

- 9.1.1** Consideration of pastoral measures and to respond after consultation with ward members.
- 9.1.2** In consultation with the Strategic Director of Place, to negotiate and conclude agreements under Section 106 of the Town and Country Planning Act 1990 along lines previously approved by Planning Committee.
- 9.1.3** Subject to consultation with the Highway Authority and the police and ward members, to make orders under Section 21 of the Town Police Clauses Act 1847 relating to the temporary closures of streets and temporary direction of traffic.
- 9.1.4** Subject to consultation with ward members and the Strategic Director of Place, to make public path orders under the Town and County Planning Act 1990 and to confirm unopposed orders.
- 9.1.5** Subject to consultation with ward members and the Strategic Director of Place, to make public path orders under the Highways Act 1980 and to confirm unopposed orders.
- 9.1.6** In consultation with the Chairman of the Cabinet, ward members, the Strategic Director of Place, Ashby Town Council and the Highways Authority, to agree the grant of a licence, its terms and conditions for the operation of the annual Statutes Fair at Ashby de la Zouch.
- 9.1.7** Subject to consultation with ward members and the Strategic Director of Place, to respond to consultations made by Leicestershire County Council with regard to proposed public footpath orders where the orders are unopposed.
- 9.1.8** To determine applications for bonfires on Council land subject to consultation with ward members, the Strategic Director of Place as appropriate and Fire Officer.
- 9.1.9** Subject to consultation with the relevant Director, relevant Heads of Service and ward members, to approve and issue licences for the temporary use of Council owned land.
- 9.1.10** Following consultation with the relevant Director, to reject applications to purchase Council owned land.
- 9.1.11** The approval of lease cars to employees.

9.2 Strategic Director of Place

- 9.2.1** To lodge objections with traffic commissioners against applications for haulage licences subject to consultation with ward members and to

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report to next Planning Committee (in connection with those objections lodged by the Local Planning Authority).

- 9.2.2** In consultation with ward members, to make responses to Leicestershire County Council and the Highways Agency on traffic proposals.

10. DESIGNATED AUTHORISED OFFICERS

10.1 Signatories to Financial Documents

Chief Executive
Head of Finance
Head of Legal and Commercial Services
Finance Team Manager
[Strategic Finance Manager](#)
Exchequer Services Team Leader

11. JOINT ARRANGEMENTS

- 11.1** The Council has entered a joint arrangement with neighbouring District Councils and the County Council for the enforcement of decriminalised parking.
- 11.2** The Council has entered a joint arrangement with neighbouring Councils for the administration of Revenues and Benefits.
- 11.3** The Council has entered a joint arrangement with the local authorities in Leicester, Leicestershire and Rutland for the establishment of a Police and Crime Panel.
- 11.4** [The Council has entered a joint arrangement with neighbouring District Councils under which Blaby District Council discharges the Council's functions in relation to Disabled Facilities Grants](#)

4.7: CONTRACT PROCEDURE RULES

1. INTRODUCTION

Purpose of these Standing Orders

- 1.1 These Standing Orders are made pursuant to s135 of the Local Government Act 1972. These Standing Orders have been prepared in accordance with the Public Contracts Regulations 2015, the Authority's policies and to facilitate small and medium enterprises in the local area the opportunity to enter the Authority's supply chain.
- 1.2 These Standing Orders set out how the Authority will invite tenders, obtain quotations and award contracts for supplies, services or works. Their role is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the Authority's policies and the law. It is important that they are viewed as an aid to good management and compliance and not as a hindrance.

Contracts outside the scope of these Standing Orders

- 1.3 Where the Authority is disposing of goods, officers shall seek advice from the Head of Finance and have regard to the provisions of the Financial Procedure Rules.
- 1.4 These rules do not apply to:
(a) contracts withbetweenother local authorities for the joint delivery of services or discharge of functions, save the obligation to secure value for money for the Authority.. These rules do not apply to transactions for the sale, purchase or lease of land or property.
(b) transactions for the sale, purchase or lease of land or property;
(c) contracts which benefit from any exemption to the Public Contracts Regulations 2015 contained in Regulation 12 of those regulations.

Probity and Compliance

- 1.5 Responsibility for compliance with these Standing Orders remains at all time with officers. It shall be the responsibility of the Directors to ensure that staff within his or her directorate comply with these Standing Orders.
- 1.6 No contract shall be entered into unless adequate budgetary provision has been made for the award of that contract.
- 1.7 Any officer, whether a direct employee of the Authority or engaged through an external organisation or supplier who is engaged to work on behalf of the Authority shall, if they become aware of any relationship (current or past), whether pecuniary or not, with any supplier or potential supplier, make a

Declaration of Interest to the relevant Head of Service at the earliest opportunity. Where the relevant officer is the Head of Service, a Director or the Chief Executive, the declaration shall be made to another Director or the Chief Executive.

- 1.8 An officer with an interest in a contract shall take no part in advising on the Authority's dealing with that contract without the authorisation of the Head of Service, Director or Chief Executive (as the case may be). Unless such authorisation is obtained, if. If the officer is present at a meeting when the contract is discussed, he or she shall forthwith declare that interest and withdraw from the meeting while it is under discussion, unless the chair of the meeting invites him or her to remain.
- 1.9 The Chief Executive shall record in a book, to be kept for the purposes of recording any notice given by an officer of the Authority, under 1.7 above and/or Section 117 of the Local Government Act 1972 and the book shall be open during office hours to the inspection of any member of the Council.

2. VALUE FOR MONEY

Value of the Contract Opportunity and Aggregation

- 2.1 The Authority is under a duty to ensure that funds are spent in a way that achieves "value for money" for the Authority. Officers involved in procuring supplies, services or works should be mindful of this duty.
- 2.2 When an officer has identified the need to procure supplies, services or works, the relevant Head of Service or their nominated officer shall assess the value of the proposed arrangement. The value is the total amount that the Authority expects to pay for the contract over a rolling period, either in a single sum or periodically over time. Unless the exact duration of a contract is known, officers should use a 4 year period as the nominal duration of a contract when considering aggregating spend.
- 2.3 Purchases should be aggregated to make the best use of the Authority's purchasing power. Where a recurring pattern of purchases can be identified for similar supplies, services or works across the Authority, consideration shall be given to whether one contract would represent better value in terms of price, service, invoicing or other administrative costs. It is the Head of Services' responsibility to have due regard to the aggregation of contract values.
- 2.4 The principles of aggregation in EU procurement law are designed to ensure that authorities do not deliberately split contracts which have similar characteristics into separate contracts so that they fall below the relevant thresholds (unlawful disaggregation).

- 2.5** Notwithstanding this, procuring officers shall consider the sub-division of procuring supplies, services or works into lots, facilitating access for small and medium enterprises. Where the decision is taken not to sub-divide a procurement into lots, the reasons shall be recorded.

The Procurement Hierarchy

- 2.6** When an officer has identified a need to procure new supplies, services or works, they shall first consider these options in turn (the Procurement Hierarchy):
- 2.6.1 any current arrangements in existence in-house;
 - 2.6.2 any existing contracts entered into by the Authority; and
 - 2.6.3 any provision available through other third party contracts or framework agreements, including those provided by public sector buying consortia, where they can be shown to offer value for money for the Authority.
- 2.7** Where the officer determines that no provision is available from the sources in the Procurement Hierarchy or that in the circumstances they do not represent value for money, they shall have regard to these Standing Orders in determining which procurement option is the appropriate one to follow.
- 2.8** The Head of Finance is responsible for maintaining a schedule of the Authority's planned procurements. [Head of Service](#) shall be responsible for ensuring that all contracts proposed to be entered into by the Authority in the coming financial year are notified to the Procurement Team for inclusion in the procurement plan.

3. SPECIAL CIRCUMSTANCES (EXEMPTION AND WAIVER)

Exemption

- 3.1** Notwithstanding the provisions of these Standing Orders and subject only to the requirements of law:
- 3.1.1 exemption from any of the provisions of these Standing Orders may be granted by the Council acting through the Chief Executive (or where appropriate, Acting or Deputy Chief Executive), in consultation with the Chief Finance Officer and the Monitoring Officer, upon it being shown to their satisfaction that there are **special circumstances** justifying such exemption. Such special circumstances shall fall under at least one of the following two categories:
 - (a) only one supplier is available for technical or artistic reasons and no reasonable alternative or substitute exists and the

absence of competition is not the result of an artificial narrowing of the parameters of the procurement;

- (b) extreme urgency exists for unforeseen reasons which are not attributable to the Authority and the various time limits cannot be met. Inadequate forward planning would not constitute special circumstances and an exemption shall not be permitted in such circumstances,
- 3.1.2 any request under 3.1.1 above shall be made in writing on the approved form which shall be certified by the officers specified in 3.1.1 above; and
- 3.1.3 the Cabinet shall be informed of the exercise of any authority pursuant to this Standing Order by the Directors or Chief Executive and any such report will include confirmation that the officers specified in 3.1.1 have been consulted and such exemption granted

Waiver

- 3.2 If, in exceptional circumstances, authority is sought from Cabinet to waive these Standing Orders, the report to Cabinet must give adequate reasons and specify precisely the procedures to be waived and must first be approved by the Monitoring Officer.
- 3.3 Where specific legislation requires the Authority to let a contract differently from as set out in these Standing Orders, these Standing Orders shall be deemed waived without recourse to Cabinet, Council or the Statutory Officers.

4. FRAMEWORK AGREEMENTS

- 4.1 Where it is determined to use a framework agreement to meet the identified need of the Authority, the officer shall seek the advice of the Procurement Team and Legal Services in relation to the use of such framework and the contractual arrangements.
- 4.2 When calling-off supplies, services or works under a framework agreement, the selection procedure, including award criteria, from within the framework agreement shall be used. Officers must comply with all rules and regulations set out within a framework agreement in relation to direct call-off of contracts (direct award) and re-opening of competition between providers appointed on to that framework (mini-competition).

5. SELECTING A PROCUREMENT ROUTE

Initial Considerations

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- 5.1** In relation to any contract for the supply of supplies, services or works to the Authority the functions described in Section 17(4) of the Local Government Finance Act 1988 shall be exercised without any reference to any of those matters set out in Section 17(5) of that Act. (Section 17(4) describes the functions to which this legislation applies and Section 17.5 details what is regarded as non commercial issues that must be ignored when entering into a contract for the supply of supplies, services or works). This shall at all times be subject to the provisions of 5.2 below.
- 5.2** In relation to any contract for the supply of services not through an existing framework or existing arrangement, the officer shall have regard to the considerations set out in the Public Services (Social Value) Act 2012. Specifically, the officer must consider how the services might (in addition to the service requirement) improve the economic, social and environmental well-being of the district and how the procurement itself might be conducted to secure that improvement.
- 5.3** All procurement documents (including business questionnaires, specifications and contracts) shall be completed prior to advertising the contract opportunity.

Procedures for Determining Which Procurement Option to Follow

- 5.4** Where an officer has reasonably determined not to use any available options in the Procurement Hierarchy, the following provisions shall apply.
- 5.5** When the officer has assessed the value of the proposed arrangement (see above), the appropriate procurement route shall be determined in accordance with the Threshold Table (below).
- 5.6** Notwithstanding the provisions in the Threshold Table, lower value procurements can be conducted using a more sophisticated process as long as it remains objectively reasonable and proportionate to do so and secures open, transparent and fair competition.

Threshold Table

Contract Value		Process	Award Procedure based on	Advertise Contract Opportunity	Documentation
From	To				
Minor Purchases					
£0	£999	No prescribed process	Officer's discretion	N/A	Purchase Order
Band A					

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£999	£25,000	Quotation	Seeking a minimum of three written quotations	N/A	Budget holder to record details when authorising order
Band B					
£25K	EU	Formal Tender	Full Tender Process	Source-Leics NWL Web site Contracts Finder	ITT documentation using NWL E-tendering Portal
NOTE: the EU threshold is a figure set out by the EU and varies from time to time. Please seek advice from the Procurement Team.					
Band C					
EU	Above	Formal Tender	Full Tender Process	OJEU Source-Leics NWL Web site Contracts Finder	ITT documentation using NWL E-tendering portal

Authority to award contracts

- 5.7** Officers may only enter into a contract if they have sufficient authority to do so. Legal advice in respect of authority to award contracts can only be given to the extent that such authority is set out in the Constitution. Officers are responsible for knowing the extent of any delegated authority they may have and ensuring they do not exceed that.
- 5.8** The Authority's Constitution contains the Scheme of Delegation, which sets out what decisions can be made by which body, individual or group of individuals. For the purposes of awarding contracts, the following Authorisation Table provides an initial indication of where those decisions sit. However, officers should take advice from Legal Services as to the appropriate source of authority to award where they are unsure.

Authorisation Table and Signatories

- 5.9** It is for individual Officers to ascertain the limits of their authority to award contracts and orders. Some Officers have unlimited authorisation levels, please see Paragraph 11 – Designated Authorised Officers of Section 7 – Scheme of Delegation to Staff, Council and Executive Functions. An officer may award a contract provided that the value of that contract does not exceed their level of financial authorisation (see paragraph D.5 of the Financial Procedure Rules). The below table provides a guide for Officers in salary bands A-I, who should check with their line managers and/or the finance department as to what they are and are not authorised to commit the Council to.

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- 5.10** The authority to award a contract (i.e. decide that the contract should be given to a particular supplier) is separate from authority to sign the contract. Contracts under which the Council will be liable for sums valued up to £25,000 may be signed by any officer (or awarded by issuing a purchase order) provided that the contract value does not exceed their financial authorisation. All contracts above £25,000 must be signed by the Head of Legal and Commercial Services or their appointed nominee.

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Authorisation Table

	Approval	Reference in Constitution
<u>Contracts that are:</u> <u>- more than £250,000 in total;</u> <u>- more than £100,000 and above (unless term is less than 5 years and contract does not exceed £100k in any one year; OR</u> <u>- more than 5 years long in which case threshold is £250k)</u>	Cabinet (Financial Key Decision)	Section 4 (2)(31)
<u>Contracts that are:</u> <u>- less than Up to £250,000 in total;</u> <u>- Less than £100,000 in any one year; AND</u> <u>- (where term is less than 5 years long and contract does not exceed £100k in any one year)</u>	Chief Executive or Relevant Director	Scheme of Delegation paragraph 3. <u>4(iv)</u>
Up to £99,999	Chief Executive or Relevant Director	Scheme of Delegation paragraph 3. <u>4(iv)</u>
Up to £49,999	Heads of Service	As set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
Up to £24,999	Team Managers	As set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
Up to £9,999	Officers in salary bands G, H and I, at the request of their Director, <u>or</u> Head of Service <u>or</u> Team Manager	Dependent on individual post and as set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
Up to £4,999	Officers in salary bands D, E and F,	Dependent on post and as set by the Statutory Officers

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	at the request of their Director, or Head of Service, or Team Manager	(paragraph D.5 of the Financial Procedure Rules)
Up to £2,000	Officers in salary bands A, B & C, at the request of their Director, or Head of Service, or Team Manager	Dependent on post and as set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)

- 5.11** Contracts under which the Council will not incur any costs (such as Information Sharing Agreements or grant documents where the Council is receiving the grant) and contracts for the provision of goods or services in return for a revenue payment may be signed by any Team Manager, Head of Service, Director or the Chief Executive.