

## **5.9 - CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS**

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### **1. INTRODUCTION**

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
  - 1.3.1 Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2 Members should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3 Members should make decisions on merit.
  - 1.3.4 Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - 1.3.5 Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6 Members should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Members and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications

for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

- 1.7 This Code of Practice sets out principles to guide members and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.
- 1.8 Members of Planning Committee are required to be impartial at all times and should refrain from wearing any item that indicates a political affiliation, stance, lobby or similar influence (such as clothing in party colours party, party emblems etc) in the course of site visits conducted by the planning committee. Similarly, members shall not make political statements whilst on any business concerned with the functions of Planning Committee.

## **2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

- 2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals in the wider public interest.
- 2.4 Members' decisions shall not discriminate in favour of any individuals or groups and they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Members shall provide:
  - 2.7.1 Impartial and professional advice;
  - 2.7.2 Consistency of interpretation of planning policy; and
  - 2.7.3 Complete written reports covering all necessary information for a decision to be made.

- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, it's Members or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is. If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Members to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.10 The Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 of the Local Government Act 2000.
- 2.11 Members shall follow the advice in the Member's Code of Conduct about accepting gifts and hospitality. Members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.

### 3. **INTERESTS OF MEMBERS**

- 3.1 Where members have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the member will not be able to approach matters with an open mind and consider the application on its planning merits, members should consider withdrawing from the Committee for that item.
- 3.3 These principles apply equally to members who are not members of Planning Committee. Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 Members should seek guidance from officers.
- 3.5 Members of Planning Committee and Officers who attend Planning Committee regularly must complete the Annual Return required for this purpose.
- 3.6 The Code of Conduct for Members provides guidance as to personal and prejudicial interests which may affect a member's ability to take part in the decision-making process. However, members may have other interests which may influence their decision which will not amount to personal or prejudicial interests for the purposes of the Code. In order to maintain the integrity of the planning system, members should be

careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:-

- 3.6.1 from ward concerns;
- 3.6.2 from membership of other Committees of the Council;
- 3.6.3 from membership of other public or community bodies;
- 3.6.4 from membership of voluntary associations and trusts (including where appointed by the Council);
- 3.6.5 from a connection with a particular policy initiative of the Council;
- 3.6.6 from membership of clubs, societies and groups; and
- 3.6.7 from hobbies and other leisure interests.

Such interests may mean that a Member is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a member from participating in making the planning decision when the matter is considered by Planning Committee providing that the member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the member considers that this is not possible, the member should withdraw from consideration of that item.

- 3.7 As a minimum, the integrity of the planning system requires openness on the part of members; it must operate fairly and be seen to operate fairly.

#### 4. **DUAL-HATTED MEMBERS AND MEMBERS ON OTHER BODIES**

- 4.1 Planning Committee members who are members of parish or town councils may find they are expected to express a view at a parish or town council meeting, or vote on whether or not the parish or town council should object or comment on a proposal from that parish or town council's point of view.
- 4.2 They may then have to consider the same matter as a District Council member if it is determined by the Planning Committee.
- 4.3 Members are also appointed to outside public bodies or internal boards or groups, who may then act as consultees or interested parties and are of course permitted to join interest groups which reflect areas of interest such as a local civic society, CPRE, etc.
- 4.4 Where members have dual parish/town and District Council membership, or are members of other consultee bodies or interested parties, they may find themselves having to vote differently on a matter when they consider it at District level, having heard the technical and legal background from officers.
- 4.5 This is not inconsistency, but the consequence of having to fulfil totally separate and different roles.
- 4.6 Where members have dual parish/town council/District Council membership or sit on consultee bodies and issues come up for discussion at different levels, members can

take part at the lower/consultee level provided that they have not already made up their mind on the matter and are not biased, and they:

- a) make it clear at the lower level that their views are expressed on the limited information before them;
  - b) they will reserve their judgement and independence to make up their own mind on separate proposal, based on their overriding duty to the whole community and not just to the people in that area ward or parish, as and when it comes before the District and when they have heard all of the relevant information; and
  - c) they will not in any way commit themselves as to how they or others may vote when the proposal comes before the Planning Committee at District level.
- 4.7 Membership of a parish or town council, consultee body or pressure group (and participation in its debates and votes) will not constitute a Disclosable Interest in a matter within its area or upon which it may or may not have commented on when it is considered at District level unless:
- a) The business of being considered substantially affects the wellbeing or financial standing or purpose of the relevant body.
  - b) The member or the body has taken a leading role in supporting or opposing the matter, within the area or elsewhere.
- 4.8 In (a) or (b) above a member is likely to have a Disclosable Pecuniary Interest where the business relates to the financial position of the body or a planning application or matter made by or relating to it.
- 4.9 However, members must give the above careful consideration, and remain bound by the other parts of the Members' Code of Conduct and this Code in relation to the matter.
- 4.10 Members who are a trustee or company director of a body whose matter is under consideration and where appointed by the Council should always disclose this as a Disclosable Pecuniary Interest where any financial benefit may accrue.

Note: The above advice represents a pragmatic approach to the participation of dual-hatted members in planning matters. As members are aware, the risk under the Code of Conduct and declaration of interests rests with the individual member. For that reason, members are further advised to consider the facts of each case before making a decision on their level of participation. This is particularly important in controversial/high profile matters and/or where the member may play a prominent role in the determination at District level. If a member is in doubt they are reminded to seek advice from the Monitoring Officer at an early stage.

## 5. **COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

- 5.1 Councillors who are not on the Planning Committee may make written representations to the Director of Services about a planning application in the same way that any other interested person may do so and may address the Planning Committee provided it would not constitute a Disclosable Pecuniary Interest or amount to a breach of any other obligations of the Code i.e., seeking to unduly influence the outcome of a planning application. For the avoidance of doubt where that interest is a Disclosable Pecuniary Interest, they are not permitted to participate in the planning process in their official capacity as a Councillor.

- 5.2 When a councillor who is not a member of the Planning Committee speaks at a meeting they shall disclose at the earliest opportunity any Disclosable Interest, the fact that they have been in contact with the applicant, agent, advisor or an interested party if this is the case, and make it clear whether they are speaking on behalf of such persons or any other particular interest. A councillor who has a Disclosable Non-Pecuniary Interest in a matter may attend a meeting of the Planning Committee at which that application is considered in order to speak, make representations, answer questions or give evidence in accordance with the Code of Conduct.
- 5.3 Any councillor who is not on the Planning Committee but who is at one of its meetings should sit separately from the Committee, so as to demonstrate clearly that they are not taking part in the discussion, consideration or vote.
- 5.4 They should not communicate in any way with members of the Planning Committee or pass papers or documents to them before or during the meeting.

## **6. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

- 6.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 6.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 6.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local Member when they may speak on matters of local concern but shall not vote.
- 6.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

## **7. DEVELOPMENT PROPOSALS SUBMITTED BY OR INVOLVING COUNCILLORS AND OFFICIALS IN THEIR PRIVATE CAPACITY**

- 7.1 Planning proposals submitted to their own Authority by councillors and officials in their private capacity or in which they are involved can give rise to suspicions of impropriety. Such proposals can take a variety of forms including planning applications and development plan proposals. It is, of course, perfectly legitimate for such proposals to be submitted. However, it is vital that they are handled in a way, which gives no grounds for accusations of favouritism, bias, or maladministration.
- 7.2 Officers whether or not they are members of the Royal Town Planning Institute (RTPI) should also have regard to and be guided by the RTPI's Code of Professional Conduct.
- 7.3 Should a member or officer submit their own proposal to the Authority in their private capacity they serve they must take no part in its processing. While they may properly seek pre-application advice from officers in exactly the same way as any other application, they must avoid all contact, whether direct or indirect, with members of the Planning Committee concerning the application. They can still represent their views to the Council, and seek to influence the decision in ways that are not improper. This could include:

- a) making written representations in the member or officer's private capacity;
  - b) using a professional representative on their behalf;
  - c) arranging for another member of the Authority to present the views of a member's constituent subject to that member's Code of Conduct obligations
- 7.4 For the sake of transparency in decision making, all planning applications submitted by a serving member or officer of the Council shall be determined by the Planning Committee. The Director of Services will notify the Monitoring Officer as soon as the application is received.
- 7.5 In addition, reasonable steps will be taken to ensure that applications submitted by:
- a) a person who has served as a member or officer of the Council in the five year period before the application was submitted; or
  - b) their respective co-habiting partners shall be determined by the Planning Committee.
- 7.6 Members of the Planning Committee must consider whether the nature of any relationship with the member (and/or officer) submitting the planning application requires that they make a declaration of interest and if necessary also withdraw from taking part in the determination of the application where the interest is a Disclosable Pecuniary Interest or is likely to breach some other obligation under the Code of Conduct.
- 7.7 No planning officer of the Council shall engage, other than on behalf of the Council, in any work on any town planning or related matter for which the Council is the local planning authority.
- 7.8 Members of Planning Committee should not act as agents or submit planning applications for other parties or voluntary bodies. To do so would give rise to the suspicion that the member was not impartial or may influence other members in the decision making process.
- 7.9 Any member who is a planning or similar agent will not be appointed to the Planning Committee.
- 7.10 Non Planning Committee members who act as agents (or advisors) for people pursuing a planning matter within the Authority must play no part in the decision making process for that proposal and must not seek to otherwise improperly influence the decision making process.
- 7.11 There may be occasions where the Council is the applicant for planning permission. Any councillor who was a party to the decision to apply for planning permission or who has previously expressed a view on the application shall not participate in the determination of the application by the Planning Committee.

## 8. **STATUTORY DUTIES**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

## 8.1 **Equality Act 2010**

Section 149 provides that:

- 8.1.1 A council must, in the exercise of its functions, have due regard to the need to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a protected characteristic and persons who do not share it.
- 8.1.2 The above powers relate to the following protected characteristics:-
- (a) Ages;
  - (b) Disability;
  - (c) Gender reassignment;
  - (d) Marriage and civil partnership;
  - (e) Pregnancy and maternity;
  - (f) Race (including colour, nationality and ethnic or national origins);
  - (g) Religion or belief;
  - (h) Sex; or
  - (i) Sexual orientation.

## 8.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

## 8.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

## 8.4 **Crime and Order**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the

exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

## 9. **LOBBYING OF AND BY MEMBERS**

- 9.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 9.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 9.3 The time for individual Members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 9.4 A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Planning Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members who are lobbied should:
- 9.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
  - 9.4.2 only give procedural advice;
  - 9.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 9.4.4 not seek to meet an applicant or potential applicant alone.
- 9.5 Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Planning Committee). Members shall not put pressure on officers for a particular recommendation.
- 9.6 The local Member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (either presenting their own views if they are an affected party or representing the views of their ward members) but not vote. The member of an adjacent ward substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, be allowed to attend and speak but not vote. A local Member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.

- 9.7 If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, subject to the rules of committee that Member shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 9.8 Members of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.
- 9.9 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

## **10. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 10.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 10.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 10.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 10.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 10.5 Members need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 10.6 Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

## **11. OFFICER REPORTS TO COMMITTEE**

- 11.1 The Head of Planning and Regeneration will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant

Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning and Regeneration shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Head of Planning and Regeneration in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

11.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

11.3 The Head of Planning and Regeneration will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## 12. **PLANNING CONSIDERATIONS**

12.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.

12.2 Members of Planning Committee should attend training sessions which may be organised from time to time. All other members are encouraged to attend.

12.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.

12.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:-

12.4.1 Government Guidance (contained in such documents as Circulars, National Planning Policy Framework, National Planning Policy Guidance, Mineral Policy Guidance Notes, Planning Policy Statements and Ministerial announcements);

12.4.2 Supplementary Planning Documents adopted by any related Committee;

12.4.3 non-statutory planning policies adopted by the Council;

12.4.4 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;

12.4.5 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;

12.4.6 representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;

12.4.7 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.

12.4.8 If deliberate unauthorised development has taken place

- 12.5 it should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 12.6 It is the responsibility of officers in preparing reports and recommendations to members to identify the material planning considerations and warn members about those matters which are immaterial planning decisions.
- 12.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.
- 12.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 12.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 12.10 It will be inevitable that all the considerations will not point whether to grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

### **13. THE DECISION MAKING PROCESS**

- 13.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 13.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 13.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 13.4 Where the Planning Committee decide to adopt the recommendation of the Head of Planning and Regeneration, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 13.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and Regeneration, (having first considered whether to defer the application), agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted by the Head of Legal and Support Services.
- 13.6 The reasons for Committee's decision to defer any proposal should also be recorded.

#### **14. SITE VISITS BY THE COMMITTEE**

- 14.1 A site visit may be held if the Head of Planning and Regeneration in consultation with Chair of the relevant committee considers it will assist members in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material. Members should try to attend site visits organised by the Council where possible.
- 14.2 Site visits will be organised in accordance with the following procedures:
- 14.2.1 The Head of Legal and Support Services will invite the local Member to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chair of the relevant Planning Committee the local Member for the adjacent division will also be invited.
  - 14.2.2 The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
  - 14.2.3 Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
  - 14.2.4 On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning and Regeneration, or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning and Regeneration, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
  - 14.2.5 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all members have the same information.
- 14.3 Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless you feel it is essential for you to visit the site other than through attending the official site visit and you have first spoken to the Head of Planning and Regeneration about your intention to do so and why (which will be recorded on file) and you can ensure you will comply with these good practice rules on site visits.

#### **15. REPRESENTATIONS ON PLANNING APPLICATIONS**

- 15.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee Members will be given the opportunity to inspect all letters received before the decision on the application is made.

15.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will apply:

15.2.1 The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. Both the applicant and the objectors will also be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do this and, if so, they will be invited to the meeting at which the decision is to be made. They must register to speak at the meeting by 12.00 noon on the last working day prior to the meeting and if they fail to do so they will not be allowed to speak unless the Chair exercises his discretion to permit them to do so. People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting. Speakers can also use the Council's IT system to make electronic submissions to the Committee provided that the submission is delivered to the Council by 12.00 noon at the latest on the last working day prior to the meeting.

15.2.2 Each group of speakers (objectors and supporters) will be allowed a maximum of three minutes to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.

15.2.3 At the meeting the Head of Planning and Regeneration will present his/her report first.

15.2.4 The objectors will make their representations, subject to a time limit of 3 minutes (except at the discretion of the Chair), and may be asked questions by the Committee.

15.2.5 The applicant will then make his or her representations, subject to a time limit of 3 minutes (except at the discretion of the Chair), and may be asked questions by the Committee.

15.2.6 Where the Chair exercises their discretion to extend the time limit for either the objectors or the applicant, then similar provision shall be made for the other parties (should they so wish) to ensure that all parties receive a fair hearing.

15.2.7 Officers may comment on the representations and the merits of the application

15.2.8 The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.

## 16. **REVIEW OF DECISIONS**

16.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

17. **VISITS TO APPLICATION SITES PREVIOUSLY CONSIDERED BY THE COUNCIL SHALL BE ORGANISED BY THE HEAD OF PLANNING AND REGENERATION AND SHALL BE OPEN TO ALL MEMBERS TO ATTEND. TRAINING**

17.1 Members should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

17.2 Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

#### 4. PLANNING COMMITTEE

**Membership:** Seventeen councillors

**Quorum:** Five councillors

Functions	Matters Reserved for a Decision
<p>The determination of all non-executive decisions under the Planning Acts including all planning applications and applications for advertisement consent, listed building consent and conservation area consent is delegated to the Director of Services except where:</p>	<p>(a) The application is contrary to the provisions of an approved or draft development plan policy and is recommended for permission, and in the opinion of the Director of Services the application is likely to:</p> <ul style="list-style-type: none"> <li>(i) be potentially controversial, or</li> <li>(ii) be of significant public interest, or</li> <li>(iii) have a significant impact on the environment, or</li> <li>(iv) raise matters which should be referred to the Planning Committee.</li> </ul>
	<p>(b) The application is submitted by or on behalf of the Council for its own development, except for the approval of development which is unlikely to have any major impacts and to which no objections have been received.</p>
	<p>(c) A legal agreement (S106 or similar) is required except in the case of minor non-contentious agreements or minor amendments to existing legal agreements.</p>
	<p>(d) A <b>ward</b> member has notified the Director of Services in writing or by e-mail within 3 weeks of the publication of the weekly list that</p>

Functions	Matters Reserved for a Decision
	<p>the application should be determined by the Planning Committee, and</p> <p>(i) the notification is supported by one or more planning grounds, <u>and</u></p> <p>(ii) where the item relates to a matter of local concern.</p> <p>Provided that this “call-in” shall not be exercised by any member with a Disclosable Pecuniary interest.</p>
	<p>(e) The details of an intended delegated decision on any application where material planning representations have been received in conflict with that recommendation have been circulated to the ward councillors concerned and to the Chairman of the Planning Committee, and</p> <p>(i) the ward councillor(s) has advised the Director of Services that he/she wishes the matter to be referred to the Planning Committee stating the reason for the request, and has confirmed that request and the reasons for it in writing within 5 working days of the list being sent out, and</p> <p>(ii) the Director of Services, in consultation with the Chairman of the Planning Committee decides that the application should be referred to the Planning Committee.</p>
	<p>(f) The application is submitted by:</p> <ul style="list-style-type: none"> <li>• a serving member or officer of the Council;</li> </ul> <p><u>except for the approval of</u></p>

Functions	Matters Reserved for a Decision
	<p><u>development which is unlikely to have any major impacts and to which no objections have been received.</u></p> <p>Reasonable steps will also be taken to ensure Planning Committee considers applications submitted by:</p> <ul style="list-style-type: none"> <li>• a person who has served as a member or officer of the Council in the five year period before the application was submitted, or their respective co-habiting partners.</li> </ul> <p><u>except for the approval of development which is unlikely to have any major impacts and to which no objections have been received.</u></p>
	<p>(g) The Director of Services refers any matter (under paragraph 2(iii) of the Scheme of Delegations set out in Section 7 below) including any consultation on an executive function, subject to the response being agreed with the relevant portfolio holder or agreed by Cabinet.</p>
<p>Making orders to revoke or modify planning permissions, to impose conditions to remove buildings or repair listed buildings.</p>	<p>All matters reserved.</p>
<p>Making tree preservation orders.</p>	<p>To consider objections or other representations.</p>
<p>Serving Building Preservation Notices or Listed Building Repair Notices.</p>	<p>All matters reserved except where necessary to serve a notice in an emergency.</p>

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
Public Footpath Orders under the Town and Country Act 1990.	To determine matters referred to it following the receipt of objections or other representations.
Footpath Diversion Orders under the Highways Act 1980.	To determine matters referred to it following the receipt of objections or other representations.

1. **INTRODUCTION**

1.1 **What are Financial Procedure Rules?**

- 1.1.1 Section 151 of the Local Government Act 1972 states that “every authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.
- 1.1.2 Financial Procedures provide the framework for managing the Council’s financial affairs. Financial Procedures are supported by more detailed Financial Management Standards which set out how the procedures will be implemented. These are listed in Appendix A.
- 1.1.3 The procedures identify the financial responsibilities of the full Council, the Cabinet and officers.
- 1.1.4 To avoid the need for regular amendment due to changes in post
  - (a) titles generic terms are included for officers as follows:
  - (b) The term, “Chief Finance Officer,” refers to the Section 151 Officer who is currently the Head of Finance.
  - (c) The term, “Chief Officers”, refers to the Council’s Chief Executive, and Directors.
  - (d) The term, “Monitoring Officer”, refers to the Head of Legal and Support Services.
  - (e) The term, “Chief Internal Auditor”, refers to the Senior Auditor.

1.2 **Why are they important?**

- 1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.
- 1.2.2 Good, sound financial management is a key element of Corporate Governance which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.
- 1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

- 1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

1.3 **Who do Financial Procedures apply to?**

- 1.3.1 Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.
- 1.3.2 These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- 1.3.3 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

1.4 **Who is responsible for ensuring that they are applied?**

- 1.4.1 Chief Officers and Heads of Service are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by his/her staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.
- 1.4.2 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Executive Members.
- 1.4.3 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.
- 1.4.4 Any person charged with the use or care of the Council's resources and assets should inform him or herself of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice.
- 1.4.5 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, he/she shall raise the issue with the Chief Finance Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

## 1.5 FINANCIAL REGULATION A: FINANCIAL MANAGEMENT

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### INTRODUCTION

- A.1** Financial management covers all financial accountabilities in relation to the running of the Authority, including the policy framework and budget.

### THE FULL COUNCIL

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- A.2** The full Council is responsible for adopting the Authority's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in its constitution. The full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3** The full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its Boards. These delegations and details of who has responsibility for which decisions are set out in the constitution.

### THE CABINET

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- A.4** The Cabinet is responsible for proposing the policy framework and budget to the full Council, and for discharging executive functions in accordance with the policy framework and budget.
- A.5** Cabinet decisions can be delegated to a sub-committee of the Cabinet, an individual Cabinet member or members or an officer
- A.6** Where A.5 occurs, the Cabinet is responsible for establishing protocols to ensure that individual Cabinet members consult with relevant officers before taking a decision within his, her or their delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### SCRUTINY COMMITTEES

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#### Policy Development Group

- A.7** The Policy Development Group is responsible for scrutinising executive decisions before or after they have been implemented and for holding the

Cabinet to account. The Policy Development Group is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Authority.

### **Audit and Governance Committee**

- A.8** The Audit and Governance Committee is established by the full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the code. It may also make recommendations to the full Council on the council's constitution.

### **Other Regulatory Committees**

- A.9** Planning and licensing are not executive functions but are exercised through the multiparty Planning and Licensing Committees under powers delegated by the full Council. The Planning and Licensing Committees report to the full Council.

## **THE STATUTORY OFFICERS**

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### **Head of the Paid Service (Chief Executive)**

- A.10** The Head of the Paid Service is responsible for the corporate and overall strategic management of the Authority as a whole. He or she must report to and provide information for the Cabinet, the full Council, the Policy Development Group and other Committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of the Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions (see below).

### **Monitoring Officer**

- A.11** The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Audit and Governance Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- A.12** The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He or she must also ensure that council members are aware of decisions made by the Cabinet and of those made by officers who have delegated executive responsibility.

- A.13** The Monitoring Officer is responsible for advising all councillors and officers about who has authority to take a particular decision.
- A.14** The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- A.15** The Monitoring Officer, together with the Chief Executive, is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- initiating a new policy
  - committing expenditure in future years to above the budget level
  - incurring transfers contrary to virement rules and limits
  - causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.
- A.16** The Monitoring Officer is responsible for maintaining an up-to-date constitution.

**Head of Finance (See A Statement on the Role of the Finance Director in Local Government (CIPFA, 1999))**

- A.17** The Head of Finance has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 2011.
- A.18** The Head of Finance is responsible for:
- the proper administration of the Authority's financial affairs;
  - setting and monitoring compliance with financial management standards;
  - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
  - providing financial information;

preparing the revenue budget and capital programme  
treasury management.

**A.19** The Head of Finance shall:

(i) report to the Cabinet with respect to the level of financial resources estimated to be available in each financial year;

(ii) report to the Cabinet quarterly with an annual outturn on the Council's financial position and performance;

(iii) report to the Cabinet in respect of the Medium Term Financial Strategy.

**A.20** Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council, Cabinet and External Auditor if the Authority or one of its officers:

has made, or is about to make, a decision which involves incurring unlawful expenditure;

has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Authority;

is about to make an unlawful entry in the Authority's accounts.

Section 114 of the 1988 Act also requires:

the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally

the Authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

## **OTHER OFFICERS**

### **Team Managers**

**A.21** The Chief Executive, Directors, Heads of Service and Team Managers are responsible for ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Head of Finance.

**A.22** It is the responsibility of Team Managers to consult with the Head of Finance and seek approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred

- A.23** Team Managers are responsible for the control and accountability of resources consumed and generated by their service areas.

## **OTHER FINANCIAL ACCOUNTABILITIES**

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### **Virement**

- A.24** The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- A.25** When a proposal arises to spend money or forego income from a budget area where an underspending would otherwise occur and the overall net expenditure of a Service Area is not altered by such changes this may be approved by the relevant Director/Head of Service/Team Manager in consultation with the Head of Finance.
- A.26** Where in exceptional or unexpected circumstances a Directorate is faced with a material increase in its net expenditure, which cannot reasonably be contained within its resource allocation figure for the year, the Chief Executive or Directors must (wherever possible, prior to incurring the expenditure) submit a request to Cabinet for a supplementary estimate to cover the additional expenditure. The Cabinet will also decide how the expenditure will be funded, e.g. from revenue, loan or otherwise.
- A.27** The Chief Executive, Directors and Heads of Service shall monitor revenue expenditure and the Asset Management Group (Capital Working Party) shall monitor Capital expenditure on a regular basis. Significant matters will be reported to the Cabinet as necessary.

### **Treatment of Year-end Balances**

- A.28** The full Council is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

### **Accounting Policies**

- A.29** The Head of Finance is responsible for selecting accounting policies and ensuring that they are applied consistently.

### **Accounting Records and Returns**

- A.30** The Head of Finance is responsible for determining the accounting procedures and records for the Authority.

### **The Annual Statement of Accounts**

- A.31** The Head of Finance is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local

Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC). The full Council is responsible for approving the annual statement of accounts.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING**

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### **INTRODUCTION**

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**B.1** The full Council is responsible for agreeing the Authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

the corporate plan;

the budget;

the capital programme.

### **POLICY FRAMEWORK**

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**B.2** The full Council is responsible for approving the budget and policy framework (which is detailed at Part 2, Article 4 and Part 4, Item 4.3 in the constitution).

**B.3** The full Council is also responsible for 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 Monitoring Officer.

**B.4** The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

## **Preparation of the Council's Delivery Plan**

- B.5** The Head of the Paid Service is responsible for proposing the Delivery Plan to the Cabinet for consideration before its submission to the full Council for approval.

## **BUDGETING**

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- B.6** The Head of Finance shall report annually to the Cabinet the details of capital and revenue estimates for all the council's functions. He or she shall prepare and update annually a three-year rolling revenue budget forecast. Each year the Cabinet shall consider and recommend, based on corporate priorities, the strategic allocation of resources to services and submit a report to Council.
- B.7** The format and timescale of the estimates shall be determined by the Head of Finance. It is the responsibility of the Directors, Heads of Service and Team Managers to ensure that budget estimates reflecting agreed service plans are submitted to the Head of Finance and that these are prepared and submitted as directed by the Head of Finance.

## **Budget Monitoring and Control**

### **B.8**

- (a) The Chief Executive, Head of Finance, Directors, Heads of Service and Team Managers shall:
- (i) only incur revenue expenditure where there is an approved budget provision in that financial year;
  - (ii) only incur capital expenditure where that project is in the Council's capital programme as applied to that financial year;
- (b) The Head of Finance is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.

- (c) It is the responsibility of Team Managers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Head of Finance. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Head of Finance to any problems.

## **Budgetary Control - Capital**

**B.9** In addition to B8 above, the following Financial Regulations shall apply:

- (a) whenever a new capital project is considered desirable, the Chief Executive or Directors shall (after submitting the project (with a Project Benefit Analysis) to the Asset Management Group and Corporate Leadership Team) submit the project to the Cabinet which shall, after considering advice from the Head of Finance (to include the implications of the Prudential Code if applicable and any current and future revenue implications) and other appropriate officers, make recommendations to the Council as to its acceptance or otherwise, indicating where appropriate its inclusion on the Long Term Capital Projects List and the level of priority for its implementation;
- (b) subject to (c) below, approval by Council of the Capital Programme shall be a prerequisite for the commencement of a project and to enter into a contract;
- (c) notwithstanding approval in the Capital Programme, if the proposed or actual expenditure (excluding supervision costs) exceed the approved estimate, the Team Manager shall, before proceeding, refer the proposal, with the comments of the Head of Finance, to the Cabinet;
- (d) any re-phasing of capital expenditure between years shall be subject to approval by the Head of Finance;
- (e) the Head of Finance is empowered to authorise spending in an emergency on any unforeseen health and safety work relating to a project.

## **EMERGENCIES OR DISASTERS**

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- B.10** In the event of an emergency or disaster, these Financial Regulations shall be suspended and the Chief Executive, Director of Services and/or the Head of Finance be given delegated powers to take any action deemed necessary in respect of the financial matters of the Council, subject to such action being reported to the Cabinet.

## **MAINTENANCE OF RESERVES**

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- B.11** It is the responsibility of the Head of Finance to advise the Cabinet and/or the full Council on prudent levels of reserves for the Authority.

## **FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **INTRODUCTION**

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- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. This should include the proactive participation of all those associated with planning and delivering services.

### **RISK MANAGEMENT**

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- C.2** The Cabinet is responsible for approving the Authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
- C.3** The Head of Finance is responsible for preparing the Authority's risk management policy statement, for promoting it throughout the Authority and for advising the Cabinet on proper insurance cover where appropriate.

## **INTERNAL CONTROL**

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- C.4** Internal control refers to the systems of control devised by management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- C.5** The Head of Finance 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.
- C.6** It is the responsibility of the Chief Executive, Directors, Heads of Service and Team Managers to 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 performance targets.
- C.7** The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording such amounts, shall be separated as completely as possible from the duty of collecting or disbursing them.

## **AUDIT REQUIREMENTS**

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- C.8** The Accounts and Audit Regulations 2011 (s6) requires every local authority to undertake an adequate and effective internal audit of its accounting records and of its system of internal control. This legal requirement shall be delegated to the Head of Finance. Internal Audit shall, as far as possible, comply with the Public Sector Internal Audit Standards.
- C.9** Internal Audit will have the responsibility to review, appraise and report as necessary on:-
- (a) the adequacy and effectiveness and application of internal controls and processes and systems;
  - (b) the extent of compliance with Financial Regulations and Standing Orders and approved policies and procedures of the Council plus the extent of compliance with external laws and regulation;

- (c) the extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from waste, inefficient administration, poor value for money, fraud or other cause.

**C.10** The Auditor shall have the Authority to:

- (a) enter any Council owned or occupied premises or land at all times (subject to any legal restrictions outside the Council's control);
- (b) have access at all times to all the Council's records, documents and correspondence;
- (c) require and receive such explanations from any employee or member of the Council as he or she may deem necessary concerning any matter under examination; and
- (d) require any employee or member of the Council to produce cash, stores or any other Council owned property under their control.
- (e) The Senior Internal Auditor shall have access to, and the freedom to report in his/her own name to all boards, members or officers, as he/she deems necessary.

**C.11** Any officer suspecting any irregularity in connection with financial or accountancy transactions shall inform his/her Team Manager, who shall immediately refer the matter to the Senior Internal Auditor who shall consult with the Head of Finance and the appropriate Team Manager and, if necessary, the police. A joint report shall be submitted to the Cabinet, if deemed necessary by the Head of Finance, Team Manager concerned and the Chief Executive.

**C.12** Financial Regulations C.8 to C.11 above are inclusive and complementary to and not a substitution for the statutory audit undertaken by the External Auditors and shall not diminish each Team Manager's responsibility to take adequate measures to safeguard the Council's cash, stores and other assets.

## **STORES AND INVENTORIES**

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**C.13** Each Team Manager shall be responsible for the custody and physical control of the stocks and stores in his/her service area and the records kept by the storekeepers shall be prescribed by the Head of Finance. Wherever possible, stocks and stores should be marked as the property of the Council.

- C.14** Each Team Manager, in conjunction with the Head of Finance, shall make arrangements for continual stock-taking covering all items at least once per year. Stock-taking procedures shall be conducted by officers independent of the day to day activities within the system. Any surpluses or deficiencies revealed shall be reported to the Head of Finance who shall, in conjunction with the appropriate Team Manager, agree any action required/recommend to the Cabinet any action considered necessary.
- C.15** Stocks shall be maintained within the minimum and maximum levels determined by the appropriate Team Manager, and the maximum level shall not be exceeded, except in special circumstances with the approval of the Head of Finance.
- C.16** Each Team Manager shall prepare and maintain an inventory in a form approved by the Head of Finance. The inventory shall include movable plant and machinery, rolling stock, furniture, fittings and equipment. The only exception is office stationery equipment (for example; calculators, hole punches, staplers, waste bins).
- In addition to the divisional inventory, equipment purchased by the Information Technology Section, including that purchased on behalf of other Services, shall be recorded on the Information Technology inventory.
- C.17** All inventories shall be checked annually by Team Managers. Individual surpluses or deficiencies over £50 shall be dealt with in the manner prescribed for stores in paragraph C.14 (above). Where individual inventory items with an estimated value below £50 become surplus to requirements, the Council has a procedure for dealing with such items, which shall be adhered to.
- C.18** The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the relevant Team Manager.
- C.19** All items appearing on the Inventory shall be indelibly marked as property of the Council.

## **SECURITY**

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- C.20** Each Team Manager shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under his/her control. He/she shall consult the Head of Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- C.21** The maximum limit for cash holdings shall be agreed with the Head of Finance and shall not be exceeded without his/her express permission.

**C.22** Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of such keys must be reported to the Head of Finance immediately the loss is discovered.

**C.23** The Head of Finance shall be responsible for maintaining proper security and privacy as respects information held on computer for its use, in accordance with the Data Protection Acts 1984 and 1998, the Computer Misuse Act 1990 and the Freedom of Information Act 2000.

## **BANKING ARRANGEMENTS**

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**C.24** All arrangements with the Council's Bankers shall be made by or under arrangements approved by the Head of Finance, who shall be authorised to operate such banking accounts as he/she may consider necessary. Such arrangements shall be reported to the Cabinet from time-to-time.

**C.25** Transfers from accounts (but not between accounts) shall not be made unless authorised by one of the Financial Signatories to the Council.

**C.26** The Head of Finance shall be responsible for the ordering and custody of cheques to meet payments by him/her on behalf of the Council. Cheques shall be prepared, verified and accounted for under the direction of the Head of Finance and signed by him/her or one of the Financial Signatories to the Council provided that, for the purpose of this regulation only, 'signature' shall include the printed/facsimile signature of the Head of Finance.

## **PETTY CASH AND FLOAT ACCOUNTS**

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**C.27** The Head of Finance shall issue guidance as to the operation and management of these accounts.

**C.28** Team Managers shall ensure that:

- (a) disbursements (other than renewal of imprest) shall be limited to expenses which are unavoidable and urgent. No single item exceeding £50 in amount (unless specifically authorised by the Head of Finance) shall be paid out of the petty cash account. All payments shall be supported by a receipted voucher to the extent that the Head of Finance may require and in particular to enable the recovery of Value Added Tax.
- (b) each account is accurately maintained on an imprest system;
- (c) such accounts are not used for depositing income nor for employees personal expenditure;
- (d) an officer responsible for an account shall make adequate arrangements for the security of cash and accounting records;

- (e) On leaving the employment of the Council or otherwise ceasing to hold an imprest advance, an officer shall account to the Head of Finance for the amounts advanced to him/her and payments made.

## **TREASURY MANAGEMENT**

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- C.29** The Authority has adopted CIPFA's Code of Practice for Treasury Management in the Public Services.
- C.30** The full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in the Public Services. The policy statement is proposed to the full Council by the Cabinet. The Head of Finance has delegated responsibility for implementing and monitoring the statement.
- C.31** All money in the hands of the Council shall be aggregated for the purpose of treasury management and shall be under the control of the Head of Finance.
- C.32** The Head of Finance is responsible for reporting to the Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- C.33** All Cabinet decisions on borrowing, investment or financing shall be delegated to the Head of Finance, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services.
- C.34** The Head of Finance is responsible for reporting annually to the Cabinet on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

## **STAFFING**

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- C.35** The full Council is responsible for determining how officer support for Cabinet and non-executive roles within the Authority will be organised.
- C.36** The Chief Executive, Directors, Heads of Service and Team Managers are responsible for providing overall management to staff. The Human Resources Team Manager is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.37** The Chief Executive, Directors, Heads of Service and Team Managers are responsible for controlling total staff numbers by:
  - (a) advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels;
  - (b) adjusting the staffing to a level that can be funded within approved budget provision;

- (c) varying the provision as necessary within that constraint in order to meet changing operational needs; and
- (d) the proper use of appointment procedures.

## **INSURANCES**

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- C.38** The Head of Finance shall effect all insurance cover and register all claims in consultation with other officers where necessary.
- C.39** Team Managers shall give prompt notification to the Head of Finance in writing of all new risks, properties, vehicles or other assets which require to be insured and of any alterations affecting existing insurances.
- C.40** Team Managers shall immediately notify the Head of Finance in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police where necessary unless otherwise decided by the Chief Executive.
- C.41** All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- C.42** The Head of Finance shall annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Team Managers as appropriate.
- C.43** Team Managers shall consult the Head of Finance respecting the terms of any indemnity which the Council is requested to give.
- C.44** Team Managers shall ensure that their employees are aware of any limitation of cover, e.g. motor insurance covering official duty only.
- C.45** Where a claim arises which is less than or equal to the value of the excess on any policy, the Team Manager shall submit a written request to the Head of Finance to make a specific financial offer. The request must be supported by reasons in favour of settlement and can only be signed by the Chief Executive, Head of Finance or Team Manager.

## **CONTRACTS**

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- C.46** The Head of Finance shall advise upon the financial aspects of all contracts before acceptance and shall keep a contracts register showing particulars of all contracts entered into by the Council for the execution of work and of payment made under such contracts. The Head of Finance shall retain copies of all contract documents and keep an appropriate register.

- C.47** The appointed Supervising Officer in control of the works shall give written orders in respect of all variations from the specification of the works included in the contracts and copies of these orders shall be forwarded to the Head of Finance with the estimated variations in cost noted thereon. Any such extra variation, where the estimated additional cost of which exceeds 5%, shall be reported to the appropriate Board as soon as practicable with details of the reason for the additional cost and the proposed method of funding the extra cost.
- C.48** Payments to contractors on account of contracts shall be made only on a certificate issued by the Supervising Officer in control of the works which shall show the total amount of the contract, the value of work executed to date, retention money, amount paid to date and amount certified as due. Details, variations and fluctuations included in the value of work to date shall accompany the certificate.
- C.49** On completion of a contract and before the issue of the certificate for final payment thereunder, the appointed Supervising Officer shall produce to the Senior Internal Auditor a detailed statement of the work under the contract, with all vouchers and documents relating to prime cost and provisional sums and any other particulars required showing full measurements, additions, deductions and omissions. The Final Certificate shall not be issued nor shall the contractor be informed that the final account is agreed and the balance under the contract paid until:
- (a) the Senior Internal Auditor has examined the accounts, vouchers and documents, and approved the final account.
  - (b) If any question of propriety of payment arises, the Cabinet shall have directed payment.
- C.50** Claims from contractors in respect of matters not clearly within the terms of an existing contract shall be referred to the Chief Executive/Head of Legal and Support Services for consideration of the Council's legal liability and where necessary, to the Head of Finance for financial consideration before a settlement is reached.
- C.51** Where completion of a contract is delayed beyond the completion date or any properly authorised extension thereof, it shall be the duty of the Supervising Officer to take appropriate action in respect of any claim for liquidated damages.
- C.52** In any case where the total cost of any work carried out under a contract exceeds by more than 10%, or £10,000, whichever is the lesser amount, the approved contract sum, a report of such cost shall, after agreement of the final account, be submitted to the appropriate Board by the appropriate Head of Service detailing any additional cost and proposed method of funding not previously reported under Regulation C.47.
- C.53** Subject to the expenditure on such matters being included in approved estimates, all orders or contracts for the supply of goods or materials or for the execution of work shall comply with the Contract Procedure Rules.
- C.54** When, in exceptional circumstances authority is sought to waive Financial Procedure Rules, the report to the appropriate Board must give adequate reasons and specify precisely the procedures to be waived.

## **SALARIES**

- C.55** The payment of all salaries, wages and other emoluments to all employees of the Council shall be made by the Head of Finance and under arrangements approved and controlled by him/her.
- C.56** The Head of Finance shall be responsible for all records relating to National Insurance, Income Tax, Superannuation and Statutory Sick Pay. The Human Resources Team Manager shall be responsible for the issue of statements under the Contracts of Employment Acts.
- C.57** Each Head of Service shall be responsible for the completion of timesheets by employees, other than officers, under his/her control and for their evaluation and certification. Timesheets shall be forwarded to the Head of Finance in accordance with his/her directions, who shall be responsible for the preparation of salaries or wages. The Head of Service concerned, under the directions of the Head of Finance shall be responsible for the provision of transport and staff for the payment of salaries or wages.
- C.58** Each Head of Service shall notify the Head of Finance, as soon as possible, and in a form prescribed by him/her, of all matters affecting payment of salaries and wages and in particular:
- (a) appointments, resignations, dismissals, suspensions, secondment and transfers.
  - (b) Absences from duty for sickness or other reason, apart from approved leave with pay.
  - (c) Changes in remuneration, other than normal increments, pay awards and agreements of general application.
  - (d) Information necessary to maintain records of service for superannuation, income tax, national insurance, etc.
- C.59** Each Head of Service, in conjunction with the Human Resources Team Manager, shall make arrangements to annually confirm the authenticity of those employees appearing on the payroll for his/her Service. Such arrangements shall include the verification of individual rates of pay.

## **LEASING**

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- C.60** All items proposed to be leased shall be approved by the Council prior to arrangements being made.
- C.61** All leasing agreements will be arranged and agreed by the Head of Finance. An agreement can only be signed on behalf of the Council, by the Chief Executive or the Head of Finance, providing that the revenue estimate is not exceeded.

- C.62** The Head of Service responsible for the goods to be leased shall provide the Head of Finance with such information as is required by him/her in order to obtain the best and most appropriate type of lease possible.

## **FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES**

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### **INTRODUCTION**

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- D.1** Sound systems and procedures are essential to an effective framework of accountability and control.

### **GENERAL**

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- D.2** The Head of Finance is responsible for the operation of the Authority's accounting systems, the form of accounts and the supporting financial records. Any changes proposed by the Chief Executive, Directors, Heads of Service and Team Managers to the existing financial systems or the establishment of new systems must be approved by the Head of Finance. However, the Chief Executive, Directors, Heads of Service and Team Managers are responsible for the proper operation of financial processes in their own Services.
- D.3** The Chief Executive, Directors, Heads of Service and Team Managers should ensure that their staff receive relevant financial training that has been approved by the Head of Finance.
- D.4** The Chief Executive, Directors, Heads of Service and Team Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Team Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **AUTHORISED SIGNATORIES**

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- D.5** It is the responsibility of the Chief Executive, Directors and Heads of Service to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on their behalf in respect of payments, income collection and placing orders, together with the financial limits of their authority. The financial limits will be determined by the Council's Corporate Leadership Team. Team Managers shall ensure that specimen signatures and initials of such authorised staff are sent to the Head of Finance and such records shall be amended by the Team Manager on the occasion of any change therein.

## CONTROL OF EXPENDITURE

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- D.6** Orders for goods and services shall not be issued unless the expenditure is included in an approved estimate or other specified financial provision.
- D.7** All orders shall be in writing, signed by the appropriate Team Manager or such other officer as nominated by him/her and notified to the Head of Finance.
- D.8** Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility service; and for periodical payments such as rent or rates/local tax, for petty cash purchases or such other exceptions as the Head of Finance may approve.
- D.9** Each order shall conform to the directions of the Council with respect to central purchasing, use of contracts and the standardisation of supplies and materials and be in a form approved by the Head of Finance in accordance with Regulation D.2 above.
- D.10** Monied invoices and/or delivery notes should, where appropriate, accompany the delivery of goods and the receiving officer must certify thereon, at the time of delivery, receipt of the goods. Where ordered and delivered by weight or volume the receiving officer shall make such periodical tests as are necessary to ensure that the quantities charged have actually been delivered.
- D.11** All invoices, accounts and claims relating to amounts due from the Council shall be checked in the Service concerned and such checking being indicated by the initials of the examining officer and certified by the appropriate Team Managers or such other officer as nominated by him/her. The number of the official order and the head of expenditure to which it relates must be indicated thereon. Expenditure/income should be coded in accordance with instructions issued by the Head of Finance, with VAT appropriately identified in order that the Head of Finance may recover output tax (VAT). A VAT invoice/receipt must be obtained in all appropriate cases.
- D.12** The Team Managers concerned shall be responsible for the accuracy of accounts submitted for payment which shall be signed by the Team Managers or authorised officer in accordance with regulation D.5. The passing of an account for payment by or on behalf of the Team Managers shall mean:
- (a) that the materials have been supplied, the work performed or the services rendered and that they are satisfactory as to quality and correct as to quantity;
  - (b) that the price is in accordance with quotations, contract agreement or current market rate whichever is applicable;
  - (c) that the account is allocated to the correct expenditure heading;
  - (d) that all trade and cash discounts and other proper allowances have been deducted;

- (e) that the account has not been previously paid and that the copy of the official order has been marked off to prevent duplicate payment;
- (f) that the account is arithmetically correct unless a variation has been agreed by the Head of Finance;
- (g) that the expenditure is within the Authority's legal powers.

**NOTE:** The passing of an account for payment by a Team Manager or authorised officer confirms that he/she is satisfied that all necessary steps in the certification procedure have been satisfactorily carried out.

Accordingly, it is for the Team Manager or authorised officer to recognise the initials of officers carrying out this preliminary certification procedure as those of officers who are in a position to satisfactorily perform the work responsibly. It is essential that a minimum of two officers at least should be involved in the preliminary certifications in order that the officer certifying that the goods have been supplied or the work done is different from the officer certifying the remaining items. It is also desirable that the making out of official orders and the entering of goods received records are undertaken by different officers and that this should be divorced from the certification of invoices although it is appreciated that this is not always possible in smaller Services. A Team Manager who delegates the certification of accounts should satisfy him/herself that the procedure is operating satisfactorily by signing all accounts personally from time-to-time).

- D.13** Before authorising payments to a sub-contractor, as defined by the Inland Revenue, for construction work carried out, the certifying officer of the Service concerned shall satisfy himself/herself that the sub-contractor to whom payment is due is the holder of a valid Sub-Contractors Tax Certificate issued by the Inland Revenue, otherwise tax at the appropriate rate must be deducted as required by any statutory provisions in being at that time.
- D.14** Invoices made out by an officer of the ordering Service and statements unaccompanied by the relative invoices and delivery notes, copy invoices or reminders shall not be accepted as a basis for payment.
- D.15** In all cases of purchase of property, the Head of Finance shall be the authorising officer. When requesting payment he/she shall provide full particulars of the property, the name of the vendor/purchaser, the amount of purchase money, expenses and Minute authorisation. Full particulars of the property purchased shall be entered in the official Register of Properties kept by the Head of Finance.
- D.16** Duly certified accounts shall be passed without delay to the Head of Finance who shall examine them to the extent that he/she considers necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may require.
- D.17** The Head of Finance shall be authorised to pay all accounts duly certified in accordance with these regulations. The normal method of payment shall be by cheque, BACS or other instrument drawn on the Council's banking account.
- D.18** Each Head of Service/Team Manager shall, as soon as possible after 31 March and no later than detailed in the final accounts timetable each year, notify the Head of Finance of outstanding expenditure relating to the previous financial year.

## **CONTROL OF INCOME**

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- D.19** All arrangements for the collection of monies due to the Council shall be subject to approval by the Head of Finance in conjunction with the appropriate Team Manager and the Head of Finance shall set up debits for all items of income due. No such items over £10,000 shall be written off as irrecoverable unless approved by the Cabinet. Any request to forego income shall be subject to written approval of the Head of Finance.
- D.20** The Team Managers shall promptly furnish the Head of Finance with such particulars in such form as he/she may require in connection with work done, goods supplied or service rendered and all other amounts due to the Council as may be required by him/her to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.
- D.21** The Head of Finance shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council and the Head of Finance shall have the right to inspect any documents or other evidence in this connection as he/she may decide.
- D.22** All receipt forms, books, tickets and other such items shall be ordered and supplied to Team Managers by the Head of Finance, who shall satisfy himself/herself as to the arrangements for their control.
- D.23** Each employee who receives monies on behalf of the Council or in the normal course of their duty shall give such acknowledgment and enter up punctually such records as may be approved by the Head of Finance. Such income shall be paid to the Head of Finance or direct to the Council's account, either daily or when there is a sum of £100 in hand. Any variation from this procedure shall be subject to the written approval of the Head of Finance. On no account should such monies be paid into the personal account of an employee. No deduction may be made from such money save to the extent that the Head of Finance may specifically authorise. Each officer who so banks money shall enter on the paying-in slip a reference to the related debt or otherwise indicate the origin of the cheque on the reverse of each cheque, the officer shall enter the name of his/her Service, office or establishment.
- D.24** Personal cheques shall not be cashed out of money held on behalf of the Council.
- D.25** Every transfer of official money from one member of staff to another will be evidenced in the records of the Services concerned by the signature of the receiving officer.
- D.26** Post-dated cheques will not normally be accepted. The only formal exception to this rule will be acceptance of a cheque, by the Assistant Senior Exchequer Services Officer, which shall not be dated more than 7 working days in advance\*. This will only be allowed where the debtor has no previous history of dishonoured cheques. The Assistant Senior Exchequer Services Officer will only accept one cheque per debtor on each occasion. Such cheques will be recorded and retained by the Assistant Senior Exchequer Services Officer.

In exceptional circumstances, any other requests to accept a post-dated cheque must have the approval of the Head of Finance.

\*(This is to allow provision where a debtor is expecting funds to be credited to a bank account during the period it is likely to take to return a cheque and receive replacement.)

- D.27** The Chief Executive, Directors, Heads of Service or Team Managers may in conjunction with the Head of Finance write-off as irrecoverable sundry and other debts not exceeding £10,000. The Chief Executive or Heads of Service may write-off as irrecoverable sundry and other debts not exceeding £25 where these are deemed uneconomical to pursue and cannot be added to a future account. No debts over £10,000 shall be written off as irrecoverable without the approval of Cabinet.

**NOTE:** Outstanding debts will still be pursued after write-off should information be received which indicates that there is a possibility that the debt can be recovered.

- D.28** The Chief Executive, Directors or Heads of Service may, in conjunction with the Head of Finance, write-off as non-refundable credits on accounts not exceeding £10,000. The Chief Executive or Heads of Service may write-off as non-refundable credits on accounts not exceeding £25 where these are deemed uneconomical to pursue and cannot be deducted from a future account. No such items over £10,000 shall be written off as non-refundable without the approval of the Cabinet.

## **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

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### **INTRODUCTION**

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- E.1** The local authority provides a distinctive 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.

### **PARTNERSHIPS, JOINT VENTURES AND COMPANIES IN WHICH**

#### **THE COUNCIL IS A GUARANTOR OR HAS A SHARE HOLDING INTEREST**

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- E.2** The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The Cabinet can delegate functions - including those relating to partnerships - to officers. These are set out in the scheme of delegation that forms part of the Authority's constitution. Where functions are delegated, the Cabinet remains accountable for them to the full Council.

- E.4** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Authority.
- E.5** The Head of Finance must ensure that the accounting arrangements to be adopted relating to partnerships, joint ventures and companies are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.6** Team Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. Where it is proposed that the Council be involved in an arrangement of this nature the appropriate officer will first consult with the Head of Finance and the Head of Legal and Support Services on the proposals.
- E.7** The Head of Finance is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- E.8** Further to Regulation E.7 unless secure arrangements are put in place to the contrary, any such arrangements will comply with the Council's Financial Regulations and this shall be stated in any such contracts.

## 4 DELEGATIONS TO THE 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 Director of Services, Interim Director of Housing, Interim Director of Resources 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

## **5. DELEGATIONS TO THE INTERIM DIRECTOR OF RESOURCES**

- 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 Performance management.
- 5.2.2 Project management.
- 5.2.3 Local strategic partnerships/LEPs.
- 5.2.4 Health and safety (internal).
- 5.2.5 Risk management.
- 5.2.6 Communications and consultations.
- 5.2.7 Media management, public relations and marketing.
- 5.2.8 Corporate overview on diversity issues.
- 5.2.9 Accountancy services.
- 5.2.10 Information management including Data Protection and Freedom Of Information.
- 5.2.11 Elections and electoral registration.
- 5.2.12 National Land and Property Gazetteer.
- 5.2.13 Legal services (without prejudice to the statutory role and function of the Monitoring Officer)
- 5.2.14 Members' services and members' development (xv) Strategic asset management including land sales.
- 5.2.15 Finance, financial planning and procurement.
- 5.2.16 Revenues and benefits.
- 5.2.17 Administration of meetings of the Council, Boards, Committees and Sub-committees and typing and clerical services.
- 5.2.18 Internal Audit.

### **5.3 Property Development.**

- 5.3.1 Property/facilities management and maintenance (non-housing).
- 5.3.2 ICT.
- 5.3.3 Street naming and numbering and replacement of street nameplates.
- 5.3.4 All activities relating to the discharge of the function as a Licensing Authority under all relevant legislation.
- 5.3.5 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.
- 5.3.6 Corporate complaints procedure.

## **SPECIFIC FUNCTIONS**

### **5.4 Executive Functions**

- 5.4.1 To administer all aspects of housing benefit and Council Tax benefit.
- 5.4.2 To discharge the Authority's responsibilities for billing, collection and enforcement of Council Tax, non-domestic rates and all valuation matters.
- 5.4.3 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.
- 5.4.4 In addition to the Head of Legal and Support 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 clauses (i) and (iii) above.
- 5.4.5 To grant and determine temporary lettings and licences of Council owned land and buildings.
- 5.4.6 To enter into deeds of dedication on such terms as the Director of resources sees fit.
- 5.4.7 To agree perpetual and fixed term easements and wayleaves on such terms as the Director of Resources sees fit.
- 5.4.8 To determine rent reviews and to instigate and participate in arbitrations.
- 5.4.9 To agree terms for the surrender of leases.
- 5.4.10 To authorise action to determine a lease in the event of rent arrears or other breach of covenant.

- 5.4.11 To agree terms for waiving covenants, whether freehold or leasehold.
- 5.4.12 To approve and issue consents for assignments, sub-lettings, alterations, additions and changes of use.
- 5.4.13 To make and settle claims for dilapidation.
- 5.4.14 To appropriate land belonging to the Authority at proper value.
- 5.4.15 To agree the grant and renewal of leases of land and buildings where the annual rental does not exceed £40,000.
- 5.4.16 To dispose of freehold land where the market value does not exceed £30,000.
- 5.4.17 Following consultation with Asset Management Group, to approve the Asset Management Policy.
  
- 5.4.18 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).
  
- 5.4.19 To determine applications for discretionary non-domestic rural rate relief following consultation with the with the ward member(s) for the settlement concerned and the portfolio holder.
  
- 5.4.20 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.
  
- 5.4.21 To issue a closing order on a takeaway food shop.

**APPENDIX 5**

EXTRACT of the MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 30 SEPTEMBER 2015

Present: Councillor M Specht (Chairman)

Councillors J Cotterill, J G Coxon, T Eynon, J Geary, D Harrison, S McKendrick (Substitute for Councillor N Clarke), V Richichi, A C Saffell and N Smith

In Attendance: Councillors R D Bayliss and J Legrys

Officers: Mr R Bowmer, Ms L Cotton, Mr D Gill, Mr M Harding, Mr G Jones, Mr C Lambert, Mrs C Macrory, Mrs R Wallace and Miss A Wright

## **12. UPDATE OF THE COUNCIL'S CONSTITUTION**

The Deputy Monitoring Officer presented the report to Members. He focused initially on the changes to the Planning Code of Conduct and invited Members to comment.

Councillor A C Saffell asked, referring to the calling in of applications, if 'local concerns' included Parish Council's concerns. The Deputy Monitoring Officer explained that to call in an application it would need to be supported by planning grounds and be a matter of local concern; this did include Parish Council concerns. Councillor A C Saffell asked if a Member had a strong planning ground to call in an application was it essential for it to be a matter of local concern also. The Deputy Monitoring Officer explained that the change was to prevent Members calling in applications without a valid planning ground, so he would reconsider the wording to make it clearer. All Members agreed.

Councillor A C Saffell also raised concerns that as the District was now separated into single Member Wards, the power to call in applications had been restricted, especially as the constitution stated that 'a call in shall not be exercised by any member with a disclosable pecuniary interest' and also that it was only Ward Members who could call in an application. The Deputy Monitoring Officer reassured Members that public objection would still lead to an application being brought to Committee and that these procedure rules had always been in the constitution, it was only small changes to wording that had been proposed. After further pursuance of this concern by Councillor A C Saffell, the Deputy Monitoring Officer suggested that the wording could be reconsidered to restrict the calling in of applications to ward members and adjoining Ward Members. This would help on the occasions that the Ward Members were unable to call in an application.

Councillor N Smith believed that the proposed changes were good ones and he was happy that it was only Ward Members who could call applications in as in the past they were called in for no valid reason.

Councillor J Geary made the following comments:

- There had been an incident in the past where a Ward Member had refused to call in an application, because of this the Member of Parliament got involved and Councillor J Geary himself called in the application. If that had not been done, the decision made by officers would have led to a great injustice. An occurrence such as this was Councillor J Geary's concern with single Member Wards and the calling in of applications by Ward Members only.
- He was concerned that the planning process was now all about streamlining and rushing through applications, this had led to public loss of confidence. He reported that

Chairman's initials

there had been accusations that the members of Planning Committee were directed how to vote. This had led to the public perception that decisions were made politically, which of course was not true; he believed that needed to be addressed.

- He felt that all Ward Members should have the opportunity to speak at Planning Committee.
- He referred to many decisions within the code of practice for Members which were 'at the discretion of the Chairman', which did not help to ease the public perception that the Committee was not political.
- He believed that the proportionality of the Planning Committee should be fairer with equal numbers of Members from each political party.
- He was concerned that Members only had 5 working days to call in an application, because if the Ward Member was on leave it could be missed. This could lead to bad decisions being made.

Regarding the membership of the Planning Committee, the Deputy Monitoring Officer explained that it was subject to proportionality rules and it had to reflect the political balance of the authority.

Councillor T Eynon commented that it was important for the Council to be seen as approachable and that the change of a Ward Member only to call in applications did seem restrictive. She stressed that the wording needed to be reconsidered.

Councillor V Richichi expressed strong concerns regarding the proposed changes as he felt that democratic decision making was being taken away from Members. He believed that adjoining Ward Members should also be able to call in applications.

The Deputy Monitoring Officer reported that he would take Members comments forward. He then moved on to present the remaining proposed constitutional changes to Members. He put forward an additional change to the delegations to the Interim Director of Resources in appendix 4 as follows:

In the interest of consistency, paragraph 5.2.9 to read 'Accountancy services (without prejudice to the statutory role and function of the Section 151 Officer)' as it did in paragraph 5.2.13 in reference to the Monitoring Officer role.

RESOLVED THAT:

- a) The report be noted.
- b) The Policy Development Group's comments be considered by Council when they meet to discuss the Update of the Council's Constitution.