



GUILDFORD
B O R O U G H

PART 4

PROCEDURE RULES

GUILDFORD BOROUGH COUNCIL

COUNCIL PROCEDURE RULES

Part A – Council Meetings

1. ANNUAL MEETING OF THE COUNCIL

1.1 Time and place

- (a) The Council shall in every year hold an annual meeting.
- (b) The annual meeting of the Council shall be held:
 - (i) in a year of ordinary elections of councillors to the Council, on the eighth day after the day of retirement of councillors or such other day within 21 days following the day of retirement as the Council may fix; and
 - (ii) in any other year, on such day in the month of March, April or May as the Council may fix

and the meeting shall, unless the Council or the Joint Chief Executive, in consultation with the Mayor elect and political group leaders, otherwise direct, be held at the Guildhall, High Street, Guildford commencing at 12 noon.

1.2 Business to be transacted at the Annual Meeting

- (i) To choose a person to preside if the Mayor and Deputy Mayor* are absent
- (ii) To elect the Mayor
- (iii) To appoint the Deputy Mayor
- (iv) To receive any apologies for absence
- (v) To approve the minutes of the last ordinary meeting
- (vi) To receive any communications or announcements from the Mayor
- (vii) To consider any other business set out in the summons

Other than items (i) to (iii) above, the order of business may be varied by the Mayor or by Council resolution.

* If, at the start of the Annual Meeting, the Mayor is absent and the Deputy Mayor (who is also the Mayor elect) is present, he or she may not preside over the election of Mayor and must absent himself or herself from the meeting until after the Council has dealt with that election. In these circumstances, the Joint Chief Executive, or another officer representing him or her, shall preside at the meeting for the election of Mayor only.

2. SELECTION COUNCIL MEETING

2.1 Time and place

- (a) The Council shall in every year hold a Selection meeting, which shall normally be held on the first Tuesday following the date of the Annual Meeting, commencing at 7pm.
- (b) Unless the Council shall otherwise direct, the Selection meeting shall be held at Millmead House, Millmead, Guildford.

2.2 Business to be transacted at the Selection Meeting

- (i) To choose a person to preside if the Mayor and Deputy Mayor are absent
- (ii) To receive any apologies for absence
- (iii) To receive and note any disclosable pecuniary interests from councillors
- (iv) To approve the minutes of the annual meeting
- (v) To receive any communications or announcements from the Mayor
- (vi) To elect a Leader for a four-year term of office (at the post-election Selection Council meeting)
- (vii) To receive any communications or announcements from the Leader of the Council
- (viii) To receive any questions, statements or petitions from the public in accordance with Public Speaking Procedure Rules
- (ix) To receive any questions from councillors in accordance with Council Procedure Rule 13
- (x) To decide which committees to establish for the municipal year;
- (xi) To decide the size and terms of reference of those committees;
- (xii) To decide the numerical allocation of seats to political groups on committees in accordance with the political balance rules
- (xiii) To make appointments to committees.
- (xiv) To make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first ordinary meeting of the Council in the municipal year
- (xv) To consider any other business set out in the summons
- (xvi) To consider any motions in accordance with Council Procedure Rule 11
- (xvii) To authorise the sealing or signing of documents to give effect to any decisions taken

PART 4 – COUNCIL PROCEDURE RULES

Notes:

- (1) Other than items (i) to (iv) above, the order of business may be varied by the Mayor or by Council resolution.
- (2) In relation to (vii) above, the Leader shall inform all councillors in advance of the meeting of any matters upon which he/she makes an announcement and councillors shall be given the opportunity of asking questions of the Leader in respect of any such announcement. Any such question or any response to such question shall not exceed three minutes.

3. ORDINARY COUNCIL MEETINGS

3.1 Time and place

- (a) Ordinary meetings shall be held on such days as the Council may determine and shall normally commence at 7.00 pm.
- (b) Unless the Council shall otherwise direct, ordinary meetings shall be held at Millmead House, Millmead, Guildford.

3.2 Business to be transacted at ordinary meetings

- (i) To choose a person to preside if the Mayor and Deputy Mayor are absent
- (ii) To receive any apologies for absence
- (iii) To receive and note any disclosable pecuniary interests from councillors
- (iv) To approve the minutes of the last meeting
- (v) To receive any communications or announcements from the Mayor
- (vi) To receive any communications or announcements from the Leader of the Council
- (vii) To receive any questions, statements or petitions from the public in accordance with Public Speaking Procedure Rules
- (viii) To receive any questions from councillors in accordance with Council Procedure Rule 13
- (ix) To consider any other business set out in the summons
- (x) To consider any motions in accordance with Council Procedure Rule 11
- (xi) To authorise the sealing or signing of documents to give effect to any decisions taken

Notes:

- (1) Other than items (i) to (iv) above, the order of business may be varied by the Mayor or by Council resolution.
- (2) In relation to (vi) above, the Leader shall inform all councillors in advance of the meeting of any matters upon which he/she makes an announcement and councillors shall be given the opportunity of asking questions of the Leader in

PART 4 – COUNCIL PROCEDURE RULES

respect of any such announcement. Any such question or any response to such question shall not exceed three minutes.

4. EXTRAORDINARY COUNCIL MEETINGS

4.1 Calling extraordinary meetings

An extraordinary meeting of the Council may be called at any time by:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer; or
- (iv) any five councillors by written requisition presented to the Mayor and he or she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4.2 Time and place

- (a) Extraordinary meetings shall be held on such days as may be determined by the Council or the Joint Chief Executive, in consultation with the Mayor and political group leaders, and shall normally commence at 7.00 pm.
- (b) Unless the Council or the Joint Chief Executive shall otherwise direct, extraordinary meetings shall be held at Millmead House, Millmead, Guildford.

4.3 Business to be transacted at extraordinary meetings

- (i) To choose a person to preside if the Mayor and Deputy Mayor are absent
- (ii) To receive any apologies for absence
- (iii) To receive and note any disclosable pecuniary interests from councillors
- (iv) To receive any communications or announcements from the Mayor
- (v) To receive any communications or announcements from the Leader of the Council
- (vi) To receive only in relation to the business for which the extraordinary meeting has been called any questions, statements or petitions from the public in accordance with Public Speaking Procedure Rules
- (vii) To receive only in relation to the business for which the extraordinary meeting has been called any questions from councillors in accordance with Council Procedure Rule 13
- (viii) To consider the business for which the extraordinary meeting has been called. The Mayor may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.
- (ix) To authorise the sealing or signing of documents to give effect to any decisions taken

PART 4 – COUNCIL PROCEDURE RULES

Notes:

- (1) Other than items (i) to (iii) above, the order of business may be varied by the Mayor or by Council resolution.
- (2) In relation to (v) above, the Leader shall inform all councillors in advance of the meeting of any matters upon which he/she makes an announcement and councillors shall be given the opportunity of asking questions of the Leader in respect of any such announcement. Any such question or any response to such question shall not exceed three minutes.

5. NOTICE OF AND SUMMONS TO ATTEND COUNCIL MEETINGS AND ATTENDANCE BY THE PUBLIC

- (a) The Joint Chief Executive will give notice to the public of the time and place of any Council meeting in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution. Where the meeting has been called by councillors, the notice shall specify the business to be transacted.
- (b) At least five clear working days before a meeting, the Joint Chief Executive will send a summons signed by him or her to every councillor or leave it at their usual place of residence. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- (c) If a councillor gives notice in writing to the Democratic Services and Elections Manager that he or she desires summonses to attend meetings of the Council to be sent to some address other than his or her place of residence, any summons left at or sent by post to that address shall be deemed sufficient service of the summons.
- (d) Except in the case of business required by legislation and other business brought before a meeting as a matter of urgency, no business shall be transacted at a meeting of the Council other than that specified in the summons relating thereto.
- (e) The public shall be admitted to all meetings of the Council in accordance with the Access to Information Procedure Rules.

6. ALTERATION OR CANCELLATION OF A COUNCIL MEETING

Following consultation with the Mayor and political group leaders, the Joint Chief Executive may:

- (i) alter the place, date or time previously fixed for a meeting provided that (except where such alteration arises from a matter outside the control of the Council when notice is to be given as soon as practicable) notice of such alteration is given at least five clear working days before the date of the meeting as originally fixed, or
- (ii) cancel a meeting in circumstances where there is insufficient business to be transacted.

7. MAYOR

- (a) The Council shall elect a councillor to be Mayor on an annual basis.

PART 4 – COUNCIL PROCEDURE RULES

- (b) The election of the Mayor shall be the first business transacted at the annual meeting of the Council
- (c) The Mayor shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Mayor.
- (d) During his or her term of office, the Mayor shall continue to be a councillor notwithstanding the provisions of the Local Government Act 1972 relating to the retirement of councillors.
- (e) If, apart from paragraph (d) of this Rule, the person presiding at the commencement of the annual meeting would have ceased to be a councillor, he or she shall not be entitled to vote in the election of the Mayor except to give a casting vote in the case of an equality of votes.
- (f) In the case of an equality of votes, the person presiding at the meeting shall give a casting vote in addition to any other vote he or she may have.
- (g) The Mayor may attend any meeting of the Executive, a committee or sub-committee of the Council and speak on any item under consideration, but he or she may not vote unless appointed as an ordinary member of a committee (other than the Executive) or sub-committee.

8. DEPUTY MAYOR

- (a) The Council shall appoint a councillor to be Deputy Mayor of the Council on an annual basis.
- (b) Unless he or she resigns or becomes disqualified, the Deputy Mayor shall hold office until the election of a Mayor at the next annual meeting of the Council and, during that time, shall continue to be a councillor notwithstanding the provisions of the Local Government Act 1972 relating to the retirement of councillors.
- (c) In the absence of the Mayor, the Deputy Mayor may exercise any power or duty of the Mayor.

9. CHAIRMAN OF MEETING

- (a) At a meeting of the Council, the Mayor, if present, shall preside.
- (b) If the Mayor is absent from a meeting of the Council, the Deputy Mayor, if present, shall preside.
- (c) If both the Mayor and Deputy Mayor are absent from a meeting of the Council, then the Joint Chief Executive or another officer representing him or her shall initially preside and the first business of the meeting shall be to elect a councillor to take the chair and to preside over the rest of the meeting. The Chairman for the meeting shall not be the Leader of the Council or a member of the Executive.
- (d) Any power or duty of the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

10. QUORUM

- (a) Subject to paragraph (b) below, no business shall be transacted at a meeting of the Council unless at least one-quarter (namely 12) of the whole number of councillors are present.
- (b) Where more than one-third of councillors become disqualified at the same time, then until the number of councillors in office is increased to not less than two-thirds of the whole number of councillors, the quorum of the Council shall be determined by reference to the number of councillors remaining qualified instead of by reference to the whole number of councillors.
- (c) If a quorum is not present after the expiration of thirty minutes from the appointed start time of the Council meeting, the Mayor shall declare that no meeting shall take place and shall direct that the meeting of the Council shall take place at such date and time as he or she may fix. If he or she does not fix a date and time, the business will be considered at the next ordinary meeting of the Council.
- (d) During any meeting, if the Mayor counts the number of councillors present and declares there is not a quorum present, the meeting will adjourn immediately and the remaining business will be considered at a time and date fixed by the Mayor or, if he or she does not fix a time and date at the next ordinary meeting of the Council.

11. NOTICE OF MOTIONS

Motions to be set out in the Council Agenda

- (a) Except for motions which can be moved without notice under Procedure Rule 12, written notice of every motion shall be delivered to the Democratic Services and Elections Manager not later than 12 noon on the seventh working day before the date of the meeting at which the motion is intended to be moved.
- (b) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the Borough.
- (c) The Democratic Services and Elections Manager will, subject to (e) below, date and number the motion in the order in which it is received.
- (d) The Democratic Services and Elections Manager shall include the motion on the agenda in the order in which notice was received, unless the councillor giving such notice states in writing that he or she proposes to move it at some later meeting or withdraws it.
- (e) If the Joint Chief Executive has doubt as to the propriety of inserting the motion on the agenda, he or she will submit the motion to the Mayor and, if the Mayor considers that the motion is improper, out of order or not relevant to any question relating to the Council's powers or duties or to any matter affecting the Borough, the Mayor may direct the Joint Chief Executive to return the motion to the councillor who sent it stating that it will not be inserted on the agenda except upon the written request of five councillors.

Motions not Moved

- (f) If a motion set out on the agenda is not moved either by a councillor who gave the notice or by some other councillor on his or her behalf, it shall be treated as withdrawn and shall not be moved without fresh notice unless postponed by consent of the Council.

Dealing with Motions at Council Meetings

- (g) Unless a motion under Council Procedure Rule 12 (iv) is carried which has the effect of referring a motion of which notice has been given for consideration by the Leader/Executive or a committee, all such motions shall be dealt with by the Council at the meeting at which they are brought forward.

Attendance of Mover and Seconder at Executive/Committee Meetings

- (h) If a motion is referred by the Council to a meeting of the Executive or other committee, the mover and seconder of the motion shall have the right to attend the relevant meeting and to explain the motion.

Number of Motions on the Agenda

- (i) No councillor shall have more than two motions on the same agenda.

12. MOTIONS WITHOUT NOTICE

The following motions may be moved and seconded without notice:

- (i) to elect a chairman of the meeting at which the motion is moved;
- (ii) in relation to the accuracy of the minutes;
- (iii) to change the order of business in the agenda;
- (iv) to refer any matter for consideration by the Leader/Executive or a committee;
- (v) to appoint a committee and its membership or representatives where this arises from an item on the agenda for the meeting;
- (vi) to adopt any resolutions in relation to any business specified in the summons;
- (vii) to withdraw a motion;
- (viii) to extend the time limit for speeches;
- (ix) to amend a motion;
- (x) to postpone consideration of a motion;
- (xi) to proceed to next business;
- (xii) to take an immediate vote on a motion;
- (xiii) to adjourn a debate;
- (xiv) to adjourn a meeting;
- (xv) to authorise the sealing of documents;
- (xvi) to suspend a particular Procedure Rule;

PART 4 – COUNCIL PROCEDURE RULES

- (xvii) to exclude the public in accordance with the Access to Information Procedure Rules;
- (xviii) to not hear further from a councillor named under Procedure Rule 16 (c) or to exclude them from the meeting;
- (xix) to invite a councillor to withdraw in accordance with the Councillors' Code of Conduct;
- (xx) to give the consent of the Council where its consent is required by this Constitution;
- (xxi) to carry out a statutory duty of the Council which, by reason of special circumstances, the Mayor is of the opinion should be considered at the meeting as a matter of urgency; and
- (xxii) to give guidance to the Leader/Executive or a committee in relation to a matter determined under delegated powers.

13. QUESTIONS BY COUNCILLORS

Spontaneous questions

- (a) A councillor may ask the Leader, a lead councillor or a chairman of a committee, as appropriate, any question upon any item of business on the agenda for the meeting when that item is under consideration by the Council.

Questions on notice

- (b) A councillor may:
 - (i) ask the Mayor, Leader, a lead councillor or the chairman of any committee any question on a matter in relation to which the Council has powers or duties or which affects the Borough provided that written notice, specifying the question, is delivered to the Democratic Services and Elections Manager by no later than 12 noon on the third working day before the date of the meeting of the Council at which the question is intended to be asked. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.
 - (ii) with the permission of the Mayor, put to him or her, the Leader, a lead councillor or chairman of any committee any question relating to urgent business of which notice has not been given. A copy of any such question shall be delivered to the Democratic Services and Elections Manager not later than twelve noon on the day of the meeting.
- (c) The person to whom a question has been put may decline to answer.
- (d) In response to a question under paragraph (b) above, the person to whom the question has been put will normally provide and circulate to all councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.
- (e) A councillor asking a question under paragraph (b) above may without notice ask one supplementary question if such a question arises directly from the answer given.

PART 4 – COUNCIL PROCEDURE RULES

- (f) Any councillor may without notice ask a question arising from the response(s) given on any matter raised under this Procedure Rule.
- (g) At the end of the debate on any matter raised under this Procedure Rule, the person to whom the question was put shall be given the opportunity to respond to any supplementary questions raised during the debate.
- (h) Any question or response under paragraph (b) of this Procedure Rule shall not exceed three minutes in length.
- (i) No councillor shall ask more than two questions under paragraph (b) above at the same meeting.

14. MINUTES OF COUNCIL MEETINGS

- (a) The minutes of every meeting of the Council shall be submitted to and signed at the next meeting of the Council (other than an extraordinary meeting).
- (b) The Mayor shall put the question that the minutes of the previous meeting of the Council be approved as a correct record.
- (c) No discussion shall take place upon the minutes, except upon their accuracy, and any questions of their accuracy shall be raised by motion. If no such question is raised or if it is raised, then as soon as it has been disposed of, the Mayor shall sign the minutes.
- (d) Where, in relation to any meeting of the Council, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next ordinary meeting will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972 relating to signing of minutes.
- (e) The minutes will contain all motions and amendments in the form and order in which the Mayor put them.

15. RULES OF DEBATE

Motions and Amendments

- (a) No speeches may be made until a motion or amendment has been proposed and seconded.
- (b) Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him or her before it is discussed.

Secunder's Speech

- (c) When seconding a motion or amendment, a councillor may reserve his or her speech until later in the debate.

Content and Length of Speeches

- (d) Speeches must be directed to the question under discussion or to a personal explanation or point of order.

PART 4 – COUNCIL PROCEDURE RULES

- (e) Except as otherwise provided for in these Procedure Rules and subject to paragraphs (f and g) below, no speech shall exceed:
 - (i) ten minutes in respect of a mover of a motion
 - (ii) five minutes in respect of any other councillor speaking in the debate on a motion or amendment
 - (iii) ten minutes in the case of the mover of a motion exercising his or her right of reply at the end of the debate on the motion.
- (f) There shall be no time limit for:
 - (i) either the Leader of the Council or the lead councillors with responsibility for General Fund or Housing Revenue Account budgets in moving motions to approve those budgets and council tax; or
 - (ii), one spokesperson from each opposition group in commenting on the motions referred to in (i) above or moving an alternative budget.
- (g) The time limits specified in paragraph (e) above may be extended with the consent of the Council, which shall be given or refused without debate.

When a Councillor May Speak Again

- (h) A councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:
 - (i) to speak once on an amendment moved by another councillor;
 - (ii) to move a further amendment if the motion has been amended since he or she last spoke;
 - (iii) in exercise of a right of reply;
 - (iv) on a point of order; or
 - (v) by way of personal explanation.

Amendments to Motions

- (i) No amendment shall be debated until after the debate on the original motion.
- (j) An amendment shall be relevant to the motion and will either be:
 - (i) to refer the matter to the Leader/Executive, an appropriate committee or other body for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words;

PART 4 – COUNCIL PROCEDURE RULES

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

If he or she deems it necessary, the Mayor shall read out the amended motion before the amendment is put.

- (k) Only one amendment may be moved and discussed at any one time and no further amendment shall be moved until the amendment under discussion has been disposed of, provided that the Mayor may permit multiple amendments to be discussed together if he/she thinks that this will facilitate the proper conduct of business, subject to separate votes being taken in respect of each amendment .
- (l) If an amendment is lost, other amendments to the original motion may be moved.
- (m) If an amendment is lost, no other amendment having a similar effect may be moved at the same meeting of the Council.
- (n) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments may be moved.

Alteration of Motions and Amendments

- (o) With the consent of his or her seconder and of the meeting, which shall be signified without discussion, a councillor may alter:
 - (i) a motion of which he or she has given notice; or
 - (ii) a motion or an amendment which he or she has moved;if the alteration is one which could be made as an amendment to the motion.

Withdrawal of Motions and Amendments

- (p) A councillor may withdraw a motion or amendment with the consent of his or her seconder and of the meeting, which shall be signified without discussion. No councillor may speak on the motion after the mover has asked permission for its withdrawal unless permission is refused.

Rights of Reply

- (q) The mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote.
- (r) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (s) The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion.
- (t) A councillor exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Mayor's ruling on this shall be final and not open to discussion.

Motions which may be moved during debate

- (u) When a motion is under debate, no other motion shall be moved except for the following procedural motions:
 - (i) to amend the motion;
 - (ii) to postpone consideration of the motion;
 - (iii) to adjourn the meeting;
 - (iv) to adjourn the debate;
 - (v) to proceed to the next business;
 - (vi) to take an immediate vote on the motion;
 - (vii) to not hear from a councillor named under Council Procedure Rule 16 (c) or to exclude them from the meeting under Council Procedure Rule 16(d); and
 - (viii) to exclude the public in accordance with the Access to Information Procedure Rules.

Closure Motions

- (v) A councillor may move, without comment, the following motions at the end of a speech of another councillor:
 - (i) to proceed to the next business;
 - (ii) to take an immediate vote on a motion;
 - (iii) to adjourn a debate;
 - (iv) to adjourn the meeting;
 - (v) to exclude the public from the meeting; or
 - (vi) that a councillor be not further heard.
- (w) On the seconding of a motion referred to in (v) above, the Mayor shall proceed as follows:

To Proceed to Next Business

- (i) On a motion to proceed to the next business, if the Mayor thinks that the matter before the meeting has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

To Take an Immediate Vote on a Motion

- (ii) On a motion to take an immediate vote on a motion, if the Mayor thinks that the matter before the meeting has been sufficiently discussed, he/she

PART 4 – COUNCIL PROCEDURE RULES

shall first put the procedural motion to the vote. If the motion is passed, the Mayor will give the mover of the original motion a right of reply before putting the matter to the vote.

To Adjourn the Debate or Meeting

- (iii) On a motion to adjourn the debate or the meeting, if in his or her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Mayor shall put the adjournment motion to the vote without giving the mover of the original motion his or her right of reply.

On resuming an adjourned debate, the councillor who moved the adjournment is entitled to speak first.

A second motion to adjourn the meeting shall not be made within a period of thirty minutes from the first motion unless moved by the Mayor.

A councillor moving the adjournment of the debate or the meeting must confine his or her observations to that question and no amendment can be proposed to that motion unless it relates to the time of adjournment.

To Exclude the Public

- (iv) On a motion to exclude the public, unless the motion appears on the agenda, the Mayor shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer as to whether members of the public may lawfully be excluded. If so, the Mayor will allow the mover of the original motion a right to reply on the proposal to exclude the public and then put the motion to the vote. If it is passed, the Mayor may, at his or her discretion, either immediately require the public to leave the room in which the debate is being held or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.

That a Councillor be Not Further Heard

- (v) On a motion that a named councillor be not further heard, the Mayor shall put the motion to the vote without discussion from any councillor. If it is passed, the named councillor shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter.

Point of Order/Personal Explanation

- (x) A point of order is a request from a councillor to the Mayor to rule on an alleged irregularity in the procedure of the meeting. A councillor may raise a point of order at any time and the Mayor shall hear it immediately.

A point of order shall relate only to an alleged breach of these Council Procedure Rules or the law. The councillor must indicate the Rule or law and the way in which he or she considers it has been broken.

A councillor may also make a personal explanation at any time and the Mayor shall hear it immediately. A personal explanation shall be confined to some material part of an earlier speech by the councillor, which may appear to have been misunderstood in the present debate.

PART 4 – COUNCIL PROCEDURE RULES

The ruling of the Mayor on a point of order or the admissibility of a personal explanation is final and is not open to discussion.

Venue of Adjourned Meetings

- (y) Any motion to adjourn a debate or a meeting of the Council may specify the place, date and time at which the adjourned debate or meeting shall take place. If such specification is not given, the venue, date and time of the adjourned debate or meeting shall be determined by the Mayor or Joint Chief Executive.

Closure of Meeting

- (z) Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm. Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Council.

16. COUNCILLORS' CONDUCT

Addressing the Mayor

- (a) All councillors must address the Mayor when speaking during a Council meeting. If more than one councillor indicates a wish to speak, the Mayor will ask one to speak and determine the order in which the others may speak. Other councillors must remain silent whilst the Mayor or other councillor is speaking unless they wish to make a point of order or a point of personal explanation.

Mayor Standing

- (b) When the Mayor stands during a debate, any councillor speaking at the time must stop. The meeting must be silent.

Councillor Not to be Heard Further

- (c) If a councillor persistently disregards the ruling of the Mayor by continued irrelevance or tedious repetitions or by behaving improperly or offensively or by wilfully obstructing the business of the Council, the Mayor may direct the councillor to stop speaking or request him or her to leave for the remainder of the meeting or for any lesser period.

Councillor to Leave the Meeting

- (d) If following a request to leave the meeting, the offending councillor does not retire, the Mayor may move "that the councillor named leave the meeting". The motion shall be put and determined without seconding or discussion. If carried, the Mayor shall give directions for the removal of the councillor and such other directions as are necessary for restoring order to the proceedings.

General Disturbance

- (e) If there is general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he or she thinks necessary.

Requirement for councillors with disclosable pecuniary interests to withdraw from meeting

- (f) Any councillor present at a meeting who is aware that they have a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, and who has not received a dispensation in respect of that interest must:
 - (i) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in the code of conduct, disclose merely the fact that it is a disclosable pecuniary interest);
 - (ii) not participate in any discussion or vote regarding that matter; and
 - (iii) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

17. CONDUCT OF THE PUBLIC

- (a) If a member of the public interrupts proceedings, the Mayor shall warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.
- (b) Where any meeting of the Council, is open to the public, any person shall, subject to paragraph (a) above, be permitted to attend for the purpose of reporting on the meeting and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities during the meeting. "Reporting" includes photographing or making a video or audio recording of proceedings at a meeting and providing commentary on proceedings using social media.
- (c) Paragraph (b) above does not require the Council to permit oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting.
- (d) Where the public have been excluded from a meeting in accordance with the Access to Information Procedure Rules, no person shall be permitted to report on the meeting using methods which can be used without that person's presence at the meeting, and which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

18. PREVIOUS DECISIONS AND MOTIONS

No motion or amendment to rescind a decision made at a meeting of the Council within the past six months and no motion or amendment in similar terms to one which has been rejected at a meeting of the Council in the past six months can be moved unless the notice of motion is supported in writing by at least ten councillors. When any such motion or amendment has been dealt with by the Council, it shall not be open to any councillor to propose a similar motion or amendment within a further period of six months. This Procedure Rule shall not apply to motions

- (a) moved in pursuance of a recommendation of the Leader/Executive or a committee;

PART 4 – COUNCIL PROCEDURE RULES

- (b) to carry out any statutory duty of the Council which, in the opinion of the Mayor, is of an urgent nature.

19. VOTING

Majority

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

Casting Vote

- (b) If there are equal numbers of votes for and against, the Mayor or person presiding at the meeting shall have a second or casting vote. There will be no restriction on how the Mayor or person presiding chooses to exercise a casting vote. Where the Mayor or person presiding chooses not to use his/her second or casting vote to produce a majority in favour of or against the proposition, then in such case the proposition shall be deemed to be lost for want of a majority.

Show of Hands

- (c) Unless a recorded vote is demanded under paragraph (d) below, the Mayor will take the vote by show of hands or by the use of such electronic voting system as the Council shall determine or, if there is no dissent, by the affirmation of the meeting.

Recorded Vote

- (d) On the request of any councillor made before the vote is taken and upon four other councillors signifying their support at the meeting, the voting on any question shall be by roll-call and shall be recorded in the minutes of the meeting to show how each councillor present and voting cast their vote. The name of any councillor present and not voting will also be recorded. A recorded vote shall be taken at a meeting of the Council in respect of any motion or amendment to approve the budget or set council tax.

Recording of Individual Vote

- (e) Immediately after a vote is taken at a meeting of the Council, Executive or any committee or sub-committee, any councillor may require that the minutes show whether they voted for or against the motion or whether they abstained from voting.

Voting on Appointments

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

Result of Votes

- (g) The Mayor shall ascertain the numbers voting for or against any matter and his or her declaration as to the result shall be conclusive.

20. RECORD OF ATTENDANCE

The names of all councillors and co-opted members present during the whole or part of a meeting shall be recorded. Every councillor and co-opted member attending a meeting of the Council or Executive or a committee or sub-committee of which he or she is a member shall sign his or her name on the attendance sheet provided for that purpose.

Part B – Election of Leader and appointment of Deputy Leader and lead councillors

21. ELECTION OF LEADER OF THE COUNCIL AND APPOINTMENT OF DEPUTY LEADER AND LEAD COUNCILLORS

Election of the Leader of the Council

- (a) The Leader of the Council shall be elected by councillors at the Selection Council meeting after the post-election annual meeting. The Leader's term of office shall, subject to Article 6 of this Constitution, be four years ending on the day of the next post-election annual meeting.
- (b) A councillor proposing to nominate another councillor as Leader must notify the Democratic Services and Elections Manager of their nomination before the meeting at which the election is to be held. The Democratic Services and Elections Manager will report any nominations received at the meeting.
- (c) If more than one councillor is nominated, the election of the Leader shall be by show of hands.

Appointment of the Deputy Leader and lead councillors

- (d) As soon as practicable following the election of the Leader, the Leader of the Council shall appoint a Deputy Leader and such lead councillors as the Leader shall from time to time determine and determine their respective areas of responsibility.
- (e) The Leader may at any time alter the areas of responsibility of any lead councillor or discontinue their appointment and appoint a replacement.
- (f) The Leader shall report to the next appropriate meeting of the full Council on all such appointments and changes to areas of responsibility.

Part C – Committee Meetings

22. THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES TO REGULATE THEIR OWN PROCEDURES

- (a) The Executive and each committee and sub-committee shall, subject to any limitation imposed by these Council Procedure Rules or by resolution of the Council, regulate its own procedure, provided always that:

PART 4 – COUNCIL PROCEDURE RULES

- (i) Procedure Rule 15 (Rules of Debate)
- (ii) Procedure Rule 19 (Voting) (except paragraph (d))

shall apply at the chairman's discretion to the conduct of debate and proceedings at meetings.

- (b) Procedure Rules 16 and 17 relating to the conduct of councillors and behaviour of persons admitted to meetings shall apply to all meetings of the Executive, committees and sub-committees.

23. APPOINTMENT OF COMMITTEES

- (a) At the Selection Council meeting each year, the Council shall appoint such committees as it shall determine and shall agree their respective size and terms of reference.

Allocation of Seats on Committees

- (b) Except in relation to the Licensing Committee and its sub-committees where the Council shall have absolute discretion as to whether they are politically balanced, the membership of each of the Council's committees and sub-committees shall be in accordance with statutory requirements for political balance. As far as possible, the number of seats allocated to a political group on committees and sub-committees will reflect the size of that group in proportion to the total Council membership.
- (c) The Council shall review the allocation of seats on committees to political groups at its Selection meeting and as soon as reasonably practicable following any change in the political constitution of the Council or as otherwise required by statute.
- (d) Wherever such a review is required, the Democratic Services and Elections Manager will submit a report to the Council showing what allocation of seats would best meet the requirements for political balance.

Appointments to Committees

- (e) Whenever an appointment of a member or substitute member of a committee or sub-committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated or whenever such an appointment falls to be terminated in accordance with such wishes, the Joint Chief Executive shall make or terminate such appointments in accordance with the wishes of that political group.

The wishes of a political group are taken to be those expressed to the Joint Chief Executive in writing by (a) the leader of the political group or (b) in a statement to the Joint Chief Executive supported in writing by a majority of the members of that group. In the event that different wishes of a political group are notified in accordance with (a) and (b) above, the wishes notified in accordance with (b) shall prevail.

No member of a committee shall be appointed so as to hold office later than the next annual meeting of the Council.

Appointment, Dissolution and Alteration of Membership of Committees

- (f) The Council may, at any time:
 - (i) appoint such committees as it considers necessary to carry out its non-executive functions; and
 - (ii) dissolve a committee or alter its size.
- (g) The following committees shall be constituted in the manner specified:
 - (i) Corporate Governance and Standards Committee (7 councillors and up to 3 co-opted independent members and up to 3 co-opted parish members in accordance with Article 10 of this Constitution)

(The Corporate Governance and Standards Committee has established two sub-committees: the Assessment Sub-Committee and the Hearings Sub-Committee, each of which shall comprise five members drawn on a “panel” basis from the voting membership of the Corporate Governance and Standards Committee in accordance with Article 10 of this Constitution).
 - (ii) Licensing Committee (15 councillors)

(The Licensing Committee has established two sub-committees: the Licensing Sub-Committee and the Licensing Regulatory Sub-Committee, each of which shall comprise three members drawn on a “panel” basis from the membership of the Licensing Committee)
 - (iii) Overview and Scrutiny Committee (12 non-Executive councillors)
 - (iv) Planning Committee (15 councillors)
 - (v) Community Executive Advisory Board (12 non-Executive councillors)
 - (vi) Resources Executive Advisory Board (12 non-Executive councillors)

Appointment of Sub-Committees

- (h) A committee may, at any time:
 - (i) appoint such sub-committees as it considers necessary, including the membership thereof, to carry out the work of the committee; and
 - (ii) dissolve a sub-committee or alter its size.

Joint Committees

- (i) The following joint committees shall be constituted in the manner specified:
 - (i) Guildford and Waverley Joint Governance Committee (comprising the Leader of the Council plus 5 other Guildford Borough councillors and the Leader of Waverley Borough Council plus 5 other Waverley Borough councillors)

PART 4 – COUNCIL PROCEDURE RULES

- (ii) Guildford and Waverley Joint Senior Staff Committee (comprising the Leader of the Council plus 2 other Guildford Borough councillors and the Leader of Waverley Borough Council plus 2 other Waverley Borough councillors)

Substitute Members

- (j) In respect of each committee specified in the table below, the Council may appoint such substitute members for each political group on the Council as may be indicated in the second column thereof in accordance with the wishes of the political group.

Committee	Maximum number of substitute members for each political group on the Council to be appointed
Corporate Governance and Standards Committee	Three
Overview and Scrutiny Committee	No limit
Planning Committee	Five
Community Executive Advisory Board	Seven
Resources Executive Advisory Board	Seven
Guildford & Waverley Joint Governance Committee	The respective Group Leaders shall nominate an ongoing main substitute. Any appointed member of the Joint Governance Committee may be substituted by any other member of their political group on the council they represent.
Guildford & Waverley Joint Senior Staff Committee	The relevant Political Group Leader may appoint a Substitute Member, from the same Council, provided that prior written notice of such substitution is given to the Monitoring Officer by 5pm the working day prior to the meeting.

No substitute members shall be appointed in respect of the Executive or Licensing Committee.

Such substitute may take the place with the right to speak and vote of any member of that political group who is a member of the particular committee or sub-committee for the meeting (or part of the meeting) when such councillor is absent, subject to:

- (i) the substitution being notified to the Democratic Services and Elections Manager or his or her nominee:
- when the first item is called on the agenda;
 - at the commencement of a reconvened meeting; or

PART 4 – COUNCIL PROCEDURE RULES

- immediately upon the substitute member arriving at the meeting; and
- (ii) in the event of the member arriving after the substitution has been made, he or she shall resume membership of the committee or sub-committee at the commencement of the next item of business and the substitute member shall forthwith cease to be a member of the committee or sub-committee.

Such substitution shall not be used in relation to a specific item, but only to cover the absence of a councillor from the whole or part of a meeting.

24. APPOINTMENT OF WORKING GROUPS AND TASK GROUPS

Working groups appointed by the Leader, a Lead Councillor, or the Executive

Appointment, terms of reference, composition and duration

- (a) The Leader, a lead councillor, or the Executive (“the appointing body”) may appoint working groups for such purpose(s) as they shall specify, provided that no such working group shall exercise decision-making powers.
- (b) The appointing body shall determine:
 - (i) the terms of reference of a working group,
 - (ii) the number of councillors on a working group,
 - (iii) whether such working group should be cross-party (i.e. include councillors from more than two political groups), and
 - (iv) the time for which the working group is expected to operate
- (c) The appointing body may appoint individual councillors to a working group, or ask political group leaders to nominate councillors for membership of a working group in accordance with the number of seats each political group has been allocated to that working group.
- (d) Membership of a working group will normally comprise councillors but the appointing body may, if they consider it appropriate, appoint officers of the Council or persons from outside the authority to a working group, but only in an advisory capacity.

Appointment of Chairman

- (e) The appointing body shall have absolute discretion over the appointment of chairman of a working group.

Substitutes

- (f) Unless otherwise decided by the appointing body, substitutes are permitted to serve as members of working groups at any meeting at which another member of the same political group is absent for the entire meeting.

Who may attend meetings of working groups

- (g) A councillor shall not be entitled to attend meetings of working groups unless appointed as a member or substitute or with the agreement of the Chairman of the working group.

- (h) The public may not attend meetings of working groups.

Proceedings to remain Confidential

- (i) The proceedings of meetings of working groups, including any written material circulated to or considered by a working group, will remain confidential until they have been made public with the authority of the appointing body.

Reporting back to the appointing body

- (j) A working group shall, periodically, report back the results of their work, including recommendations where appropriate, to the appointing body.

Annual review

- (k) Continuation of working groups to be reviewed annually by the appointing body.

Task groups appointed by the Council, a committee or Executive Advisory Board

Appointment, terms of reference, composition and duration

- (l) The Council, or any committee, or Executive Advisory Board (“the appointing body”) may appoint task groups for such purpose(s) as they shall specify, provided that no task group shall exercise decision-making powers.
- (m) The appointing body shall determine:
- (i) the terms of reference of a task group,
 - (ii) the number of councillors on a task group,
 - (iii) whether such task group should be cross-party (i.e. include councillors from more than two political groups), and
 - (iv) the time for which the task group is expected to operate
- (n) The appointing body may appoint individual councillors to a task group, or ask political group leaders to nominate councillors for membership of a task group in accordance with the number of seats each political group has been allocated to that task group.
- (o) Membership of a task group will normally comprise councillors, but the appointing body may, if it considers it appropriate, appoint officers of the Council or persons from outside the authority to a task group, but only in an advisory capacity.

Appointment of Chairman

- (p) Each task group shall elect its own chairman in such manner as they may determine.

Substitutes

- (q) Unless otherwise decided by the appointing body, substitutes are permitted to serve as members of task groups at any meeting at which another member of the same political group is absent for the entire meeting.

Who may attend meetings of task groups

- (r) A councillor shall not be entitled to attend meetings of task groups unless appointed as a member or substitute or with the agreement of the Chairman of the task group.
- (s) The public may not attend meetings of task groups.

Proceedings to remain Confidential

- (t) The proceedings of meetings of task groups, including any written material circulated to or considered by a task group, will remain confidential until they have been made public with the authority of the appointing body.

Reporting back to the appointing body

- (u) A task group shall, periodically, report back the results of their work, including recommendations where appropriate, to the appointing body.

Annual review

- (v) Continuation of task groups to be reviewed annually by the appointing body.

25. EXERCISE OF POWERS AND FUNCTIONS

No individual councillor, officer or group of councillors or officers (or both) shall be entitled to exercise any power or function of the Council save as already or hereafter delegated to them by the Council, Leader/Executive or a committee exercising a power or fulfilling a function on behalf of the Council or as detailed in this Constitution.

26. DELEGATION TO COMMITTEES AND SUB-COMMITTEES

- (a) There shall be delegated to committees and sub-committees for determination such matters as the Council or legislation may from time to time prescribe.
- (b) In relation to any matter determined by a committee or sub-committee acting under delegated powers, it shall not be open to the Council or parent committee of a sub-committee to negate or amend any resolution passed, but the Council or parent committee may give guidance as to the manner in which the same or a similar matter shall be dealt with in future providing that such guidance shall not have the effect of causing the Council to breach the rules of natural justice or of prejudicing the determination by the committee or sub-committee of any matter required to be judged on its individual merits or of fettering the discretion of the committee or sub-committee in respect of any such matter .
- (c) In order for a planning application to be referred to the full Council for determination in its capacity as the Local Planning Authority, a councillor must first with a seconder, write to or email the Democratic Services and Elections Manager detailing the rationale for the request (the proposer and seconder do not have to be members of the Planning Committee).

The Democratic Services and Elections Manager shall inform all councillors by email of the request to determine an application by full Council, including the rationale provided for that request. The matter would then be placed as an

PART 4 – COUNCIL PROCEDURE RULES

agenda item for consideration at the next Planning Committee meeting. The proposer and seconder would each be given three minutes to state their case. The decision to refer a planning application to the full Council will be decided by a majority vote of the Planning Committee.

27. QUORUM OF THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES

- (a) Except where authorised by statute or ordered by the Council, the number of voting members who shall form a quorum of the Executive or a committee or sub-committee shall be fixed in accordance with the following table:

Number of Voting Members on Committee or Sub-Committee	Number of Voting Members forming quorum
15 or more	5
11-14	4
10 or fewer	3

- (b) If during any meeting of the Executive or a committee or sub-committee, the chairman declares that there is not a quorum present, the meeting shall stand adjourned to a place, date and time fixed by the chairman at the time the meeting is adjourned or if he or she does not fix a place, date and time, to the next ordinary meeting of the Executive, committee or sub-committee.

28. ATTENDANCE OF NON-MEMBERS AT THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES AND ADMISSION OF PUBLIC

Attendance by Mover of Motion

- (a) A councillor who has moved a motion which has been referred to the Leader/ Executive or a committee shall be given notice by the Democratic Services and Elections Manager of the meeting at which it is proposed to consider the motion. He or she shall have the right to attend the meeting and explain the motion.

Attendance of Councillors at Meetings

- (b) A councillor shall have a right to attend meetings of the Executive or a committee or sub-committee on which he or she has not been appointed to serve.
- (c) A councillor shall not be permitted to speak at meetings of the Executive or a committee or sub-committee on which he or she has not been appointed to serve except with the permission of the chairman or as allowed by paragraph (a) of this Procedure Rule and such councillor shall not be entitled to vote on any item under consideration.

Leader of the Council

- (d) The Leader of the Council may attend any meeting of a committee or sub-committee and speak on any item under consideration as of right, but he or she may not vote unless appointed as an ordinary member of that committee or sub-committee.

Admission of Public

- (e) The public shall be admitted to all meetings of the Executive, committees and sub-committees in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

29. ELECTION OF CHAIRMEN AND VICE-CHAIRMEN OF COMMITTEES

Election of Chairman and Vice-Chairmen of Committees and Sub-Committees

- (a) At the Selection Meeting each year, and following the appointment of committees, the Council shall elect the chairmen and vice-chairmen of all committees, including the executive advisory boards, and any sub-committees of those committees for the ensuing municipal year. Nominations for election of committee and sub-committee chairmen and vice-chairmen shall be submitted to the Democratic Services and Elections Manager in advance of the Selection Meeting at the same time as nominations are submitted for appointments to committees. If two candidates are nominated, the election shall be determined in accordance with paragraph (c) of Council Procedure Rule 19. If there are more than two candidates nominated, the election shall be determined in accordance with paragraph (f) of Council Procedure Rule 19, subject to the election being decided by the drawing of lots in the event of a tied vote of the two remaining candidates.

- (b) If, during the course of a municipal year, a councillor

- (i) resigns from the office of chairman or vice-chairman of a committee or sub-committee, or
- (ii) is no longer appointed as a member of the committee or sub-committee to which he or she was elected chairman or vice-chairman, or
- (iii) resigns as a councillor, or
- (iv) becomes disqualified,

the election of his or her successor for the remainder of that municipal year shall be conducted by the Committee at its next meeting.

Absence of Chairman and Vice-Chairman

- (c) At a meeting of a committee, the chairman, if present, shall preside.
- (d) If the chairman is absent from a meeting, the vice-chairman, if present, shall preside.
- (e) In the absence from a meeting of the chairman and vice-chairman, a chairman for that meeting shall be elected from among the voting members of the committee.
- (f) Any power or duty of the chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

30. NO CONFIDENCE IN THE CHAIRMAN

- (a) At any meeting of a committee or sub-committee, a councillor who is a member of that committee or sub-committee may propose that “the meeting has no confidence in the chairman”. The question shall after debate be put and, if

PART 4 – COUNCIL PROCEDURE RULES

carried by a majority of at least two thirds of the voting councillors present, the chairman shall stand down and the remainder of the meeting shall be chaired by the vice-chairman or, in his or her absence (or if he or she was the chairman subject to the vote) by a councillor elected for that purpose by the meeting.

- (b) Following an affirmative vote of no confidence in the chairman, he or she shall not officiate at any subsequent meeting of the committee or sub-committee prior to the next meeting of the Council. At that meeting, the Council shall consider whether to confirm the vote of no confidence. If by a simple majority they shall decide to confirm the vote, the office of chairman of the relevant committee or sub-committee shall be declared vacant, and a new chairman shall be elected by full Council at that meeting.

31. MEETINGS OF THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES

Date and Time of Meetings

- (a) Ordinary meetings of the Executive, committees and sub-committees shall be held on such days and at such times as the Council or the Executive, committee or sub-committee concerned may fix.

Length of Meetings

- (b) Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm.

Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Executive, committee or sub-committee.

Calling Special Meetings

- (c) The chairman of the Executive or a committee or sub-committee may call a special meeting at any time. A special meeting shall also be called on the requisition of not less than 5 members of the Executive or committee (or in the case of a sub-committee by 3 members of the sub-committee) delivered in writing to the Democratic Services and Elections Manager. The time and place of special meetings shall be agreed by the chairman after consultation with appropriate group leaders and/or spokesmen.

Venue of Meetings

- (d) Subject to paragraph (i) below, meetings of the Executive, committees and sub-committees shall be held at Millmead House, Guildford, or at such other place as the Executive, committee or sub-committee concerned shall determine.

Notice of and Summons to Attend Meetings

- (e) The Joint Chief Executive will give notice to the public of the time and place of any Executive, committee or sub-committee meeting in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution. Where a special meeting has been called by councillors, the notice shall specify the business to be transacted.
- (f) At least five clear working days before a meeting, the Joint Chief Executive shall send a summons to attend meetings of the Executive, committees and sub-committees to each member (and, where applicable, substitute member) of the

PART 4 – COUNCIL PROCEDURE RULES

Executive, committee or sub-committee (as the case may be) so that it is received at the usual place of residence of such councillor, or at such other place as may be requested by that councillor. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.

- (g) No item of business shall be considered at a meeting of the Executive or a committee or sub-committee unless the provisions of the Local Government Acts 1972 and 2000 have been complied with in relation thereto.
- (h) No business other than that set out in the summons shall be considered at a special meeting of the Executive or a committee or sub-committee.

Alteration or Cancellation of Meeting

- (i) Following consultation with the chairman and, where applicable, group spokesmen of the Executive, committee or sub-committee concerned or group leaders, the Joint Chief Executive may:
 - (i) alter the place, date or time previously fixed for a meeting provided that (except where such alteration arises from a matter outside the control of the Council when notice is to be given as soon as practicable) notice of such alteration is given at least five clear working days before the date of the meeting as originally fixed, or
 - (ii) cancel a meeting in circumstances where there is insufficient business to be transacted.

32. PROCEEDINGS OF THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES TO BE CONFIDENTIAL

All summonses (including items of business mentioned therein), reports and other documents and all proceedings of the Executive, committees and sub-committees shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

Part D – Suspension, Amendment and Interpretation of Council Procedure Rules

33. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

- (a) Any motion to amend or revoke (but not to suspend) these Council Procedure Rules shall when proposed and seconded be referred without discussion to the next meeting of the Council for consideration.
- (b) Any of these Council Procedure Rules, other than those governed by statutory provisions, may be suspended as regards any business at the meeting where its suspension is moved.

34. INTERPRETATION OF PROCEDURE RULES

- (a) The ruling of the Mayor in relation to the Council and the ruling of the chairman in relation to the Executive and all committee and sub-committee meetings as to the construction or application of any of these Procedure Rules, or as to any

PART 4 – COUNCIL PROCEDURE RULES

proceedings of the Council, Executive, committees or sub-committees shall not be challenged at any meeting.

- (b) The ruling of the Monitoring Officer as to the interpretation of these Procedure Rules and terms of reference in respect of the allocation of business to the Council, Executive, committees and sub-committees shall be final.

GUILDFORD BOROUGH COUNCIL

PUBLIC SPEAKING PROCEDURE RULES

1. CONDUCT EXPECTED OF PUBLIC SPEAKERS AT ANY COUNCIL, EXECUTIVE OR COMMITTEE MEETING

Public speakers will be expected to conduct themselves in an orderly manner and, in making their speeches, they should be mindful of the need to avoid making public statements that could be construed to be defamatory, frivolous or offensive and should refrain from making allegations regarding the conduct of individual councillors or officers.

2. PUBLIC PARTICIPATION AT COUNCIL MEETINGS

- (a) At meetings of the Council up to 30 minutes shall be allocated to receiving questions and statements from members of the public.

Questions

- (b) Members of the public may ask the Mayor, the Leader, a lead councillor or a chairman of a committee questions relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council at ordinary meetings of the Council, subject to the following conditions:
- (i) A member of the public may ask only one question at a meeting.
 - (ii) In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question must be given in writing by the questioner and received by the Democratic Services and Elections Manager not later than twelve noon on the third working day before the day of the meeting. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.
 - (iii) In cases where there is any doubt as to whether a question is relevant to the functions, powers or duties of the Council, the Council Solicitor and Monitoring Officer shall determine whether they are accepted. The Democratic Services and Elections Manager, in consultation with the Mayor, Leader, appropriate lead councillor or chairman and questioner, may re-word any question to bring it into proper form and to secure brevity.
 - (iv) In response to a question, the councillor to whom the question has been put will normally provide and circulate to the questioner and all councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.
 - (v) The questioner may, without notice, ask one supplementary question if such a question arises from the answer given. If the questioner is unable to attend the meeting due to unforeseen circumstances then they may, with the Mayor's consent, nominate a spokesperson to ask the supplementary question.

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- (vi) Questions, including any supplementary questions, will be asked and answered without discussion.
- (vii) The Mayor, Leader, lead councillor or chairman may decline to answer a question, or nominate another councillor to answer it on their behalf.
- (viii) Any question or response under this Procedure Rule shall not exceed three minutes in length.

Statements

- (c) As an alternative to asking a question, a member of the public may address the Council for a period not exceeding three minutes on matters relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council, subject to the following conditions:
 - (i) In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Democratic Services and Elections Manager not later than twelve noon one working day before the day of the meeting.
 - (ii) That speakers wishing to use visual aids during their speeches shall submit them to the Democratic Services and Elections Manager no later than 12 noon one working day before the meeting.
 - (iii) If a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the Mayor, they may nominate a spokesperson to speak for them
 - (iv) The Leader, relevant lead councillor or chairman shall be entitled to respond to the statement and this shall not exceed three minutes in length.

Presentation of Petitions

- (d) See Petition Scheme in the Appendix to the Public Speaking Procedure Rules.

3. PUBLIC PARTICIPATION AT MEETINGS OF THE EXECUTIVE AND COMMITTEES

Questions

- (a) Subject to (c) below, members of the public may submit a question to the Leader/Executive or to the chairman of any committee on any item included on the public agenda, subject to the following conditions:
 - (i) A member of the public may ask only one question at a meeting.
 - (ii) that, following publication of the agenda for the relevant meeting, notice must be given in writing by the person concerned to the Democratic Services and Elections Manager by twelve noon on the third working day before a meeting stating on which item they wish to ask a question. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- (iii) The Democratic Services and Elections Manager, in consultation with the chairman may re-word any question to bring it into proper form and to secure brevity.
- (iv) In response to a question, the councillor to whom the question has been put will normally provide and circulate to the questioner and all councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes
- (v) The questioner may, without notice, ask one supplementary question if such a question arises from the answer given.
- (vi) If the questioner is unable to attend the meeting due to unforeseen circumstances then, with the consent of the chairman, they may nominate a spokesperson to ask a supplementary question.
- (vii) The Leader, lead councillor or chairman may decline to answer a question. If appropriate, the Chairman may nominate the most appropriate councillor or officer present to provide a response to a question, or supplementary question from a member of the public.
- (viii) Questions, including any supplementary questions, will be asked and answered without discussion.
- (ix) Any question or response under this Procedure Rule shall not exceed three minutes in length.

Statements

- (b) As an alternative to asking a question, a member of the public may address the Executive or any committee¹ for a period not exceeding three minutes on a matter relevant to an item on the public agenda:
 - (i) In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Democratic Services and Elections Manager not later than twelve noon one working day before the day of the meeting.
 - (ii) that speakers wishing to use visual aids during their statements shall submit them to the Democratic Services and Elections Manager no later than 12 noon one working day before the meeting
 - (iii) that statements can be up to three minutes duration or longer only at the chairman's discretion and councillors be afforded the opportunity to ask questions of the public speakers;
 - (iv) that speakers do not engage in further debate once their statements have been made;
 - (v) that there is a maximum of six speakers on any one agenda item

¹ See paragraph (c) below for public speaking rules applicable to consideration of planning or related applications by the Planning Committee

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- (vi) if a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the chairman, they may nominate a spokesperson to speak for them
- (vii) that speakers be taken in the order in which they have registered; and
- (viii) that statements precede the formal debate on each item by the Executive or committee concerned.

Speaking at Planning Committee Meetings on Planning and Related Applications

- (c) Any person wishing to address the Planning Committee on any item on the public agenda on a planning or related application may do so, provided that the qualifying number of representations have been received and subject to the following conditions:
 - (i) that, following publication of the agenda for the relevant meeting, notice must be given in writing by the person concerned to the Democratic Services and Elections Manager by twelve noon one working day before a meeting stating on which item(s) they wish to speak;
 - (ii) that a maximum of four persons (two speaking in opposition to and two speaking in support of an application) be permitted with each speaker being entitled to speak, for up to three minutes duration, on any one item;
 - (iii) that speeches precede the Committee's formal debate of each item;
 - (iv) that speakers do not engage in further debate once their speeches have been made;
 - (v) if a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the chairman, they may nominate a spokesperson to speak for them;
 - (vi) that speakers shall not use visual aids during their presentations and shall not circulate material to councillors at the meeting;
 - (vii) that there shall be no public speaking on an application previously deferred by the Committee (e.g. for a site visit) when that application is resubmitted for consideration;
 - (xiii) that speakers have, in the opinion of the Democratic Services and Elections Manager, complied in all respects with such detailed scheme as may be approved by the Council from time to time.

Any person wishing to address the Planning Committee on any item on the public agenda not relating to a planning or related application may do so, subject to conditions in paragraph (b) above.

Presentation of Petitions to Leader/Executive and other committees

- (d) See Petition Scheme in the Appendix to the Public Speaking Procedure Rules.

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

Presentation of Petitions on Planning and Related Applications

- (e) Any petition submitted to the Council in respect of a planning or related application shall count as a single representation for the purpose of calculating the qualifying number of representations to facilitate public speaking at Planning Committee meetings referred to in paragraph (c) of this Procedure Rule.
- (f) A petition in respect of a planning or related application may be presented to the Planning Committee but no public speaking will be triggered by the presentation of the petition.

Invitation to Address Meetings

- (g) In addition to the provisions outlined above, the Leader/Executive or any committee may invite people other than officers and councillors to address them, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and may invite such people to attend.

4. SUSPENSION AND AMENDMENT OF PUBLIC SPEAKING PROCEDURE RULES

- (a) Any motion to amend or revoke (but not to suspend) these Public Speaking Procedure Rules shall when proposed and seconded be referred without discussion to the next meeting of the Council for consideration.
- (b) Any of these Public Speaking Procedure Rules may be suspended as regards any business at the meeting where its suspension is moved.

Guildford Borough Council Petition Scheme

Background

Subject to section 3 below, this scheme applies to all petitions submitted to the Council. Any petition that contains fewer than 50 signatures, or does not meet the guidelines within the scheme, will be deemed to be standard correspondence and receive a response within ten working days from the relevant strategic director/executive head of service setting out what action he/she intends to take in relation to the petition.

See **Section 12** for submitting a petition in relation to Borough Council matters coming within the purview of the Guildford Joint Committee.

1. Petitions

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response. This includes anyone under the age of 18.
- 1.2 All petitions submitted to the Council will receive a written acknowledgement from the Council within ten working days of receipt. This acknowledgement will set out what we plan to do with the petition.
- 1.3 E-petitions must be created, signed and submitted online through the Council's e-petitions facility: [Submit your petition - Guildford Borough Council](#). The Council will not accept e-petitions hosted by third parties (for example, Change.org), or accept as paper petitions information about e-signatories downloaded from third party e-petition hosts.
- 1.4 Alternatively, paper petitions can be sent to:

Democratic Services and Elections Manager
Guildford Borough Council
Millmead House
Millmead
GUILDFORD
Surrey GU2 4BB

2. What are the guidelines for submitting a petition?

- 2.1 Petitions submitted to the Council under this scheme must include:
 - a clear and concise statement covering the subject of the petition which must relate to the functions, powers, or duties of the Council. It should also state what lawful action the petitioners wish the Council to take;
 - the name and address (in a legible format) and signature of any person supporting the petition; and
 - contact details, including name, address, telephone number (and where possible, an email address) of the petition organiser.

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- 2.2 The petition organiser is the person the Council will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.
- 2.3 If a petition does not follow the guidelines set out above, the Joint Chief Executive, in consultation with the lead councillor with responsibility for governance, may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons.

3. What types of petitions are excluded?

- 3.1 We will not take action on any petition which the Joint Chief Executive, in consultation with the lead councillor with responsibility for governance, considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
- 3.2 This petition scheme does not apply to:
- any petition relating to a planning or licensing application, or
 - a statutory petition (for example requesting a referendum on having a directly elected mayor), or
 - a petition relating to a matter where there is already an existing recourse to a review or right of appeal, such as council tax banding and non-domestic rates, where other procedures apply.
- 3.3 In addition, the scheme specifically excludes any petition on the same or similar topic as one that the Council has received and dealt with in the previous six months. The Council will acknowledge receipt of such a petition within 10 working days and include details of its response to the previous petition on the topic. Where the Council is still considering a petition on the same or similar topic, the new petition will be amalgamated with the first received petition.
- 3.4 Details of petitions affecting particular wards that have been excluded will be sent to the relevant councillors representing those wards.

4. What will the Council do when it receives my petition?

- 4.1 An acknowledgement will be sent to the petition organiser within ten working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website, except in cases where this would be inappropriate. Where the subject matter of the petition affects particular wards, the councillors representing those wards will be notified of the receipt of the petition.
- 4.2 We will write to the petition organiser at each stage of the petition's consideration. If the petition needs further investigation, we will tell you the steps we plan to take. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

5. How will the Council respond to my petition?

- 5.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- taking the action requested in the petition
- considering the petition at a meeting of the Council or Executive
- holding an inquiry into the matter
- holding a public meeting
- holding a meeting with petitioners or the petition organiser
- undertaking research into the matter
- writing to the petition organiser setting out the Council's views about the request in the petition
- referring the petition to the Overview and Scrutiny Committee for consideration

5.2 The type of response the Council provides may be dependent on the number of signatories to the petition. The table below summarises the Council's approach:

Number of signatories	Response
fewer than 50	Response from relevant strategic director/executive head of service (treated as standard correspondence).
50 - 299	Response from relevant lead councillor.
At least 300	Referred to the Leader/ Executive for response.
At least 500	Referred for debate at a meeting of the full Council (see section 6).
At least 500	Senior officer(s) called to provide evidence at a meeting of the Overview and Scrutiny Committee (see section 7), where such action is requested in the petition.

- 5.3 If we can do what a petition asks for, the acknowledgement to the organiser may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to be referred to the Leader/Executive or to trigger a debate at a meeting of the full Council, or for a senior officer to give evidence at a meeting of the Overview and Scrutiny Committee, then the acknowledgment will confirm this and inform the organiser when and where the relevant meeting will take place.
- 5.4 Where the petition is referred to the relevant lead councillor for a response, the petition organiser will be invited to make a written statement in support of the petition.
- 5.5 Where the petition is referred to the Leader/Executive, the full Council or to the Overview and Scrutiny Committee, the petition organiser (or any person authorised by him/her) will, if they so wish, be given a period not exceeding five minutes to present the petition at the meeting and the petition will then be discussed by councillors. Councillors will also be afforded the opportunity to ask questions of the petition organiser. The petition organiser (or any person authorised by the petition organiser) will be granted a right of reply for a further period not exceeding five minutes at the end of the debate and before a final decision or vote is taken.
- 5.6 In presenting their petition, the petition organiser (or any person authorised by him/her) shall be permitted to use visual aids, subject to submission of such visual aids to the Democratic Services and Elections Manager by no later than 12 noon one working day before the meeting at which the petition is presented.
- 5.7 We will contact the petition organiser before the meeting to establish whether they wish to formally present the petition at the meeting in the manner described above.
- 5.8 In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

6. Full Council debates

- 6.1 If a petition contains 500 signatures or more, it will automatically be referred to the full Council for debate unless it is a petition asking for a senior council officer to give evidence at a meeting of the Council's Overview and Scrutiny Committee (see section 7 below).
- 6.2 The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.
- 6.3 The Council will decide how to respond to the petition at the meeting. They may decide to support the action the petition requests, or not. A motion suggesting a formal response to the petition shall be proposed and seconded at the meeting and dealt with under the normal rules of debate, provided that any such motion must respond explicitly to the request in the petition i.e. that part of the petition which asks the Council to take some form of action. Alternatively, the Council may refer the matter to the Leader/ Executive or the Overview and Scrutiny Committee for further consideration. The petition organiser will receive written confirmation of this decision.

7. Petitions asking senior officers to provide evidence

- 7.1 A petition may ask for a senior council officer to give evidence at a meeting of the Council's Overview and Scrutiny Committee about something for which the officer is responsible as part of their job, for example, it may ask a senior council officer to explain progress on an issue, or to explain the advice given to councillors to enable them to make a particular decision.
- 7.2 If the petition requests such action and contains at least 500 signatures, the relevant senior officer will give evidence at a public meeting of the Overview and Scrutiny Committee.
- 7.3 For the purpose of this scheme, *senior officer* is defined as one of the following:
- the Joint Chief Executive,
 - any strategic director, or
 - any executive head of service
- 7.4 Details of the names of these officers are set out in Part 7 of this Constitution. Petition organisers should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call the relevant lead councillor to attend the meeting.
- 7.5 Committee members will ask the questions at this meeting, but petition organisers will be able to suggest questions to the chairman of the committee by contacting the Democratic Services and Elections Manager up to seven working days before the meeting although the chairman will have discretion to accept any such questions received after this deadline.

8. E-petitions

- 8.1 The Council welcomes e-petitions which are created and submitted through our website [Submit your petition - Guildford Borough Council](#). E-petitions will follow the same guidelines as paper petitions set out above.

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- 8.2 E-petition organisers will need to provide us with their name, postal address and email address. They will also need to decide how long they would like their e-petition to be open for signatures, up to a maximum of 12 months.
- 8.3 When an e-petition is created, it may take five working days before it is published online. This is because we have to check that the content of the e-petition is suitable before it is made available for signature.
- 8.4 If the Joint Chief Executive, in consultation with the lead councillor with responsibility for governance, feels we cannot publish the e-petition for some reason, we will contact the e-petition organiser within this time to explain. The e-petition organiser will be able to change and resubmit their e-petition if they wish. If they do not do this within ten working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 8.5 When an e-petition has closed for signature, it will automatically be submitted to the Democratic Services team. In the same way as a paper petition, the e-petition organiser will receive an acknowledgement within ten working days.
- 8.6 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on our website.

9. How do I 'sign' an e-petition?

- 9.1 All the e-petitions currently available for signature may be viewed on the Council's website
- 9.2 Anyone who signs an e-petition will be asked to provide their name, postcode and a valid email address. When this information has been submitted an email will be sent to the email address provided. This email will include a link which the signatory must click on in order to confirm that the email address is valid. Once this step is complete the signatory's 'signature' will be added to the e-petition.

10. What happens to my petition or e-petition following a formal response by the Council?

- 10.1 Following a period of 21 days after the Council has responded formally, a paper petition will be destroyed, and all e-signatories on an e-petition will be erased, unless during that period, the petition organiser requests a review under section 11 below.

11. What can I do if I feel my petition has not been dealt with properly?

- 11.1 If a petition organiser feels that we have not dealt with their petition properly, they have the right to request that the steps that the Council has taken in response to the petition is reviewed by the Council's Overview and Scrutiny Committee. It is helpful to everyone and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
- 11.2 The petition organiser must exercise this right within 21 days of receipt of the Council's formal response to the petition.

PART 4 – PUBLIC SPEAKING PROCEDURE RULES

11.3 The Council will endeavour to consider the review at the next available meeting of the Overview and Scrutiny Committee although, on some occasions, this may not be possible and the review will then take place at the following meeting or at a special meeting. The petition organiser shall be invited to attend that meeting. The procedure for conducting the review at the meeting shall be as follows:

- (a) The petition organiser (or any person authorised by them) shall be invited to address the Committee for no more than five minutes in respect of their request for review.
- (b) Councillors to ask the petition organiser any questions relevant to the review arising from their statement to the Committee.
- (c) The Committee to review the steps taken by the Council in responding to the petition and to consider whether the Council has dealt with the petition adequately. Dependent on whether the formal response to the petition was given by:
 - A strategic director or executive head of service,
 - a lead councillor, or
 - full Council

this may include asking the relevant strategic director/executive head of service or relevant lead councillor to attend and answer questions from the Committee.

- (d) Prior to making a decision on the review, the petition organiser (or any person authorised by them) shall have a right of reply on the debate, for which they will be given five minutes.
- (e) The Committee to formally determine the review – deciding either that the Council has dealt with the petition adequately or that it has not. If the latter, the Committee must then decide one of the following options:
 - (i) to investigate the matter further;
 - (ii) to make recommendations to the Leader/Executive; or
 - (iii) to arrange for the matter to be considered at a meeting of full Council.

11.4 The question as to whether implementation of any decisions pertinent to a petition under review by overview and scrutiny should be deferred pending completion of the review process shall be dealt with by the Joint Chief Executive on a case-by-case basis including, where necessary, convening special meetings of the Overview and Scrutiny Committee and/or full Council for this purpose.

11.5 Once the Committee has completed its review the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website. Following the review, if the petition was a paper petition, it will be destroyed and, if an e-petition, all e-signatories will be erased.

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GUILDFORD BOROUGH COUNCIL

ACCESS TO INFORMATION PROCEDURE RULES

Part A - General

1. **Scope**

These Procedure Rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents of being open and accountable. They apply to all meetings of the Council, Executive, committees, and sub-committees (together called meetings) unless otherwise specified in this Constitution or by legislation.
2. **Additional Rights to Information**

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

Members of the public may attend all meetings subject only to the exceptions in these Procedure Rules.
4. **Notices of Meeting**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Guildford Borough Council Offices, Millmead House, Millmead, Guildford, Surrey, GU2 4BB (the Council offices) and on its website at www.guildford.gov.uk.
5. **Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection on its website and at the designated office at least five clear working days before the meeting, except:

 - (a) those which contain exempt or confidential information, the meaning of which is explained later in these Procedure Rules; or
 - (b) those in relation to Licensing Sub-Committees where a meeting is called in accordance with:
 - (i) section 105(2)(a) (counter notice following police objection to temporary event notice) of the Licensing Act 2003; or
 - (ii) SI 2007 No. 2502 - Summary Review of Premises Licences.

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

Where reports are prepared after the summons to the meeting has been sent out, the Joint Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors.

Upon receipt of a reasonable request, the Council will make copies of agendas and reports available to the public in alternative formats.

6. **Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items on the agenda; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item;

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

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (except during any part of the meeting to which the public are excluded)

7. **Access to Minutes and other Information after the Meeting**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all Council, Executive, committee and sub-committee meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. **Background Papers**

8.1 **List of Background Papers**

The Joint Chief Executive, strategic director, or executive head of service in whose name any report is prepared will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Procedure Rule 10 below)

8.2 **Public Inspection of Background Papers**

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

9. **Summary of Public's Rights**

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

10. **Exclusion of Access by the Public to Meetings**

10.1 **Confidential Information – Requirement to Exclude Public**

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

10.2 **Exempt Information – Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision-making body.

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

10.3 **Meaning of Confidential Information**

Confidential information means information given to the Council by a government department, service or agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or court order.

10.4 **Meaning of Exempt Information**

Exempt information means information falling within any of the categories (subject to any qualification) defined in Appendix I to these Procedure Rules.

11. **Exclusion of Access by the Public to Reports**

If the Council Solicitor and Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Procedure Rule 10 above, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

Part B – Executive Decision making

12. **Application of Rules to the Executive**

Procedure Rules 13 to 28 apply to the Executive and its committees (if any). If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11, unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. **Procedure before taking Key Decisions**

A key decision is as defined in Article 14 of this Constitution.

13.1 **Notice of Key Decision**

Subject to Procedure Rule 15 (general exception) and Procedure Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
- (b) at least twenty-eight clear days have elapsed since the publication of the Notice of Key Decision (which may include Saturdays, Sundays and public holidays) and the date of the meeting at which the key decision is to be made; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees (if any), notice of the meeting has been given in accordance with Procedure Rule 4 (notice of meetings).

13.2 Contents of Notice of Key Decision

The Notice of Key Decision will state that a key decision is to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

- (a) the matter in respect of which the decision is to be made;
- (b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available.

13.3 Publication of the Notice of Key Decision

The Notice of Key Decision will be made available for inspection by the public at the Council offices and on the website.

14. **The Forward Plan**

Although not required by law, the Council continues to publish a Forward Plan which sets out details of the various decisions that the Executive is likely to take over a subsequent period of twelve months in so far as they are known at the time of publication. Other significant decisions to be taken by full Council will be included for information. The Forward Plan incorporates the Notice of Key Decision referred to in Procedure Rule 13 and Notice of Intention to Hold Executive Meetings in Private referred to in Procedure Rule 21. The Forward Plan will be published on the Council's website and a copy will be available for inspection at the Council offices at least twenty-eight clear days before each meeting of the Executive.

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

15. General Exception

15.1 If a Notice of Key Decision has not been published in accordance with Procedure Rule 13, then subject to Procedure Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
- (b) the Democratic Services and Elections Manager has informed the chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter on which the decision is to be made;
- (c) the Democratic Services and Elections Manager has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least five clear working days have elapsed since the Democratic Services and Elections Manager complied with (b) and (c).

15.2 As soon as reasonably practicable after the Democratic Services and Elections Manager has complied with Procedure Rule 15.1, he must make available at the Council offices and publish on the Council's website the reasons why compliance with Procedure Rule 13 is impracticable.

16. Special Urgency

16.1 If by virtue of the date by which a key decision must be taken, Procedure Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no chairman of the Overview and Scrutiny Committee, or if he or she is unable to act, then the agreement of the Mayor or in his/her absence the Deputy Mayor will suffice.

16.2 As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 16.1 above, he shall make available at the Council offices and publish on the Council's website a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

17. Report to Council

17.1 When the Overview and Scrutiny Committee can require a Report

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) the subject of a Notice of Key Decision; or
- (b) the subject of the general exception procedure under Procedure Rule 15; or

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

- (c) the subject of an agreement with the chairman of the Overview and Scrutiny Committee or the Mayor/Deputy Mayor under Procedure Rule 16;

the committee may require the Leader/Executive to submit a report to the Council within such reasonable time as the committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Leader/Executive believing that the decision was not a key decision. The power to require a report rests with the Overview and Scrutiny Committee, who shall require the Democratic Services and Elections Manager to issue such a report on behalf of that committee when so requested by the chairman or any five councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

17.2 Leader's/Executive's Report to Council

The Leader/Executive will present a report to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice or the resolution of the Overview and Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

17.3 Reports from the Leader on Special Urgency Decisions

In any event, the Leader will report to the next ordinary meeting of the Council on any executive decisions taken in the circumstances set out in Procedure Rule 16 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. **Meetings of the Executive to be held in Public**

Meetings of the Executive and its committees (if any) will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

19. **Notice of Executive meetings**

Members of the Executive or its committees (if any) will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

20. **Officer attendance at Executive meetings**

The Joint Chief Executive as Head of Paid Service, Monitoring Officer, Chief Finance Officer, Strategic Directors, and their nominees, are entitled to attend any meeting of the Executive.

21. **Notice of Intention to hold Executive Meetings in Private**

- 21.1 Subject to this Procedure Rule, where the Monitoring Officer agrees that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item, either:

(a) confidential information, as defined in Procedure Rule 10.3, would be disclosed to them in breach of the obligation of confidence, or

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

(b) exempt information, as defined in Procedure Rule 10.4, would be disclosed to them,

the meeting shall be held in private, following the exclusion of the public.

21.2 At least twenty-eight clear days before a private meeting (which may include Saturdays, Sundays and public holidays), the decision-making body shall:-

- (a) make available at the Council offices a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); such notice to include a statement of reasons for the meeting to be held in private, and
- (b) publish that notice on the Council's website.

21.3 At least five clear days before a private meeting, the decision-making body shall:-

- (a) make available at the Council offices a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.

This notice will be included in the agenda for the meeting.

21.4 A notice under Procedure Rule 21.3 shall include:-

- (a) a statement of the reasons for the meeting to be held in private
- (b) details of any representations received by the decision-making body about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

21.5 Where the date by which a meeting must be held makes compliance with this Procedure Rule impracticable, the meeting may only be held in private where:-

- (a) the chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or
- (c) where there is no chairman of either the Overview and Scrutiny Committee or in the absence of the Mayor, the Deputy Mayor,

has agreed that the meeting is urgent and cannot reasonably be deferred.

21.6 As soon as reasonably practicable after agreement to hold a private meeting has been obtained under Procedure Rule 21.5, the decision-making body shall:

- (a) make available at the Council offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

22. **Taking Executive Decisions by Individuals**

Decisions by the Leader or individual lead councillors

22.1 Reports intended to be taken into account

Where the Leader or an individual lead councillor receives a report which he or she intends to take into account in making any executive decision under the scheme of delegation to Lead Councillors referred to in the Appendix to Part 3 of this Constitution (Responsibilities of Leader and Lead Councillors), then he or she will not make the decision until at least five clear working days after receipt of that report.

22.2 Provision of copies of Reports to all councillors

On giving such a report to the Leader or an individual lead councillor, the Democratic Services and Elections Manager will give a copy of it to all councillors as soon as reasonably practicable and make it publicly available at the same time. Before the Leader or lead councillor takes an executive decision, he or she will take into account any written representations submitted by other councillors or from the public.

Decisions by officers

22.3 Officers contemplating a decision in connection with an executive function shall have careful regard to the following principles in deciding how this should be taken:

- (a) whether the proposed decision is closely (as opposed to remotely) connected with the discharge of a function which is, as a matter of law, the responsibility of the authority's executive;
- (b) whether the proposed executive decision is merely administrative in nature with only a remote connection with an executive function;
- (c) whether a proposed executive decision is so minor or routine in nature or is otherwise one which would reasonably be considered to be of no interest to a reasonable member of the public;
- (d) whether the proposed executive decision is sufficiently important and/or sensitive so that a reasonable member of the public would reasonably expect it to be taken by the Executive;
- (e) whether the proposed executive decision is one which affects only particular individuals as opposed to the public generally;

22.4 Taking into account the above principles, the Council has agreed that these Procedure Rules shall apply to:

- (a) key decisions taken by officers; and
- (b) any executive decision taken by an officer -
 - (i) under the scheme of delegation to officers referred to in Part 3 of this Constitution, or
 - (ii) which has been authorised specifically by the Leader/Executive

which requires prior consultation with the Leader, a lead councillor or a local ward member.

23. Record of Executive Decisions

Executive meetings

As soon as reasonably practicable after any meeting of the Executive or any of its committees (where applicable), whether held in public or private, the Democratic Services and Elections Manager, or if the Democratic Services and Elections Manager was not present, the person presiding at the meeting, shall produce a written statement of every executive decision taken at that meeting which shall include the following information:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

Executive decisions taken by the Leader or individual lead councillors

As soon as reasonably practicable after an executive decision has been taken by the Leader or an individual lead councillor, the Democratic Services and Elections Manager shall prepare a record of the decision, which shall include the following information:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

Executive decisions taken by officers

As soon as reasonably practicable after an executive decision has been taken by an officer, that officer shall prepare a record of the decision, which shall include the following information:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

The provisions of Procedure Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by individuals. This does not require the disclosure of exempt or confidential information.

24. **Inspection of documents following executive decisions**

- (a) Subject to Procedure Rule 28, after a meeting of a decision-making body at which an executive decision has been made, or after the Leader, an individual lead councillor or officer has made an executive decision, the Democratic Services and Elections Manager shall ensure that a copy of-
 - (i) any records prepared in accordance with Procedure Rules 22 and 23; and
 - (ii) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with Procedure Rules 22 or 23 or, where only part of the report is relevant to such a decision, that part,

shall be available for inspection by members of the public, as soon as is reasonably practicable, at the Council offices and on the website.

- (b) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection referred to in (a) above, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

25. **Inspection of background papers**

Subject to Procedure Rule 28, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Procedure Rules 5 or 24, at the same time-

- (a) a copy of a list compiled by the proper officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the offices of the Council and on the website.

26. **Overview and Scrutiny Committee Access to Documents**

26.1 **Rights to Copies**

Subject to Procedure Rule 26.2 below, a member of the Overview and Scrutiny Committee will be entitled to a copy of any document which is in the possession or control of the Leader/Executive and which contains material relating to:

- (a) any business transacted at a meeting of the Executive;
- (b) any executive decision taken by the Leader or an individual lead councillor; or
- (c) any executive decision taken by an officer.

The documents must be provided as soon as reasonably practicable, but no later than ten clear days after the request is received.

26.2 **Limit on Rights**

A member of the Overview and Scrutiny Committee will not be entitled to a copy of any document or part of a document that:

- (a) is in draft form; or
- (b) contains exempt or confidential information unless that information is relevant to:
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in the Overview and Scrutiny Committee's work programme.

Where the Leader/Executive determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in (a) or (b) above, they must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

27. **Additional Rights of Access to Documents for Councillors**

27.1 Subject to Procedure Rules 27.5 and 27.6, any document which is in the possession or under the control of the Leader/Executive which contains material relating to any business to be transacted at a public meeting of the Executive shall be made available for inspection by any councillor.

27.2 Any document which is required by Procedure Rule 27.1 to be available for inspection by any councillor must be available for such inspection for at least five clear working days before the meeting except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Procedure Rule 27.1 in relation to

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

that item, must be available for inspection when the item is added to the agenda.

27.3 Subject to Procedure Rules 27.5 and 27.6, any document which is in the possession or under the control of the Leader/Executive and contains material relating to:

- (a) any business transacted at a private meeting of the Executive;
- (b) any decision made by the Leader or individual lead councillor in accordance with executive arrangements; or
- (c) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any councillor when the meeting concludes or in relation to (b) and (c) above, immediately after the decision has been made.

27.4 Any document which is required by Procedure Rule 27.3 to be available for inspection by any councillor must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

27.5 Procedure Rules 27.1 and 27.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

27.6 Notwithstanding Procedure Rule 27.5, Procedure Rules 27.1 and 27.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

- (a) paragraph 3 of Appendix I (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Appendix I.

27.7 Where it appears to the Monitoring Officer that compliance with Procedure Rules 27.1 or 27.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that paragraph will not apply to that document or part.

27.8 The rights conferred by Procedure Rules 27.1 and 27.3 are in addition to any other rights that a councillor may have.

28. **Confidential Information and Exempt Information**

28.1 Nothing in these Procedure Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

28.2 Nothing in these Procedure Rules:

- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

- (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information.

28.3 Where the Leader, a lead councillor or an officer makes an executive decision in accordance with executive arrangements, nothing in these Procedure Rules:

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information.

Part C – Other (Non-Executive) Decisions taken by officers

29. Recording of Decisions

29.1 The decision-making officer shall produce a written record of any decision which falls within Procedure Rule 29.2.

29.2 A decision falls within this Procedure Rule if it would otherwise have been taken by the Council, or a committee, sub-committee or a joint committee in which the Council participates, but it has been delegated to an officer of the Council either:

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) grant a permission or licence;
 - (ii) affect the rights of an individual; or
 - (iii) award a contract or incur expenditure which, in either case, materially affects the Council's financial position*.

(Note: the Council has decided that the financial threshold at or above which, any contract awarded or expenditure incurred is deemed to materially affect its financial position is the same financial threshold referred to in the definition of a key decision, i.e. £200,000).

29.3 The written record shall be produced as soon as reasonably practicable after the decision-making officer has made the decision and shall contain the following information:

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

- (c) details of alternative options, if any, considered and rejected; and
- (d) the names of any councillor who has declared a conflict of interest in relation to the decision.

29.4 The duty imposed by Procedure Rule 29.1 is satisfied where, in respect of a decision, a written record containing the information referred to in subparagraphs (a) and (b) of Procedure Rule 29.3 is already required to be produced in accordance with any other statutory requirement.

30. **Decisions and background papers to be made available to the public**

30.1 The written record, together with any background papers, shall as soon as reasonably practicable after the record is made, be made available for inspection by members of the public:

- (a) at all reasonable hours, at the Council offices;
- (b) on the website; and,
- (c) by such other means that the Council considers appropriate.

30.2 On request and on receipt of payment of postage, copying or other necessary charge for transmission, the Council shall provide to the person who has made the request and paid the appropriate charges:

- (a) a copy of the written record;
- (b) a copy of any background papers.

30.3 The written record shall be retained by the Council and made available for inspection by the public for a period of six years beginning with the date on which the decision, to which the record relates, was made.

30.4 Any background papers shall be retained by the Council and made available for inspection by the public for a period of four years beginning with the date on which the decision, to which the background papers relate, was made.

30.5 The provisions relating to confidential and exempt information referred to in Procedure Rule 28.1 and 28.2 apply to this Part of these Procedure Rules.

EXEMPT INFORMATION

Categories of Exempt Information (see also Qualifications below)

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications

1. Information falling within Category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
 - (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Industrial and Provident Societies Acts 1965 to 1978;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 1993.
2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

PART 4 – ACCESS TO INFORMATION PROCEDURE RULES

3. Information which:
- (a) falls within any of Categories 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of Qualifications 1 or 2 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

NOTE: The Public Interest Test

The Public Interest Test in the Freedom of Information Act 2000 is specifically defined.

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

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

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

GUILDFORD BOROUGH COUNCIL

EXECUTIVE PROCEDURE RULES

1. How does the Executive operate?

1.1 Who may make executive decisions?

The Leader has responsibility for the discharge of all executive functions and may delegate any or all of these functions to:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive;
- (iv) an officer;
- (v) an area committee;
- (vi) joint arrangements; or
- (vii) another local authority.

1.2 Delegation of executive functions

- (a) Where the Executive is responsible for an executive function, it may delegate further to a committee of the Executive, lead councillor, area committee, joint arrangements or officer.
- (b) Unless the Leader/Executive directs otherwise, a committee of the Executive or lead councillor may delegate further to an officer.
- (c) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.3 The Leader's scheme of delegation and Executive functions

- (a) The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Democratic Services and Elections Manager and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Democratic Services and Elections Manager will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when he has served it on its chairman.

1.4 Conflicts of interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.

PART 4 – EXECUTIVE PROCEDURE RULES

- (b) If any member of the Executive has a conflict of interest this should be dealt with as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual lead councillor or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.

1.5 Executive meetings

The Executive will meet at such times as the Leader shall determine. The Executive shall meet at the Council's main offices or another location to be agreed by the Democratic Services and Elections Manager, in consultation with the Leader of the Council.

1.6 Quorum

The quorum for a meeting of the Executive shall be three members of the Executive.

1.7 How are decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the Procedure Rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- (c) All Key (and other significant) decisions should be considered by the relevant Executive Advisory Board prior to the formal consideration of all such decisions by the Executive; and the Executive shall take into account any recommendations made by the Board.

2 How are the Executive meetings conducted?

2.1 Who presides?

The Leader, or in his or her absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, then a member of the Executive appointed to do so by those present shall preside.

2.2 Who may attend?

Meetings of the Executive will be held in accordance with the Access to Information Rules in Part 4 of this Constitution.

2.3 What business?

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

- (i) disclosure of interests (if any);
- (ii) consideration of the minutes of the previous meeting of the Executive

PART 4 – EXECUTIVE PROCEDURE RULES

- (iii) matters referred to the Executive by the Overview and Scrutiny Committee or by the Council for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports and recommendations from the Overview and Scrutiny Committee;
- (v) matters set out in the agenda for the meeting, which shall indicate which are key decisions;
- (vi) any matters, reports and recommendations referred to the Executive by the Executive Advisory Boards.

2.4 **Consultation**

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

GUILDFORD BOROUGH COUNCIL

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Arrangements for the Overview & Scrutiny Committee

The Council will have one overview and scrutiny committee (OSC) as described in Article 8. The OSC will comprise 12 councillors and the Council will appoint councillors to it on an annual basis. The OSC may appoint formal sub-committees and informal task and finish groups.

2. Who may sit on the OSCs?

(a) All councillors, except members of the Executive, may be members of the OSC. However, no councillor may be involved in scrutinising a decision in which he or she has been directly involved (unless that involvement was only as a member of an Executive Advisory Board).

(b) There shall be no limit upon the number of substitute members

3. Co-optees

The OSC, or any of its sub-committees or task and finish groups, shall be entitled to appoint non-voting co-optees. Co-optees shall normally be drawn from groups, organisations, or service users with an interest in services within the OSC's remit. Co-optees may be appointed as standing co-optees, or special interest co-optees appointed to assist with scrutiny of a particular matter.

4. Meetings of the OSC

There shall normally be at least seven ordinary meetings of the OSC in each year. In addition, special meetings (and meetings to consider call-ins pursuant to paragraph 17 below) may be called if appropriate. An OSC meeting may be called by the chairman, by any five members of the OSC, or by the Joint Chief Executive if he or she considers it necessary or appropriate.

5. Quorum

The quorum for the OSC shall be four voting members of the Committee.

6. Who chairs OSC meetings?

(a) The OSC chairman shall be drawn from among those councillors serving on the OSC who is not from the majority political group or a chairman of any other committee. The chairman shall be elected in accordance with the procedure set in Council Procedure Rule 29. The chairman of each overview and scrutiny sub-committee or task and finish group will be drawn from amongst the councillors serving on the sub-committee or task and finish group concerned.

(b) A vice-chairman of the OSC, who shall not be from the same political group as the chairman, shall also be elected in accordance with the procedure set in Council Procedure Rule 29.

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

7. Work programme

The OSC will be responsible for setting its own work programme in accordance with the following procedure:

The chairmen and vice-chairmen of the OSC and the Executive Advisory Boards and relevant officers shall normally meet at least bi-monthly to exchange, discuss and agree proposed rolling 12-18 month work programmes for submission periodically to the OSC (in respect of the OSC work programme) and to the Executive Advisory Boards (in respect of the EAB work programmes) for approval. The proposed work programme for the OSC will be determined with reference to the P.A.P.E.R. topic selection tool, attached as Appendix 2 to these procedure rules.

The chairman and vice-chairman of the OSC will ensure that all councillors are able to submit requests for alterations to the work programme for consideration at each of these work programme meetings.

8 Task and finish groups

The work programme meetings described in Procedure Rule 7 above will consider and propose the establishment, membership, terms of reference, and reporting timescale of task and finish groups to undertake specific areas of work. Such proposals shall be submitted to the OSC for approval. The number of task and finish groups must be commensurate with available resources.

Task and finish groups will be expected to operate and report their findings in accordance with the flowchart attached as Appendix 4 to these rules.

Any non-executive councillor may be appointed to serve on task and finish groups and membership will be open to non-councillors, including representatives of external bodies. Political balance requirements will not apply to task and finish groups.

9. Entitlement to place items, including a Councillor Call for Action, on an Agenda

In normal circumstances, requests to include an item on the OSC agenda will be forwarded to the chairman and vice-chairman of the OSC for consideration in accordance with the procedure set out in Procedure Rule 7 above.

However, any member of the OSC or its sub-committees shall be entitled to give written notice to the Scrutiny Officer that he or she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. Any such notification shall be accompanied by:

- (a) reasons for the proposed item, including justification for the item not being progressed through Procedure Rule 7; and
- (b) the outcome that the councillor would wish to see in response to the OSC's or sub-committee's consideration of the matter.

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

On receipt of such a request, the Scrutiny Officer will ensure that it is included on the next available agenda. The OSC shall consider the request with reference to the P.A.P.E.R. topic selection tool attached as Appendix 2 to these procedure rules.

Notwithstanding the above provisions, any councillor may refer a councillor call for action (CCfA) to the OSC for consideration in accordance with the protocol attached as Appendix 1 to these procedure rules.

The OSC shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Leader/Executive to review particular areas of Council activity. Where the OSC does so, it shall report its findings and any recommendations back to the Leader/Executive and/or the Council.

10. Policy review and development

- (a) The role of the OSC in relation to the development of the Council's budget and policy framework is detailed within the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the OSC or its sub-committees may make proposals to the Leader/Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The OSC may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. The OSC may go on site visits, conduct public surveys, hold public meetings, commission research, and do all other things that it reasonably considers necessary to inform its deliberations. The OSC may ask witnesses to attend to address a meeting on any matter under consideration and may pay to any advisers, assessors, and witnesses a reasonable fee and expenses for doing so.

11. Scrutiny of crime and disorder matters

The scrutiny of crime and disorder matters shall be undertaken in accordance with the protocol set out in Appendix 3 to these procedure rules.

12. Reports from the OSC

- (a) Once the OSC has formed proposals, it will submit a formal report to the Leader/Executive, Council, and / or other organisations as appropriate.
- (b) If the OSC cannot agree a single final report to the Council or Leader/Executive as appropriate, then one minority report may be prepared and submitted for consideration with the majority report.
- (c) The OSC may refer its formal recommendations and conclusions for consideration at Full Council, with any Leader/Executive response required to be reported to the next subsequent Full Council meeting within two months.

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

13. Rights of OSC members to documents

- (a) In addition to their rights as councillors, members of the OSC have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Leader/ Executive and the OSC as appropriate.

14. Councillors and officers giving account

- (a) The OSC may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation in fulfilling the scrutiny role, the OSC may require the Leader, any lead councillor, the Head of Paid Service, Joint Strategic Directors, and executive heads of service to attend before them to answer questions. In addition, relevant councillors can be required to answer questions relating to functions exercised under section 236 of the Local Government and Public Involvement in Health Act 2007. It is the duty of those persons to attend if so required.
- (b) Where any councillor or officer is required to attend an OSC meeting, the Scrutiny Officer shall inform the councillor or officer in writing normally giving at least ten working days' notice. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the OSC. Where the account to be given to the OSC will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, the OSC shall in consultation with the councillor or officer arrange an alternative date for attendance.

15. Attendance by others

The OSC may invite people other than those people referred to in Procedure Rule 15 above to address them, discuss issues of local concern and/or answer questions.

16. Call-in

- (a) When a decision is made by the Leader/Executive or an individual lead councillor or a key decision is made by an officer with delegated authority from the Leader/Executive, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally by 5.00 pm on the day after the meeting. All councillors will be sent copies of the records of all such decisions within the same timescale by the Democratic Services and Elections Manager.
- (b) That notice will bear the date on which it is published and, subject to the urgency provisions in (h) below, will specify that the decision will come into force, and may then be implemented:

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

- on the expiry of five working days after the day of the meeting in the case of decisions taken by the Executive collectively; or
- on the expiry of five working days after the day of publication of the decision in the case of decisions taken by the Leader, individual lead councillors or key decisions taken by an officer with delegated authority from the Leader/ Executive

unless it is called-in.

- (c) During the call-in period referred to in (b) above, the chairman of the OSC or any five members of the Council may request in writing to the Democratic Services and Elections Manager that a decision is called-in for consideration by the OSC. The reasoning for calling-in a decision shall accompany any such request and must meet one of the following criteria:
- (i) that there was insufficient, misleading, or inaccurate information available to the decision-maker;
 - (ii) that all the relevant facts had not been taken into account and/or properly assessed;
 - (iii) that the decision is contrary to the budget and policy framework and is not covered by urgency provisions; or
 - (iv) that the decision is not in accordance with the decision-making principles set out in the Constitution.
- (d) On receipt of a call-in request, the Monitoring Officer, in consultation with the chairman of the OSC, will decide whether it is valid and will notify the councillors concerned accordingly.
- (e) In the case of a valid call-in, the decision shall be referred to a special Call-in Meeting of the OSC, which shall be held within 21 days of the decision on validity referred to in sub-paragraph (d) above.
- (f) The OSC may review the decision itself or refer the matter to the Council for review. If the OSC or Council, as the case may be, endorses the proposed decision, it comes into immediate force and effect. If the OSC or the Council do not support the proposed decision, the matter shall be referred back to the next appropriate meeting of the Leader/Executive or to the individual decision-taker for decision with such comment and advice as the OSC or the Council deems appropriate.
- (g) Once a decision has been referred back to the Leader/Executive or individual decision-taker by the OSC or the Council on the basis described above, it shall not be subject to further call-in. The decision shall then be final unless it is contrary to the policy framework or contrary to or not wholly consistent with the budget.
- (h) Any matter designated by the Joint Chief Executive to be urgent shall not, if the Leader/Executive or individual decision-taker and the chairman of the OSC agree, be subject to the call-in procedure, but shall be determined by the

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

Leader/ Executive, lead councillor or officer immediately. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.

- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to the Council with proposals for review if necessary.

17. The party whip

The “party whip” is defined as:

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

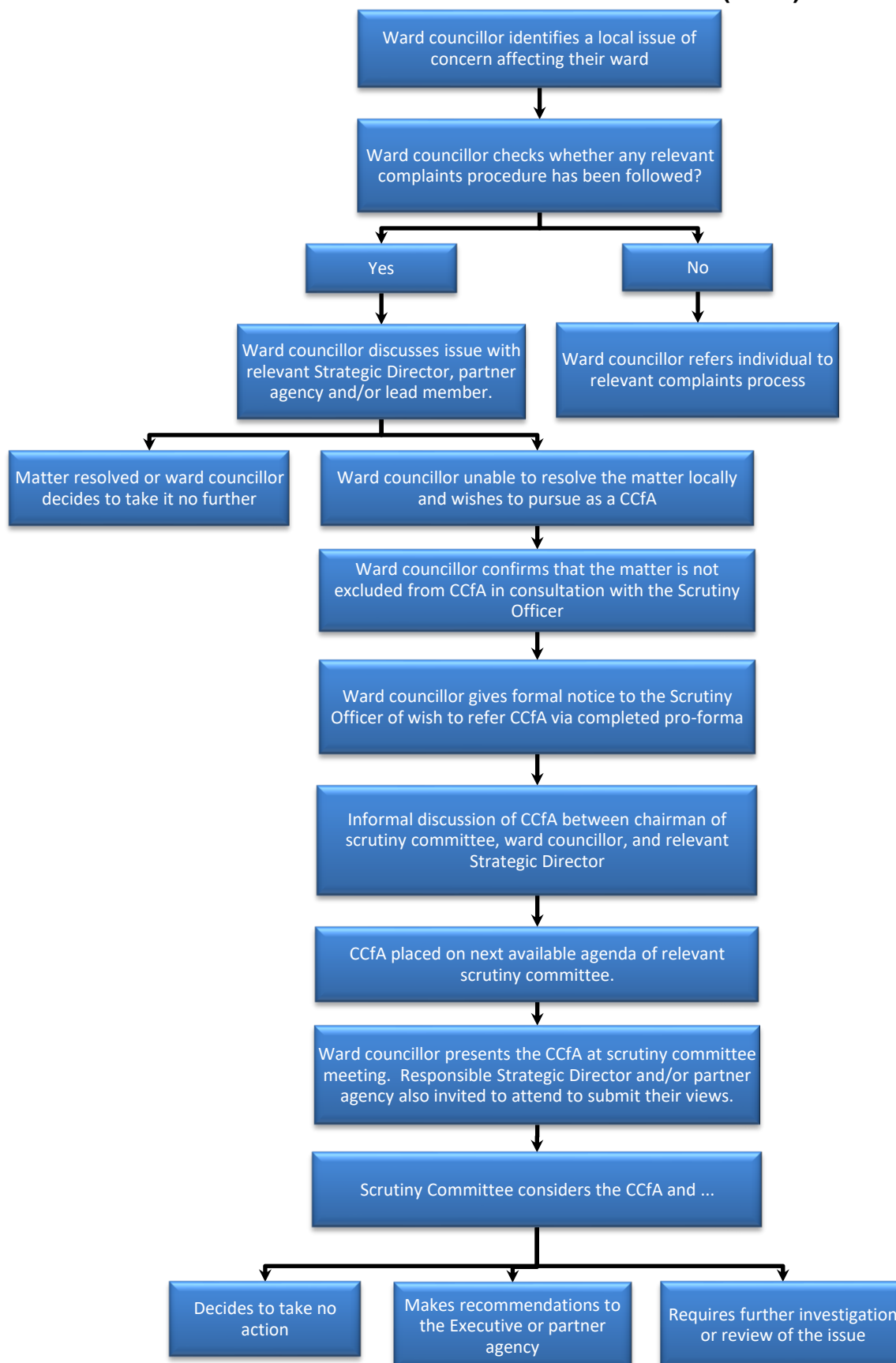
The Council considers whipping as incompatible with overview and scrutiny. Therefore, when considering any matter in respect of which a member of the OSC is subject to a party whip, the councillor must declare the existence of the whip and the nature of it before the commencement of the committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

18. Procedure at OSC meetings

- (a) The OSC shall consider the following business:
 - (i) disclosures of interest, including whipping declarations;
 - (ii) consideration of the minutes of the last meeting;
 - (iii) consideration of any matter referred to the committee through the “call-in” procedure (in accordance with procedure rule 17 (e) above);
 - (iv) responses of the Leader/Executive to reports of the OSC; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the OSC conducts investigations (for example, with a view to policy development), the OSC may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the OSC be given the opportunity to ask questions of attendees and to contribute and speak;
 - (ii) that those assisting the OSC by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the OSC shall prepare a report including recommendations for submission to the Leader/Executive and Council as appropriate and shall make these public.

PART 4 – OVERVIEW AND SCRUTINY PROCEDURE RULES (APPENDIX 1)

PROTOCOL ON COUNCILLOR CALL FOR ACTION (CCfA)



Overview and Scrutiny Committee

P.A.P.E.R. topic selection tool

Public interest: concerns of local people should influence the issues chosen

Ability to change: priority should be given to issues that the Committee can realistically influence

Performance: priority should be given to areas in which the Council and Partners are not performing well

Extent: priority should be given to issues that are relevant to all or a large part of the Borough

Replication: work programme must take account of what else is happening to avoid duplication or wasted effort

PROTOCOL FOR THE SCRUTINY OF CRIME AND DISORDER MATTERS

1. Crime and Disorder Committee

- 1.1 The Overview and Scrutiny Committee is the Council's designated crime and disorder committee.

2. Role of Committee

- 2.1 The Committee shall:

- (a) consider relevant councillor calls-for-action;
- (b) consider actions undertaken by partners on the crime and disorder reduction partnership;
- (c) make reports or recommendations to the council and partners with regard to those functions; and
- (d) include in its work programme a list of issues which it needs to cover during the year, which should be agreed in consultation with relevant partners on the partnership and reflect local community need.

3. Co-option

- 3.1 The Committee may co-opt an employee, officer or member of a responsible authority or of a co-operating body of the Safer Guildford Partnership to serve on the Committee. Any such person shall not be a member of the Council's Executive. The Committee will decide whether such a co-opted member shall have the right to vote and whether their membership shall be limited to certain issues only.

4. Involvement of the Police and Crime Commissioner for Surrey

- 4.1 The Police and Crime Commissioner for Surrey will be invited to attend the committee as an expert witness when crime and disorder matters are to be considered.
- 4.2 The Police and Crime Commissioner for Surrey will also be given an opportunity to be involved in any task and finish reviews involving the police.

5. Frequency of Meetings

- 5.1 The Committee shall meet to consider crime and disorder matters as it considers appropriate, but not less than once in every 12 month period.

6. Information Provision

- 6.1 In response to written requests for information by the Committee, the Safer Guildford Partnership and/or individual partners will provide such information no later than the date indicated in the request. If some or all of the information cannot reasonably be provided by such date, then that information must be provided as soon as is reasonably possible.
- 6.2 The information provided should be depersonalised unless the identification of an individual is necessary or appropriate in order to enable the Committee to properly exercise its powers. This information should not include anything that would be likely to prejudice legal proceedings or current or future operations of partners, whether acting together or individually.

PART 4 – OVERVIEW AND SCRUTINY PROCEDURE RULES (APPENDIX 3)

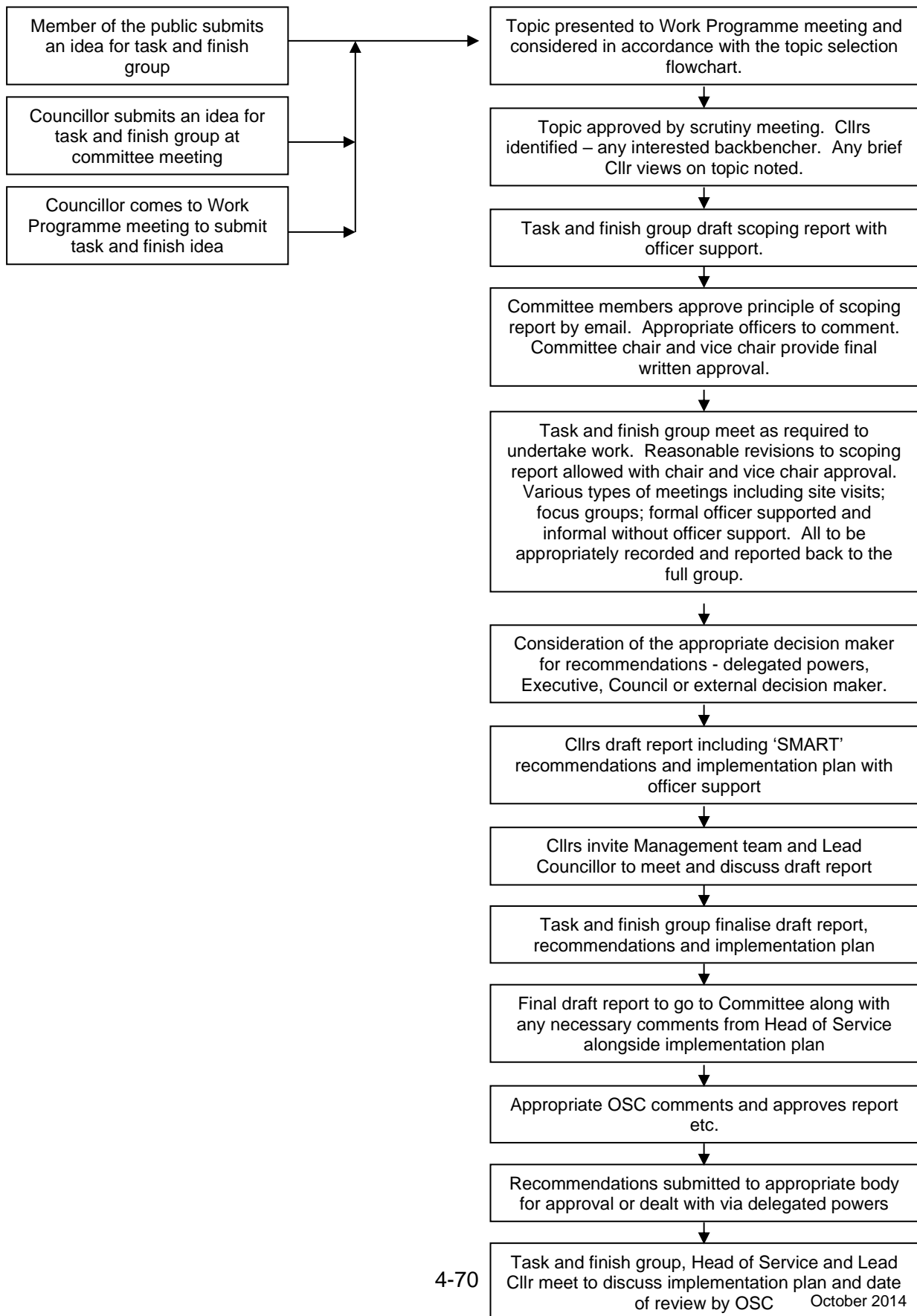
7. Attendance at Meetings

- 7.1 The Committee may require the attendance of senior representatives of partners at meetings. Reasonable notice will be given of such requests.

8. Making and Responding to Recommendations

- 8.1 Reports or recommendations which have an impact on community safety issues will be sent to relevant partners.
- 8.2 The relevant partner (or partners) will submit a response, in writing, within a period of 28 days from the date the report or recommendations are submitted (or if this is not possible as soon as reasonably possible thereafter).

TASK AND FINISH GROUP FLOWCHART



GUILDFORD BOROUGH COUNCIL

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for executive decisions

References in these procedure rules to the Policy Framework are to the plans and strategies required by law to be adopted by the Council and set out in Article 4.

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget and policy framework is in place, it will be the responsibility of the Leader/Executive to implement it. The Executive will also be responsible for adopting all other policies.

The Executive Advisory Boards will assist and advise the Executive (including doing so at an early stage) as regards budget preparation and in the formulation, development and delivery of the Policy Framework and of policies that will help to deliver Corporate Plan Priorities

2. Process for developing the framework

The process by which the budget and policy framework shall be developed is as follows:

- (a) The proposals will be publicised by including in the forward plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and the arrangements for consultation after publication of those initial proposals. The Overview and Scrutiny Committee and the Executive Advisory Boards will also be notified and may suggest additional or alternative arrangements for consultation.
- (b) At the end of the consultation period, the Leader/Executive will draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Committee or the Executive Advisory Boards wish to respond to the Leader/Executive in that consultation process, then they may do so. As the Overview and Scrutiny Committee and the Executive Advisory Boards have responsibility for fixing their own work programmes, it is open to each Committee/Board to investigate, research or report in detail with policy recommendations before the end of the consultation period having particular regard not to duplicate any consultation carried out by the Executive. The Overview and Scrutiny Committee and Executive Advisory Boards shall report to the Executive on the outcome of their deliberations. The Leader/ Executive will take any response from consultees (including the Overview and Scrutiny Committee/Executive Advisory Boards) into account in drawing up firm proposals for submission to the Council. The Leader's/Executive's report to the Council will reflect the comments made by consultees and the Leader's/Executive's response.
- (c) Once the Leader/Executive has approved the firm proposals, the Democratic Services and Elections Manager will refer them at the earliest opportunity to the Council for decision.

3. **Procedure for conflict resolution: plans and strategies**

This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out in Article 4 of Part 2 of this Constitution and to any plan or strategy for the control of the Council's borrowing and capital expenditure.

- (a) Where the Leader/Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (b) below.
- (b) Before the Council-
 - (i) amends the draft plan or strategy;
 - (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (iii) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him or her instructions requiring the Leader/Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to them/it.

- (c) Where the Council gives instructions in accordance with paragraph (b) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader received the instructions within which the Leader may:
 - (i) submit a revision of the draft plan or strategy, as amended by the Leader/Executive (the "revised draft plan or strategy"), with the Leader's/Executive's reasons for any amendments to the Council for consideration; or
 - (ii) inform the Council of any disagreement that the Leader/Executive has with any of the Council's objections, together with its reasons.
- (d) When the period specified by the Council, referred to in paragraph (c) above has expired, the Council must, when:
 - (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
 - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - (iii) adopting (with or without modification) the plan or strategy,

take into account any amendments, representations or observations made by the Leader/Executive within the period specified, together with the reasons.

4. **Procedure for conflict resolution: revenue budget**

This procedure applies to estimates and calculations relating to the revenue budget and council tax. Paragraphs (a) to (e) below do not apply to estimates and calculations submitted by the Leader/Executive to the Council where the estimates and calculations were drawn up by the Leader/Executive on or after 8 February in any financial year.

- (a) Subject to paragraph (e), where before 8 February in any financial year, the Leader/Executive submits to the Council for its consideration in relation to the following financial year:
- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;
 - (ii) estimates of other amounts to be used for the purposes of such a calculation;
 - (iii) estimates of such a calculation; or
 - (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph (b) below.

- (b) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a)(i) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Leader's/Executive's estimates or amounts and must give to him or her instructions requiring the Leader/Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (c) Where the Council gives instructions in accordance with paragraph (b) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions within which the Leader may:
- (i) submit a revision of the estimates or amounts as amended by the Leader/Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Leader's/Executive's reasons for any amendments made to the estimates or amounts, to the Council for consideration; or
 - (ii) inform the Council of any disagreement that the Leader/Executive has with any of the Council's objections, together with its reasons.
- (d) When the period specified by the Council, referred to in paragraph (c) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (a)(i) above, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

PART 4 – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Leader's/Executive's reasons for those amendments;
- (iii) any disagreements that the Leader/Executive has with any of the Council's objections, and
- (iv) the Leader's/Executive's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

- (e) Paragraphs (a) to (d) above shall not apply in relation to substitute calculations which the Council is required to make in accordance with Section 52ZF of the Local Government Finance Act 1992.
- (f) Where estimates and calculations are drawn up by the Leader/Executive on or after 8 February in any financial year and are submitted to the Council for their consideration, the procedure in paragraphs (a) to (e) will not apply.
- (g) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Leader/Executive in accordance with paragraphs 7 and 8 of these Procedure Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

5. Decisions outside the budget or policy framework

- (a) Subject to the provisions of Procedure Rule 7 (Virement), the Leader/Executive, individual lead councillors and any officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If the Leader/Executive, individual lead councillor or any officer wishes to make a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Procedure Rule 6 below.
- (b) If the Leader/Executive or any individual lead councillor or officer discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision unless the decision is a matter of urgency, in which case the provisions in Procedure Rule 6 (Urgent Decisions Outside the Budget and Policy Framework) shall apply.

6. Urgent decisions outside the budget or policy framework

- (a) The Leader/Executive, individual lead councillors or officers discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved

PART 4 – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of the Overview and Scrutiny Committee, the consent of the Mayor, and in the absence of both, the Deputy Mayor, will be sufficient.

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

7. **Virement**

Steps taken by the Executive, individual lead councillors or officers discharging executive functions shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules in Part 4 of this Constitution.

8. **In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Leader/Executive, individual lead councillors or officers discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- (d) for which provision is made within the relevant budget or policy

9. **Call-in of decisions outside the budget or policy framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

PART 4 – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (b) In respect of functions which are the responsibility of the Leader/Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Leader/Executive with a copy to all councillors. Regardless of whether the decision is delegated or not, the Leader/Executive must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to the Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made or has been made but not yet implemented and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. Following a request by the Overview and Scrutiny Committee, the matter will be referred to the next ordinary meeting of the Council. At the meeting, it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (i) endorse a decision or proposal of the executive decision-taker as falling within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (ii) amend the Council's Financial Procedure Rules, budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Leader/Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

GUILDFORD BOROUGH COUNCIL

OFFICER EMPLOYMENT PROCEDURE RULES

1.0 INTRODUCTION

1.1 Definitions

In these Rules:

- 1.1.1 'The 2001 Regulations' means the Local Authorities (Standing Orders) (England) Regulations 2001; 'The 2015 Regulations' means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 'Appointor' means, in relation to the appointment of a person as an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or Officer, as the case may be.
- 1.1.3 'Disciplinary Action' in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council's usual practice, be recorded on the member of staff's personal file. This includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.
- 1.1.4 'Dismissor' means, in relation to the dismissal of an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or other Officer, as the case may be.
- 1.1.5 The 'Joint Management Team' means the group of Officers consisting of the Joint Chief Executive, the Joint Strategic Directors, and the Joint Executive Heads of Service.
- 1.1.6 'Head of Paid Service' means the Officer designated under *Section 4(1) of the Local Government and Housing Act 1989* – the Council's Joint Chief Executive has been designated the Head of Paid Service.
- 1.1.7 'Chief Finance Officer' means the Officer having responsibility, for the purposes of *Section 151 of the Local Government Act 1972*, for the administration of the Council's financial affairs – the Council's Joint Executive Head of Finance has been designated the Chief Finance Officer.
- 1.1.8 'Monitoring Officer' means the Officer designated under *Section 5(1) of the Local Government and Housing Act 1989* – the Council's Joint Executive Head of Legal and Democratic Services has been designated the Monitoring Officer.
- 1.1.9 'Statutory Chief Officer' means, in accordance with *section 2(6) Local Government and Housing Act 1989*, the officer responsible for the purposes of *s151 of the Local*

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

Government Act 1972 for the administration of the authority's financial affairs - the Council's Chief Finance Officer is a Statutory Chief Officer.

- 1.1.10 'Non-statutory Chief Officer' means, in accordance with *section 2(7) Local Government and Housing Act 1989* a person for whom the Head of Paid Service is directly responsible, a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the Head of Paid Service, or a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the local authority themselves, (except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services) – the Council's Joint Strategic Directors are designated Non-statutory Chief Officers.
- 1.1.11 'Deputy Chief Officer' means, in accordance with *section 2(8) Local Government and Housing Act 1989* a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers – the Council's Joint Executive Heads of Service, other than the Joint Executive Head of Finance are designated Deputy Chief Officers.
- 1.1.12 'Joint Senior Staff Committee' means a Committee set up in accordance with *s102 Local Government Act 1972* between Guildford Borough Council and Waverley Borough Council. The Terms of reference of the Joint Senior Staff Committee can be found in Part 3 of the Council's constitution.
- 1.1.13 'Proper Officer' means an Officer appointed by the Council to discharge a particular function, or functions, and whose role is listed in the schedule of proper officers in Part 3 of the Constitution.

1.2 Scope of these Procedure Rules

These procedure rules govern the specific arrangements for the recruitment, appointment and disciplinary action (including dismissal) of the Joint Head of Paid Service, the Joint Chief Finance Officer, the Joint Monitoring Officer the Joint Strategic Directors and the Joint Executive Heads of Service.

The function of recruitment, appointment, disciplinary action, and dismissal in respect of all other staff must be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by them (in accordance with *paragraph 2 Part II schedule 1 of the 2001 Regulations*).

Such functions will be carried out in accordance with the Council's Human Resource policies, as adopted from time to time.

1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Joint Chief Executive
Statutory Chief Officer	Joint Executive Head of Finance
Monitoring Officer	Joint Executive Head of Legal and

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

	Democratic Services
Non-Statutory Chief Officers	Joint Strategic Directors
Deputy Chief Officers	Joint Executive Heads of Service, other than the Joint Executive Head of Finance.

2.0 RECRUITMENT

2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer or promotion, to such a post, shall disclose to the Head of Paid Service, whether they are related to, or cohabit with, any Councillor or other Officer or any other person who may have an influence on the decision to appoint.

Any candidate who fails to disclose such a relationship may be disqualified for appointment and any offer of appointment being rescinded and, if appointed, may be liable to dismissal without notice.

Every Councillor and Senior Officer (being an Officer comprising part of the Joint Management Team) of the Council shall disclose to the Head of Paid Service any relationship known to exist between them and any person whom they know to be a candidate for an appointment to the Council.

The Head of Paid Service will report to the Monitoring Officer on any such required disclosures made to them.

2.2 Support for Appointment

The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or Senior Officer (being an Officer comprising part of the Joint Management Team) for any appointment with the Council.

No Councillor nor Senior Officer (comprising part of the Joint Management Team) shall seek support for any person for any appointment with the Council and shall not provide any written testimonial of a candidate's ability, experience, or character for submission to the Council.

2.3 Confidentiality

The Council, the Executive, a Joint Committee, a Committee, a Sub-Committee, or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the Local Government Act 1972 where matters relating to the appointment, promotion, dismissal or discipline, severance, salary, or conditions of an individual member of staff or individual post are to be discussed.

2.4 Process and Procedure

- 2.4.1 Where the Council proposes to appoint an Officer within the Joint Management Team, being either the Head of Paid Service, the Statutory Chief Officer, the Monitoring Officer, a Non-Statutory Chief Officer or Deputy Chief Officer, and it is

not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or their delegate will:

- (a) draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.
- (d) Where a post has been advertised as provided in (b) above, the Council will:
 - (i) interview all qualified applicants for the post; or
 - (ii) select a short list of such qualified applicants and interview those included on the short list; or
 - (iii) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph (b) above.

3.0 APPOINTMENT

3.1 Appointment of Joint Chief Executive and designation of Head of Paid Service

The Joint Senior Staff Committee will be responsible for the recruitment process and selection of the Head of Paid Service and for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the appointment of their preferred candidate.

Each Council will be responsible for appointing the Joint Chief Executive and the designation of the Head of Paid Service to the role, and must do so before an offer of such an appointment is made.

The Councils may only make such an appointment following the consultation requirements set out at paragraph 3.5 below.

3.2 Appointment of Joint Strategic Directors

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Strategic Directors and for appointing their preferred candidates.

The Joint Senior Staff Committee may only make such appointments following the consultation requirements set out at paragraph 3.5 below.

3.3 Designation of the Joint Monitoring Officer and Joint Chief Finance Officer

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Monitoring Officer and Joint Chief Finance Officer. The Joint Senior Staff Committee are responsible for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the designation of the role to their preferred candidate.

Each Council will be responsible for designating an Officer as the Joint Monitoring Officer and as the Joint Chief Finance Officer, and must do so before an offer of any such designation is made.

An offer of employment as Joint Monitoring Officer or Joint Chief Finance Officer may only be made following the consultation requirements set out at paragraph 3.5 below.

3.4 **Appointment of Joint Executive Heads of Service**

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

An offer of employment as a Joint Executive Head of Service may only be made following the consultation requirements set out in paragraph 3.5 below.

3.5 **Consultation Requirements for Appointments**

In respect of the appointment of the Joint Head of Paid Service, the Joint Monitoring Officer, the Joint Chief Finance Officer, the Joint Strategic Directors and the Joint Executive Heads of Service, the offer of appointment cannot be made until this section has been complied with.

An offer of appointment to any of those Officers, as above, must not be made by the Appointor until:

- (a) The Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including evidence and reasons for the choice of preferred candidate.
- (b) The Proper Officer has notified every Executive Member of each Council of:
 - (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;
 - (ii) any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

- (iii) the period within which any objection to the making of the offer is to be made by the Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
 - (i) the Leader of either Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the making of the offer; or
 - (ii) the Proper Officer has notified the Appointor that no objection was received by them within that period from the Leader of either Council; or
 - (iii) the Appointor is satisfied that any objection received from the Leader of either Council within that period is not material or is not well-founded.

3.6 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Statutory Chief Officer (S151)	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Monitoring Officer	Joint Senior Staff Committee	Requires consultation with each of the Executives and approval of each full Councils
Non-Statutory Chief Officers	Joint Senior Staff Committee	Requires consultation with each of the Executives
Deputy Chief Officers	Head of Paid Service or nominee	Requires consultation with each of the Executives

4.0 DISCIPLINARY ACTION

4.1 Disciplinary Action in respect of the Joint Head of Paid Service, Joint Chief Finance Officer and Joint Monitoring Officer

4.1.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Head of Paid Service, Joint Chief Finance Officer, and Joint Monitoring Officer. The Joint Senior Staff Committee will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.

4.1.2 In carrying out the investigation the Investigating Officer may:

- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

- (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.1.3 Pending the report of the Investigator the Joint Head of Paid Service, the Joint Monitoring Officer or the Joint Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.1.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, other than dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, other than dismissal.
- 4.1.5 The Council's Joint Head of Paid Service, Joint Monitoring Officer and Joint Chief Finance Officer cannot be dismissed without a resolution to that effect by each Council, as the full Council of each authority is responsible for the function of dismissal of such an Officer.
- 4.1.6 Should the Joint Senior Staff Committee consider that the relevant disciplinary action to be taken, having considered the Investigator's Report, is dismissal of the Officer, an Independent Panel must be appointed by the authority, or an Officer to whom the task is delegated. Such an Independent Panel will be formed in accordance with the 2015 Regulations, and shall be a committee appointed by the authority under section 102(4) Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of such officers.
- 4.1.7 The authority, or an Officer to whom the task is delegated, will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation.
- 4.1.8 The role of the Independent Panel is to prepare a report for each Council setting out their advice, views and recommendations as to the proposed dismissal.
- 4.1.9 Where dismissal is being considered, a meeting of each full Council must be convened within 20 working days of the Independent Panel being appointed, to consider and determine the matter.
- 4.1.10 A Joint Head of Paid Service, Joint Chief Finance Officer or Joint Monitoring Officer attending a Council meeting where proposed dismissal against them is being considered, is entitled to make both oral and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion, or a legal representative.
- 4.1.11 Before taking a vote at such a Council meeting on whether or not to approve such a proposed dismissal, the Council must take into account:

- (a) any advice, views or recommendations of the Independent Panel;
- (b) the conclusions of any investigation into the alleged misconduct;
- (c) any representations from the relevant Officer or their representative.

4.2 Disciplinary Action in respect of Joint Strategic Directors

- 4.2.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Strategic Directors and will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.
- 4.2.2 In carrying out the investigation the Investigating Officer may:
 - (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
 - (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.2.3 Pending the report of the Investigator the Joint Strategic Director may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.2.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, including dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, and shall be responsible for the function of dismissal where appropriate.

4.3 Disciplinary Action in respect of Joint Executive Heads of Service

- 4.3.1 The Joint Head of Paid Service or their nominated representative, will investigate any alleged misconduct in respect of Deputy Chief Officers, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time.
- 4.3.2 The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.
- 4.3.3 Pending the outcome of such investigation the Deputy Chief Officer may be suspended by the Joint Head of Paid Service or their nominated representative.

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

Such suspension will be for no longer than 3 calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.

4.3.4 Subject to paragraph 4.4 below, the Joint Head of Paid Service, or a representative nominated by them, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal, where appropriate, of Deputy Chief Officers. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct and must be wholly independent from that individual.

4.4 Disciplinary Action of Senior Officers

Post	Investigation	Notes	Appeal
Head of Paid Services, Chief Finance Officer and Monitoring Officer	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council, following consideration of the views of the Independent Panel and consultation with the Executives of each Council.	None
Non-Statutory Chief Officers	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action including dismissal.	Decision to dismiss is the responsibility of the Joint Senior Staff Committee but may only be taken following consultation with the Executives of each Council.	None
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executives of each Councils.	Joint Head of Paid Service or their representative provided such individual played no part in the investigation.

4.5 Consultation Requirements for Dismissals

4.5.1 This provision applies to the dismissal of The Head of Paid Service, the Chief Finance Officer, the Monitoring Officer, Non-Statutory Chief Officers, and Deputy Chief Officers.

4.5.2 Notice of dismissal of any of those Officers must not be given by the Dismissor until:

PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

- (a) the Dismissor has notified the Proper Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;
- (b) the Proper Officer has notified every Executive Member of both Councils of:
 - (i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;
 - (ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Executive Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
 - (i) the Executive Leader of either Authority has, within the period specified in the notice under subparagraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the dismissal;
 - (ii) the Proper Officer has notified the Dismissor that no objection was received by them within that period from either Executive Leader; or
 - (iii) the Dismissor is satisfied that any objection received from an Executive Leader within that period is not material or is not well-founded.

4.6 Appeals

- 4.6.1 The Joint Head of Paid Service, Joint Chief Finance Officer, Joint Monitoring Officer and Joint Strategic Directors shall have no right of appeal against disciplinary action.
- 4.6.2 Deputy Chief Officers who feel that the outcome of any Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Joint Head of Paid Service or their nominated representative.
- 4.6.2 The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for carrying out the investigation into the alleged misconduct, nor the same individual responsible for deciding upon the disciplinary action, and must be wholly independent from those individuals.

GUILDFORD BOROUGH COUNCIL
PROCUREMENT PROCEDURE RULES

May 2021

CONTENTS

Part 1

1. Introduction

Part 2

2. Key Principles
3. Application
4. Compliance
5. Conflicts of Interest
6. Prevention of Bribery and Corruption

Part 3

7. Responsibilities of Procurement Service
8. Role and Responsibility of Corporate Procurement Board
9. Responsibilities of Executive Heads of Service
10. Tendering Thresholds
11. Contract value
12. Specification/Evaluation Criteria/Route to market
13. Social Value
14. Modern Slavery
15. Climate Change
16. E tendering
17. Contracts Register

Part 4

18. Legal Considerations
19. Performance Bond/Parent Company Guarantee
20. Insurance

Appendix 1: Steps to Procurement: Minimum requirements

PART 4 – PROCUREMENT PROCEDURE RULES

Part 1

1 INTRODUCTION

- 1.1 These Procurement Procedure Rules apply to all purchases of works, goods, and services by the Council. They provide a framework within which all the procurement activity of the Council is undertaken. The object of these Rules is to ensure that all the Council's procurement activity regardless of value is fair, open, transparent, non-discriminatory, and lawful. Their observance is mandatory. The Rules are to protect the interests of the Council and also councillors and officers from the risk of challenge, undue criticism, or allegations of wrongdoing.
- 1.2 Procurement decisions are among the most important decisions a local authority will make in order to ensure that public money is appropriately directed and that the goods, works, and services are procured effectively and in accordance with Procurement Legislation and represent best value. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 These Procedure Rules should be seen as setting minimum requirements. Where better value for the Council might be achieved by seeking more tenders or quotations this should be done. The threshold for engaging with the Procurement Team is for all expenditure in excess of £1,500.
- 1.4 Corporate Procurement Board (CPB) is to take an active role in the management of the procurement process. The CPB will ensure that the processes and reporting requirements are followed and will enable the identification of areas of strength and weakness within the procurement function. It will seek out solutions and better methods of working, encouraging consistency and efficiency to achieve best value through the procurement process across the Council.
- 1.5 If there is any relevant change to English Law, which affects these rules then that change must be observed until these rules can be revised. Where there is a difference between these Rules and the current legislation, the legislation will prevail.
- 1.6 The Council is required by section 135 of the Local Government Act 1972 to maintain these Rules as part of the Constitution.
- 1.7 The Council's Monitoring Officer has Delegated Authority to make minor amendments to the Constitution and therefore these Rules. The Senior Specialist Procurement together with the Lead Specialist Legal in consultation with the Lead Councillor, shall publish details of any substantial amendments, following formal approval by full Council.
- 1.8 Procurement and Legal are the custodian of these Rules and are responsible for keeping them under review.

Part 2

2 KEY PRINCIPLES

- 2.1 These Rules are based on the following key principles:
 - (a) To ensure that the Council meets its statutory duty to deliver **best value for money** and creates healthy competition and markets for the Goods, Services and Works purchased

PART 4 – PROCUREMENT PROCEDURE RULES

- (b) To be **transparent** to our residents about how the Council spend their money
- (c) To ensure that public money is spent **legally** and **fairly**
- (d) To support **sustainability** and **social value objectives**, and our public sector **equality** duty, encouraging local small businesses.

3 APPLICATION

3.1 These Rules apply to:

- 3.1.1 All contracts for the supply of works, goods, or services (including consultancy) to the Council, regardless of value.
- 3.1.2 Partnership and collaborative arrangements with other bodies.
- 3.1.3 Concession Contracts

3.2 These Rules do not apply to:

- 3.2.1 Contracts for the purchase or sale of any interest in land including leasehold interests and licences, which are purely land transactions, for which reference should be made to the Financial Procedure Rules.
- 3.2.2 Contracts of employment for the appointment of individual members of staff.
- 3.2.3 Grant agreements, where the Council is giving an unconditional grant.
- 3.2.4 Sponsorship agreements regulated by the Sponsorship Rules.
- 3.2.5 Supply of works, goods, and services by the Council. [The Lead Specialist – Legal must be consulted where the Council is contemplating this route.]
- 3.2.6 Contracts procured in collaboration with other local authorities where the Council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the Council). The Procurement/Contract Procedure Rules of the lead authority shall apply. Assurance is to be sought that the lead authority is acting in compliance with its own contract procedure rules.

3.3 Exemptions to these Rules

- 3.3.1 In all cases, where an exemption to the tendering or quotation process is sought the Strategic Director or Executive Head of Service for the area shall obtain the consent of the Corporate Procurement Board. The Senior Specialist - Procurement will document the exemption request, all reasons for the exemption request and record the decision. **It should be noted that no exemptions are permitted if the value requires compliance with the National Procurement Directives and thresholds.**
- 3.3.2 The following circumstances represent the permitted exemptions from all or part of these Rules. Tenders or quotations need not be sought in the following circumstances:

PART 4 – PROCUREMENT PROCEDURE RULES

3.3.2.1 The price of the goods or materials is wholly controlled by trade organisations, government order or statutory undertakers where they have monopoly status and no satisfactory alternative is available;

3.3.2.2 The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant or the execution of work or supply of goods or services or materials necessary for maintenance or repairs to existing machinery or plant;

3.3.2.3 Where the work to be executed or goods to be supplied are required urgently and would not, therefore, permit the invitation of quotations or tenders;

3.3.2.4 The execution of works or the supply of services is of such a specialised nature that in the opinion of the Strategic Director or Executive Head of Service the number of prospective contractors is less than required by these rules. In this case, tenders or quotations shall be obtained from the sole or all available suppliers who possess the relevant knowledge or expertise;

3.3.2.5 the nature of the market for the goods, works or services has been investigated and it is demonstrated that a departure from the Regulations is justified.

3.3.2.6 If it is in the overall best interest of the Council.

3.3.2.7 Legal services falling within Regulation 10(i)(d) of the Public Contracts Regulations 2015.

3.3.3 The Senior Specialist Procurement will report on exemptions to the CPB and has authority to approve any direct award requests under the value of £10,000.

4 COMPLIANCE

4.1 Every Contract entered into on behalf of the Council shall comply with

- these Procurement Procedure Rules.
- the Council's Financial Procedure Rules, and
- all relevant legislation.

4.2 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Procurement Procedure Rules. The attention of Officers is drawn to the Council's Code of Conduct for Staff at Part 5 of the Constitution. Non-compliance with these Rules may constitute grounds for disciplinary action.

4.3 Generally, work must not begin under a contract until both parties have signed the contract document, except in the cases of urgency when the approval of the Lead Specialist – Legal is to be obtained. Letters of intent may only be provided with the approval of the Lead Specialist - Legal who must agree the terms of any such letter. If a Letter of Intent is provided a contract must be signed as soon as possible thereafter.

PART 4 – PROCUREMENT PROCEDURE RULES

- 4.4 If there is any doubt about the application of the rules the issues should be referred to the Senior Specialist - Procurement.

5 CONFLICTS OF INTEREST

- 5.1 Members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct for Staff and includes:

5.1.1 not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;

5.1.2 not working for organisations or suppliers that the Council has dealings with;

5.1.3 notifying the Strategic Director or Executive Head of Service in writing if an officer has links with an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council (for example, a family member or close friend works for the organisation).

- 5.2 All consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.

- 5.3 If a councillor or a member of staff has an interest, financial, otherwise, in a contract, or proposed contract, he/she must declare it in writing to the Monitoring Officer as soon as he/she becomes aware of the interest. A councillor or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.

6 PREVENTION OF BRIBERY AND CORRUPTION

- 6.1 A contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge), offers or promises or gives a financial or other advantage to a councillor any member of staff or any consultant in connection with the contract.

- 6.2 Any councillor, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in Rule 4.1, must report it to the Monitoring Officer.

- 6.3 The Monitoring Officer must maintain a record of all declarations of interest notified by Councillors and Officers.

Part 3

7 RESPONSIBILITIES OF THE PROCUREMENT SERVICE

- 7.1 The Procurement service is responsible for
- (a) Delivering the Procurement Strategy adopting a Category Management approach to the Councils expenditure and purchasing activity.
 - (b) Ensuring transparency over spend, contracts and contract opportunities
 - (c) Embedding social value and sustainability across the supply chain
 - (d) Ensuring efficient and effective purchasing practices are in place for all staff

PART 4 – PROCUREMENT PROCEDURE RULES

- (e) Providing general commercial advice and support as required,
- (f) Ensuring suppliers are aware of, and follow, the Council's Supplier Code of Conduct when bidding and carrying out contracts
- (g) Approving all new supplier set up requests
- (h) Authorising any Procurement card transactions outside of the nominated card holders
- (i) Purchasing from existing contracts where they are appropriate and in place
- (j) Ensuring there is adequate budget available prior to any procurement activity commencing
- (k) Taking a commercial lead on all major contracts and relationships with suppliers alongside the Contract Manager

8 ROLE AND RESPONSIBILITIES OF THE CORPORATE PROCUREMENT BOARD (CPB)

8.1 The Council recognise that, in order to achieve consistency and compliance with these Regulations and the Procurement Strategy, there is a need for the involvement of key corporate advisers in all significant procurement processes. All procurement of goods, works or services in excess of the National thresholds, must be referred to the CPB.

8.2 The CPB will consist of the following Officers (or their nominated deputies):

- Joint Executive Head of Finance
 - Senior Specialist Procurement
 - Financial Services representative
 - Legal Services representative
- Procurement Specialists together with the Service leads shall routinely attend Corporate Procurement Board to present proposals and updates.
 - Deputies must attend if the primary representative is not available.

8.3 The CPB aims to ensure that the Council's Procurement Procedure Rules, Scheme of Delegation and Procurement Strategy is implemented in all cases and at all stages.

8.4 The CPB shall operate a Procurement Gateway process whereby a full report is presented to CPB for sign off, this is split into two stages as follows:

- Gateway part one: Commissioning and Procurement Strategy.
- Gateway part two: Tender Evaluation and Contract Award.

8.5 Any failure to consult the CPB at the appropriate time shall be deemed to be a breach of these Regulations.

9 RESPONSIBILITIES OF EXECUTIVE HEADS OF SERVICE

9.1 Executive Heads of Service must ensure adequate budget provision is in place prior to engaging in any Procurement activity. Procuring officers must observe the Council's Financial Procedure Rules at all times.

9.2 It is the responsibility of each Executive Head of Service:

9.2.1 To incorporate within their service plan, a list of all current and forecast contract opportunities for the upcoming three years. This list is to be updated as necessary throughout the year and shared with the Procurement Team to inform the pipeline of work.

PART 4 – PROCUREMENT PROCEDURE RULES

- 9.2.2 To ensure that all procurements and contracts within the named department comply with Procurement Procedure Rules, Financial Procedure Rules, and all applicable public procurement legislation.
 - 9.2.3 To ensure those officers to whom they delegate their functions are aware of the strategic direction of the service and have authorisation to engage with procurement.
 - 9.2.4 To manage Contracts within the named department to ensure that contracts deliver best value, are operated effectively, efficiently, and economically, and are operated in accordance with the contract provisions.
 - 9.2.5 To keep adequate records to show compliance with the Procurement Procedure Rules, Financial Procedure Rules and all relevant legislation.
- 9.3 At the outset of each procurement, the Executive Head of Service must in conjunction with the Procurement Team:
- 9.3.1 assess the business needs determining whether the requirement shall be subject to the project and programme governance board prior to commencing procurement
 - 9.3.2 ensure the procurement complies with corporate policies and priorities
 - 9.3.3 review ethical, social and sustainability issues
 - 9.3.4 consider potential contractual relationships
 - 9.3.5 undertake a risk management exercise at the start of any procurement exercise, which is commensurate with the value and complexity of the procurement
 - 9.3.6 undertake when appropriate a pre-market testing exercise
 - 9.3.7 ensure that adequate provision has been made within the Council's capital or revenue estimates and that proper technical and financial appraisals of the procurement have been carried out in accordance with the Council's Financial Procedure Rules.

10 TENDERING THRESHOLDS

- 10.1 The following minimum number of invitations to tender or quote shall apply to all contracts including those let to the Voluntary / Not for Profit Sector, subject to National procurement regulations (including aggregation).

Type of procurement and total cost threshold	Minimum number of invitations to tender or quote	Responsibility
Goods, Works, and Services estimated to cost no more than £1,500	No requirement to seek Procurement advice but key principles outlined in Part 2, section 2 apply.	Service led

PART 4 – PROCUREMENT PROCEDURE RULES

Type of procurement and total cost threshold	Minimum number of invitations to tender or quote	Responsibility
Goods, Works, and Services estimated to cost between £1,500 and £50,000	Seek procurement advice on route to market to demonstrate best value	Procurement led together with Service
Goods, Works, and Services estimated to cost between £50,000 and the National threshold for Goods and Services limit (currently £189,330 or £663,540 for Light Touch Regime contract)	Formal Tenders	Procurement led together with Service
Goods, Works, and Services estimated to cost above the relevant National tendering threshold. (works currently £4,733,252)	In accordance with the Public Contract Regulations 2015 as a minimum. Approval from Corporate Procurement Board at Gateway One/Two.	Procurement led together with Service

11 ESTIMATE OF TOTAL CONTRACT VALUE (TCV)

- 11.1 The value of a contract is the **total** amount that the Council expects to pay for the contract, including any contract extension period and any options within the contract.
- 11.2 Contracts must **not** be packaged or divided into smaller units for the purpose of creating lower value contracts to avoid any provision of these Rules or national procurement legislation. When tendering consideration must be given to the extent to which it is appropriate to divide the contract into lots to facilitate opportunities for small businesses and voluntary organisations.

12 SPECIFICATION / EVALUATION CRITERIA/ ROUTE TO MARKET

- 12.1 Each procurement must be appropriately specified, and selection and award criteria must be formulated in advance to ensure the Council obtains value for money, the procurement process is transparent, and the desired outcome is obtained. Tenders will be assessed on a price / technical split in order to determine the Most Economically Advantageous Tender (MEAT) the weightings and price / technical split will be determined by Procurement taking into account the requirements of the service area.
- 12.2 All works, goods and services must be specified by reference to national standards. The specification must be a clear and comprehensive description of the Council's requirements and should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable a proper assessment to be made of the supplier's ability to meet the Council's requirements.
- 12.3 The appropriate route to market must be selected as advised by the Procurement Officer or approved by CPB where required by these Rules. This may be a Request for quote (RFQ) or an Invitation to Tender (ITT) or a two stage procedure when Tenderers are invited to submit initial information via a Selection Questionnaire (SQ) and a number qualify to receive an ITT on the basis of the information provided.

PART 4 – PROCUREMENT PROCEDURE RULES

Additional procedures including Competitive Dialogue, Competitive procedure with Negotiation, Frameworks and Dynamic Purchasing System (DPS) may be available but advice must be taken from the Procurement team on the most appropriate route.

13. SOCIAL VALUE

- 13.1 The Public Services (Social Value) Act 2012 places a requirement on officers who commission, or buy, public services to consider securing added economic, social, or environmental benefits for their local area.
- 13.2 The Act currently applies only to service Contracts over the National Tendering threshold but must be considered in all procurements where applicable.
- 13.3 Social value should form part of a bidder's commitments at tender stage and should be tailored to the subject nature of the contract being awarded

14. MODERN SLAVERY

- 14.1 The Modern Slavery Act 2015 was implemented to tackle modern slavery, defined in the act as slavery, servitude, forced or compulsory labour, human trafficking, and exploitation.
- 14.2 The Council adopted the Modern Slavery Motion in 2020 and has an obligation to report annually on its progress. Proportionate due diligence is therefore undertaken to certify that Council appointed contractors do not participate in modern slavery, either directly or within their supply chains.

15. CLIMATE CHANGE

- 15.1 On 23 July 2019 the Council declared a climate emergency across the borough with an ambition of reducing the Council's carbon emissions to net-zero by 2030. As such for every procurement within the scope of these Rules, the environmental impact must be considered, the emphasis should be placed on minimising the carbon footprint and a relevant clause included in the contract where possible.

16 E-TENDERING

- 16.1 All procurement is to take place through the Council's e-tendering portal any exceptions are to be agreed by the Senior Specialist Procurement. The e-tendering portal must be used for all returns which records the time received and all the necessary information to satisfy audit and transparency principles.
- 16.2 Any tender received after the date and time indicated on the Tender documentation will be excluded from the process.

17 CONTRACTS REGISTER

- 17.1 Spend data, contract opportunities and awards are published in accordance with government requirements and Transparency Agenda, Council expenditure with suppliers that exceeds £500 is published and all contracts valued at £5,000 and above are available on the publicly accessible Contracts Register, this can be found on the Council's public website.
- 17.2 Any advertised opportunity valued over £25,000 must be advertised on Contracts finder, for Contracts over £25,000 a Contract award notice must also be published.

PART 4 – PROCUREMENT PROCEDURE RULES

- 17.3 Freedom of Information – in accordance with the Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004, the Council has an obligation to publish specific information and to provide information to members of the public upon request. By exception confidential or commercially sensitive information may be withheld.

Part 4

18 LEGAL CONSIDERATIONS

18.1 CONTRACT DOCUMENTS

Wherever practicable, work under a contract must not start until the contract documents and all other procedures have been completed to the satisfaction of the Executive Head of Service or, in the case of a procurement valued at £100,000 or more, the Executive Head of Service and the Lead Specialist - Legal. A letter of intent must not be issued unless approved by the Lead Specialist - Legal.

18.2 TUPE

Where relevant, the procuring officer must consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended and consult with the allocated Legal advisor as to their application.

18.3 DISPUTE RESOLUTION

The procuring officer must consider the procedure for resolving disputes arising in relation to the procurement and, where appropriate, contracts shall contain provisions for alternative dispute resolution.

18.4 DEEDS, SEALING AND SIGNING OF CONTRACTS

18.4.1 Any contract valued at £100,000 or more must, unless the Lead Specialist - Legal determines otherwise, be sealed with the common seal of the Council. In exceptional cases where the Lead Specialist - Legal decides that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Procurement Procedure Rules and Financial Procedure Rules, by Legal services under the authority of a Delegated Authority signed by the Joint Chief Executive, relevant Strategic Director or Executive Head of Service.

18.4.2 Contracts less than £100,000 in value must be signed by Legal Services under the authority of a Delegated Authority Form signed by the Joint Chief Executive, relevant Strategic Director or Executive Head of Service or may be sealed with the common seal of the Council in cases where the Lead Specialist - Legal considers it to be appropriate.

18.5 CONTRACT TERMS

18.5.1 Every contract entered into by the Council for the provision of works, goods or services which exceeds £500 in value (and in any other case where the Strategic Director or Executive Head of Service shall require) shall:

18.5.2 Specify the works to be executed and goods or services to be supplied;

PART 4 – PROCUREMENT PROCEDURE RULES

- 18.5.3 State the price to be paid detailing the frequency and method of calculation together with a statement as to the amount of any discounts or other deductions and requiring payment within 30 days of receipt of a valid invoice;
- 18.5.4 State the period or times within which the contract is to be performed;
- 18.5.5 Prohibit any assignment or sub-letting of the contract without the express agreement in writing of the Council;
- 18.5.6 State that the Council may cancel the contract and recover any resulting losses if the contractor, his employees or anyone acting on his behalf, with or without his knowledge, does anything improper to influence the Council or commits an offence under Bribery Act 2010;
- 18.5.7 Require the supplier to comply with the requirements of the Health and Safety at Work etc. Act 1974, and any other relevant Acts, Regulations or Orders pertaining to health and safety;
- 18.5.8 Require the contractor to comply with the Equality Act 2010 including the Public Sector Equality Duty, the Modern Slavery Act 2015, freedom of information requests and data protection law.
- 18.5.9 State that if the Contractor enters into liquidation or administration, the Council is entitled to cancel the contract and recover any resulting losses
- 18.5.10 State the minimum insurance levels required to be held by the contractor
- 18.6 For contracts with a value in excess of £100,000, if appropriate, make provision for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified. The level of liquidated damages must be determined by the Strategic Director or Executive Head of Service.
- 18.7 For every contract with a value of £100,000 or more, require and take sufficient security for the due performance of the contract, unless the Chief Finance Officer deems this inappropriate.
- 18.8 For contracts which permit sub-contracting, the contractor is to be required to impose on the sub-contractors equivalent contractual requirements in terms of equality, health and safety, bribery and corruption, insurance, data protection, modern slavery, and payment provisions.
- 19. PERFORMANCE BOND/PARENT COMPANY GUARANTEE**
- 19.1 The Procuring Officer must consult the Lead Specialist Finance to determine whether a Parent Company Guarantee, Performance Bond or in an appropriate case, a deposited sum is necessary and at what level when the total contract value is in excess of £1 million and there is concern about the stability of the bidder following financial appraisal.
- 19.2 Any decision taken in accordance with 19.1 above must be recorded by the Procuring Officer.

PART 4 – PROCUREMENT PROCEDURE RULES

20 INSURANCE

- 20.1 It is the responsibility of the Executive Head of Service, in consultation with the Insurance Officer to set, where appropriate, adequate levels of insurance for every procurement in respect of employers' liability, product liability, professional indemnity, third party and fire and material damage. As a guide the level of insurance required shall not, unless exceptional circumstances prevail, be less than £10 million for employer's liability insurance, £5 million for public liability insurance and £2 million for professional indemnity insurance.
- 20.2 The procuring officer must ensure that any insurance required by the Council is held by the provider with a reputable insurance company(ies) and that the policy(ies) are renewed as necessary during the contract period.

OUTLINE STEPS TO BE TAKEN TO PROCURE

These steps are part of the formal rules for undertaking procurement and bound by the formalities of the Council’s Constitution. Procurement will keep a full trail of documents relating to each procurement undertaken.

STEP 1 IDENTIFY NEED	<ul style="list-style-type: none">• Procurement is required to commence in good time, having identified the requirement in the Service Plan. This will allow adequate time to re procure and enable the proper procurement and legal guidance necessary to carry out the procurement. The process for urgent procurement is set out in separate guidance.• The Procurement initiation form (PIF) requests budget approval from Finance to perform the procurement before commencement.
STEP 2 DEVELOP BUSINESS CASE	<ul style="list-style-type: none">• An estimated value of the contract is required at the outset, ensuring that there is adequate budget provision for lifetime of the contract or the process for obtaining funds (e.g. CMT approval; Executive approval) has taken place and this is in accordance with the financial procedure rules.• Procurement will provide advice on the route to market options and determine the recommended percentage split of price / technical for the purposes of the evaluation.
STEP 3 IDENTIFY MARKET	<ul style="list-style-type: none">• Pre-market consultation with potential suppliers to establish that the market can meet the requirement for good, works or services is permitted until the point at which the Tender is released. Dialogue with the market pre-procurement is encouraged not only to bring the opportunity to the attention of the market but also to assist in a greater understanding of the marketplace for specific products or services. This intelligence can help to inform the specification.• Steps must be taken to ensure pre-market engagement does not distort competition or violate the transparency and non-discrimination principles. This exercise may also shape your thinking about what alternatives might exist or how suppliers might deliver the Council’s requirements with the latest innovation.

PART 4 – PROCUREMENT PROCEDURE RULES

STEP 4 DEVELOP TENDER DOCUMENTATION	<ul style="list-style-type: none">• The specification development and technical evaluation criteria is led by the service. Procurement hold the ownership of the Procurement documentation and application through the e-tendering system.• Best value for the Council must be achieved by balancing cost and technical to produce the most economically advantageous solution over the lifetime of the contract.
STEP 5 UNDERTAKE PROCUREMENT PROCESS	<ul style="list-style-type: none">• Procurement will undertake the process including advertising on appropriate channels, developing, and issuing documentation via the Council’s e-tendering portal, assess due diligence, evaluate the price element, lead the moderation session, and take the process to award. Service are responsible for conducting the technical evaluation. At least three officers are required to do this independently on above threshold activity.
STEP 6 AWARD AND IMPLEMENTATION OF CONTRACT	<ul style="list-style-type: none">• Legal will be notified upon commencement of the standstill period of intent to award to the successful supplier.• The contract will be finalised in standstill and will be issued on expiry of the standstill period.• Procurement will record the contract on the Council’s Contract Register.
STEP 7 CONTRACT MANGEMENT	<ul style="list-style-type: none">• All contracts will have a contract manager nominated by the Strategic Director or Executive Head of Service.• The role of the contract manager is to manage the contract throughout its duration, as well as enforce duties owed to the Council and to take responsibility for those duties owed to the contractor.• The contract manager will –<ul style="list-style-type: none">- monitor performance of the contractor against the agreed level of service,- monitor the continuing level of operational and financial risk to which the Council is exposed and to institute controls as appropriate,- ensure the contractors’ due diligence with all appropriate health and safety obligations,- facilitate the resolutions of issues between the contractor and users of the service,- ensure prompt payment of invoices and compliance with all financial regulations and contract standing orders during the lifetime of the contract,- ensure that appropriate arrangements are made for the termination or re-letting of the contract at the appropriate time in conjunction with procurement.

GUILDFORD BOROUGH COUNCIL

FINANCIAL PROCEDURE RULES

1 INTRODUCTION

- 1.1 Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every councillor and officer of the Council and anyone acting on its behalf.
- 1.2 Financial procedure rules shall not override any statutory provisions that apply.
- 1.3 These procedure rules outline the system of financial administration approved by the Council to secure the proper administration of its financial affairs, as required by Section 151 of the Local Government Act 1972, and should be read in conjunction with the Council's Procurement Procedure Rules, Corporate Procurement Manual and Guidance on the Control of Capital Projects.
- 1.4 The procedure rules identify the financial responsibilities of the Council, Executive, Joint Chief Executive (JCE), Monitoring Officer (MO), Chief Finance Officer (CFO), Strategic Directors, Executive Heads of Service and Budget Managers.
- 1.5 All councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.6 The CFO is responsible for maintaining a continuous review of these procedure rules and submitting any additions or changes necessary to Council for approval. The CFO is also responsible for reporting, where appropriate, breaches of the Rules to Council and/or the Executive.
- 1.7 Strategic Directors are responsible for ensuring that all staff in their respective service portfolios are aware of the existence and content of these Procedure Rules and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their service portfolio or that staff are aware of the existence of the procedure rules on the Intranet.
- 1.8 The CFO is responsible for issuing advice and guidance to underpin the Procedure Rules that councillors, officers and others acting on behalf of the Council are required to follow.
- 1.9 The CFO has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- (i) Section 151 of the Local Government Act 1972
 - (ii) Local Government Finance Act 1988 and 1992
 - (iii) Local Government and Housing Act 1989
 - (iv) Accounts and Audit Regulations, as current legislation
 - (v) Local Government Act 2003
 - (vi) Localism Act 2011

PART 4 – FINANCIAL PROCEDURE RULES

- (vii) The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended)

1.10 The CFO is responsible for:

- (i) the proper administration of the Council's financial affairs
- (ii) ensuring that the accounts of the Council are prepared in accordance with the Accounting Code of Practice
- (iii) setting and monitoring compliance with financial management standards
- (iv) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- (v) providing financial information
- (vi) preparing the revenue budget and capital programme
- (vii) treasury management

1.11 Section 114 of the Local Government Finance Act 1988 requires the CFO to report to Council, the Executive and external auditor if the Council or one of its officers:

- (i) has made, or is about to make, a decision which involves incurring unlawful expenditure
- (ii) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- (iii) is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- (i) the CFO to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally
- (ii) the Council to provide the CFO with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114

1.12 Strategic Directors are responsible for:

- (i) ensuring that councillors are advised of the financial implications of all proposals and that the financial implications have been agreed by the CFO;
- (ii) signing contracts on behalf of the Council in accordance with Appendix 1 of the Procurement Procedure Rules
- (iii) ensuring all staff in their service units are made aware of and fully understand the requirements and implications of these procedure rules as far as they relate to their particular duties and responsibilities.

1.13 Executive Heads of Service are responsible for:

- (i) ensuring that councillors are advised of the financial implications of all proposals and that the financial implications have been agreed by the CFO;
- (ii) signing contracts on behalf of the Council in accordance with Appendix 1 of the Procurement Procedure Rules
- (iii) ensuring all staff in their service are made aware of and fully understand the requirements and implications of these procedure rules as far as they relate to their particular duties and responsibilities.

FINANCIAL PROCEDURE NOTE A: FINANCIAL PLANNING

A.1 INTRODUCTION

A.1.1 Council is responsible for agreeing the Council's budget and policy framework, which will be proposed by the lead councillor with responsibility for finance. In terms of financial planning, the key document is the Budget Book and Medium Term Financial Plan, which will include:

- (i) the annual budget
- (ii) three year financial plan
- (iii) capital programmes

A.2 FORMAT OF THE BUDGET

A.2.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

A.2.2 The general format of the budget will be approved by Council and proposed by the lead councillor with responsibility for finance on the advice of the CFO. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

A.2.3 Guidelines on budget preparation are issued to Councillors, Strategic Directors and Executive Heads of Service by the Executive following agreement with the CFO. The guidelines will take account of:

- (i) legal requirements
- (ii) medium-term planning prospects
- (iii) available resources
- (iv) spending pressures
- (v) relevant government guidelines
- (vi) internal policy documents
- (vii) crosscutting issues (where relevant).

A.2.4 Key Controls

The key controls for the budget format are:

- (i) the format complies with all legal requirements
- (ii) the format complies with the Chartered Institute of Public Finance and Accountancy's (CIPFA's) Service Reporting Code of Practice (SeRCOP)
- (iii) the format reflects the accountabilities of service delivery.

A.2.5 Responsibilities of the Chief Finance Officer

- (i) to determine the format of the budget in line with the general directions of the Executive.

A.2.6 Responsibilities of Strategic Directors, Executive Heads of Service and Service Leaders

- (i) to comply with accounting guidance provided by the CFO.

A.3 REVENUE BUDGET PREPARATION

A.3.1 The CFO is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Executive, before submission to Council. Council will consider the budget in accordance with the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution.

A.3.2 The detailed form of the budget shall be determined by the CFO, consistent with the general direction of the Executive.

A.4 BUDGETS AND MEDIUM-TERM PLANNING

A.4.1 The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

A.4.2 A report on new proposals should explain the full financial implications, following consultation with the CFO. Unless Council or the Executive has agreed otherwise, Strategic Directors must plan to contain the financial implications of such proposals within their budget.

A.4.3 Medium-term planning (or a three to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

A.4.4 Key Controls

The key controls for budgets and medium-term planning are:

- (i) specific budget approval for all expenditure
- (ii) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability
- (iii) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

A.4.5 Responsibilities of the Chief Finance Officer

- (i) in accordance with their responsibilities under Section 151 of the Local Government Act 1972, to report annually to Council on the revenue and capital programmes, including any resource constraints which may be set by the Government, taking account of medium term planning, the implications of spending decisions and adequacy of the level of revenue and capital reserves. The budget report will include an opinion on the robustness of the estimates presented, adequacy of reserves and any finance or service risks.

- (ii) to prepare and submit a budget report on financial plans for Council, including resource constraints set by the government. Reports should take account of medium-term prospects, where appropriate
- (iii) to prepare and submit a budget report to Council on the aggregate spending plans of service portfolios and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied
- (iv) to advise on the medium-term implications of spending decisions
- (v) to encourage the best use of resources and value for money by working with Strategic Directors and Executive Heads of Service to identify opportunities to improve economy, efficiency and effectiveness and by encouraging good practice in conducting financial appraisals of development or savings options and in developing financial aspects of service planning
- (vi) to carry out a Budget Risk Assessment, as part of the budget report each year to identify financial and service risks and the extent of the risk, in order to ascertain potential unbudgeted liabilities and provide information to Council in setting the level of reserves.

A.4.6 Responsibilities of Strategic Directors

- (i) to prepare estimates of income and expenditure for the next and following three financial years, in consultation with the CFO, to be submitted to the Executive
- (ii) to prepare budget estimates that are consistent with the Council's annual budget cycle. The format should be prescribed by the CFO in accordance with the Council's constitution
- (iii) to integrate financial and budget plans into business planning, so that business plans can be supported by financial and non-financial performance measures
- (iv) in consultation with the CFO to prepare detailed draft revenue and capital budgets for consideration by Council in accordance with the guidance and timetable issued by the CFO
- (v) when drawing up draft budget requirements, to have regard to:
 - spending patterns and pressures revealed through the budget monitoring process
 - legal requirements
 - policy requirements as defined by the Council in the approved policy framework; and
 - Initiatives already under way.
- (vi) to work with the CFO in identifying opportunities to improve value for money, encourage good practice in conducting financial appraisals, and in developing financial aspects of service planning
- (vii) in consultation with the CFO, to carry out a Budget Risk Assessment each year to identify financial and service risks and the extent of the risk, in order to ascertain potential unbudgeted liabilities and provide information in setting the level of reserves.

A.4.7 Responsibilities of Budget Managers

- (i) in consultation with the CFO to prepare detailed draft revenue and capital budgets for consideration by Council in accordance with the guidance and timetable issued by the CFO
- (ii) when drawing up draft budget requirements, to have regard to:

PART 4 – FINANCIAL PROCEDURE RULES

- spending patterns and pressures revealed through the budget monitoring process
 - legal requirements
 - policy requirements as defined by the Council in the approved policy framework
 - initiatives already under way
- (iii) to work with the CFO in identifying opportunities to improve value for money, encourage good practice in conducting financial appraisals, and in developing financial aspects of service planning.

A.5 RESOURCE ALLOCATION

A.5.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is, therefore, imperative that needs/desires are carefully prioritised and that resources are fairly allocated in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

A.5.2 Key Controls

The key controls for resource allocation are:

- (i) a policy decision by the Executive or Council
- (ii) resources are acquired in accordance with the law using an approved authorisation process
- (iii) resources are used only for the purpose intended, to achieve the approved policies and objectives and are properly accounted for
- (iv) resources are securely held for use when required
- (v) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

A.5.3 Responsibilities of the Chief Finance Officer

- (i) to develop and maintain a resource allocation process that ensures due consideration of the Council's policy framework
- (ii) to advise on methods available for the funding of resources, such as grants from central government and borrowing requirements
- (iii) to assist in the allocation of resources to budget managers.

A.5.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to work within budget limits and to utilise resources allocated and further allocate resources in the most efficient, effective and economic way
- (ii) to identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

A.6 CAPITAL PROGRAMMES

A.6.1 Capital expenditure is expenditure mainly for buying, constructing or improving physical assets. In order to count as capital expenditure, new assets or improvements to existing assets must have a life of more than one year and it must enhance the life, use or value of an asset, as defined by the CIPFA Practitioners' Guide to Capital Finance in Local Government.

PART 4 – FINANCIAL PROCEDURE RULES

- A.6.2 Capital expenditure may be included as one of two programmes - Housing Improvement Programme (Housing Revenue Account) and General Fund.
- A.6.3 Capital projects are placed on the provisional capital programme in the first instance, unless otherwise approved by Council. The inclusion of items in the approved capital programmes will generally constitute authority to incur such expenditure subject to compliance with any conditions, which the Executive shall have placed, on any item or items.

A.6.4 **Key Controls**

The key controls for capital programmes are:

- (i) approval by Council for the capital programme, including a business case for each new scheme, and an update for existing schemes
- (ii) the relevant Executive Head of Service is required to prepare a capital bid for a new scheme, together with estimated costs, including construction costs, internal and external fees, fitting out and staffing resources necessary to deliver the project etc. All costs must be included and estimates should be as accurate as possible and include any ongoing revenue costs
- (iii) a named manager has responsibility for each scheme in the capital programmes
- (iv) bids submitted as part of the annual budget / business-planning process will be evaluated and assessed against criteria agreed at the start of the process. They will then be submitted to the Executive who will make recommendations as to the inclusion of the schemes in the programme to Council
- (v) the Executive Head of Assets and Property has overall responsibility for the Council's non-housing stock land and building assets. All proposed capital works to or impacting on non-housing land and buildings must be approved by the Executive Head of Assets and Property
- (vi) projects will, unless otherwise agreed, be placed on the provisional capital programme, subject to further approval as outlined in (viii) and (ix)
- (vii) all borrowing, capital receipts, disposals or use of capital reserves to finance the Capital Programme must be approved by Council when setting the Capital Programme at Budget Council, or by the CFO thereafter
- (viii) for project expenditure of over £200,000 on capital projects, responsible officers will need to submit an updated business case, including costs, project plan, timescales and associated revenue expenditure for approval by the Executive before the project budget is moved to the approved capital programme, from the provisional capital programme
- (ix) for project expenditure under £200,000, responsible officers will need to submit a business case, as detailed in (viii) above to the CFO
- (x) once a project budget is on the approved capital programme, the responsible officer will assume responsibility for its progression, control and completion, including invitations to tender and selection of contractors and / or consultants
- (xi) the responsible officer will have control over the scope and budget of the project, subject to the detail approved by the Executive or CFO. The responsible officer does not have authority to change the project brief or cost without approval of the Executive or CFO
- (xii) the responsible officer will liaise with the Lead Specialist - Finance, who has responsibility for monitoring the capital programme as a whole, on progress of the project and details of costs so detailed project monitoring can be undertaken and the effect on the Council's resources can be monitored
- (xiii) the responsible officer will organise, and chair, a project team

PART 4 – FINANCIAL PROCEDURE RULES

- (xiv) the Capital Monitoring Group will meet throughout the year and has responsibility for monitoring the capital programme as a whole. Monitoring reports, on property related capital projects, will be submitted to the property review group, quarterly monitoring on the whole programme will be submitted to Corporate Management Board (CMB)
- (xv) any variances to the project brief or the cost of the project, and the correcting action, must be reported in line with the finance procedure rules.

A.6.5 Responsibilities of the Chief Finance Officer

- (i) To authorise expenditure from the Council's capital contingency fund for new capital projects up to a maximum gross project cost of £100,000 or for existing approved capital projects up to a maximum of 20% of the gross project cost or £200,000 whichever is the lower amount in accordance with the Council's financial procedure rules for capital virements.
- (ii) to prepare capital estimates and updated projections of current schemes, with CMB and Executive Heads of Service, and to report them to the Executive for approval, for both General Fund and Housing programmes. The Executive will make recommendations on the capital estimates and on any associated financing requirements to Council
- (iii) to prepare and submit monitoring reports to CMB and the Corporate Governance and Standards Committee on the projected income, expenditure and resources used to finance the programmes compared with the approved estimates
- (iv) to issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the CFO having regard to government regulations and accounting requirements
- (v) in consultation with the Strategic Directors and Executive Heads of Service, to obtain authorisation for individual schemes where the estimated expenditure exceeds the capital programme provision in accordance with the limits set in the Council's virement or supplementary estimate section of these Financial Procedure Rules
- (vi) to approve the re-phasing of capital schemes within the capital programme between financial years, subject to the availability of resources, to make the most effective use of those resources
- (vii) to add expenditure to the approved capital programme where it is fully financed by grant, s106, SPA and CIL receipts and the project has been approved by the appropriate lead councillor and the relevant Strategic Directors or Executive Heads of Service
- (viii) To authorise moving up to £200,000 from capital projects on the provisional capital programme to the approved capital programme where a business case has been submitted by the responsible officers

A.6.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to comply with guidance concerning capital schemes and controls issued by the CFO
- (ii) to ensure that all capital proposals have undergone a project appraisal in accordance with the business plan guidance issued by the CFO
- (iii) to prepare a business case to move a project from the provisional to the approved capital programme in accordance with the key controls paragraph A.6.4

PART 4 – FINANCIAL PROCEDURE RULES

- (iv) to prepare regular reports reviewing the capital programme for their services. They should also prepare a quarterly return of estimated final costs of schemes in the capital programme for submission to the CFO
- (v) to ensure that adequate records are maintained for all capital contracts
- (vi) to proceed with projects only when there is adequate provision in the approved capital programme
- (vii) to ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the CFO and, if applicable, approval of the scheme through the capital programme in accordance with section C.8.10 of the finance procedure rules
- (viii) to consult with the CFO and CMB before any service submits a bid for external funding, and to seek the approval of the CFO (under delegated authority) to add expenditure that is not currently included in the capital programme.

A.7 STAFFING

A.7.1 In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

A.7.2 Key Controls

The key controls for staffing are:

- (i) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (ii) procedures are in place for forecasting staffing requirements and cost.
- (iii) controls are implemented that ensure staff time is used efficiently and to the benefit of the Council
- (iv) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

A.7.3 Responsibilities of the Chief Finance Officer

- (i) to ensure that budget provision exists for all existing and new employees, based on information supplied by Human Resources and Executive Heads of Service
- (ii) to act as an adviser to Strategic Directors and Executive Heads of Service on areas such as national insurance and pension contributions, as appropriate.

A.7.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to agree an annual staffing budget for all services, on the basis of information provided by the CFO
- (ii) to ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads)
- (iii) to monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff
- (iv) to ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided
- (v) to ensure that the CFO are immediately informed if the staffing budget is likely to be materially over or underspent.

A.8 FEES AND CHARGES

The Council is required to set its fees and charges annually as part of the budget setting process.

Key Controls

- (i) Strategic Directors and Executive Heads of Service shall set the established fees and charges annually for approval by Council
- (ii) Fees and Charges shall be increased in accordance with the Corporate Charging Policy and the rate of inflation as confirmed by the Executive
- (iii) in-year increases above or below inflation can be approved by the CFO in consultation with the appropriate lead councillor and lead councillor with responsibility for finance subject to no adverse on-going budgetary implications
- (iv) in exceptional circumstances and subject to the foregoing requirement, charges may be increased, reduced or waived for a specified (temporary) period to promote a service or facility by the Strategic Director in consultation with the CFO subject to there being no ongoing budgetary implications. This may include introducing a casual charge for the purpose of defraying costs of a special event. Any such change must be fully documented.

A.8.1 Responsibilities of the Chief Finance Officer

- (i) To submit the list of the Council's fees and charges to Council for approval as part of the budget report
- (ii) To prepare and submit a corporate charging policy for approval by Executive
- (iii) To approve in year variations to fees and charges in consultation with the relevant Strategic Directors or Executive Heads of Service subject to there being no ongoing budgetary implications

A.8.2 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) To inform the CFO of their proposed fees and charges for inclusion in the budget report for approval by Council
- (ii) To set fees and charges in line with the Corporate Charging Policy
- (iii) To approve in year variations to fees and charges in consultation with the CFO subject to there being no ongoing budgetary implications

FINANCIAL PROCEDURE NOTE B: FINANCIAL MANAGEMENT AND CONTROL

B.1 INTRODUCTION

- B.1.1 Financial management and control covers all financial accountabilities in relation to the financial running of the Council and control of the approved budget
- B.1.2 The role of Council, the Executive and other committees and those of the Council's statutory officers in relation to these matters are set out in the Council's Constitution. Full details of the responsibilities of the CFO are set out in the overall introduction to these Financial Procedure Rules.
- B.1.3 It is the responsibility of Strategic Directors and Executive Heads of Service to consult the CFO and seek approval on any matter liable to affect the Council's finances before any additional budgetary commitments are committed.

B.2 FINANCIAL MANAGEMENT STANDARDS

- B.2.1 All staff and councillors have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

B.2.2 Key Controls

The key controls and control objectives for financial management standards are:

- (i) their promotion throughout the Council
- (ii) a monitoring system to review compliance with financial standards and regular comparisons of performance indicators and benchmark standards that are reported to the Executive and/or Council

B.2.3 Responsibilities of the Chief Finance Officer

- (i) to ensure the proper administration of the financial affairs of the Council
- (ii) to set the financial management standards and to monitor compliance with them
- (iii) to ensure that officers adhere to proper professional practices and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council
- (iv) to ensure key strategic controls necessary to secure sound financial management are in place.
- (v) To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

B.2.4 Responsibilities of Strategic Directors

- (i) to promote the financial management standards set by the CFO in their service portfolio and to monitor adherence to the standards and practices, liaising as necessary with the CFO
- (ii) to promote sound financial practices in relation to the standards, performance and development of staff in their service portfolio
- (iii) to prepare, in consultation with the CFO, any necessary financial instructions detailing the action to be taken within their service to ensure compliance with the Constitution and Financial Procedure Rules. Copies of these instructions and any future amendments should be held within the service section on the Council's intranet

B.3 ACCOUNTING POLICIES

B.3.1 The CFO is responsible for the preparation of the Council's and any subsidiary's annual statement of accounts, in accordance with proper accounting practices. These practices primarily comprise the Code of Practice on Local Authority Accounting in the United Kingdom and the Service Reporting Code of Practice (CIPFA/LASAAC), supported by International Financial Reporting Standards.

B.3.2 Key Controls

The key controls for accounting policies are:

- (i) systems of internal control are in place that ensure financial transactions are lawful
- (ii) suitable accounting policies are selected and applied consistently
- (iii) proper accounting records are maintained
- (iv) financial statements are prepared which present a true and fair view of the financial position of the Council and of its expenditure and income.

B.3.3 Responsibilities of the Chief Finance Officer

- (i) to select suitable accounting policies and to ensure that they are applied consistently
- (ii) to exercise supervision over financial and accounting records and systems with a view to ensuring their uniformity, co-ordination and compatibility. The accounting policies are set out in the statement of accounts
- (iii) To prepare and publish reports the statement of accounts

B.3.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to adhere to the accounting policies and guidelines approved by the CFO
- (ii) to obtain the approval of the CFO before introducing any books, forms or procedures or other records relating to cash, stores or other accounts of the Council which may affect the Council's finances
- (iii) to submit to the CFO any information as the latter considers necessary for accounting and costing purposes and allow the CFO access at all reasonable times to all accounting records and documents, which may affect the Council's finances
- (iv) to consult the CFO when publishing any financial information

B.4 ACCOUNT RECORDS AND RETURNS

- B.4.1 The form of accounts, procedures, and supporting financial records of the Council and its officers and the Council's subsidiary organisations shall be determined by the CFO. No new accounting systems shall be introduced at the Council and its subsidiaries, or changes to existing financial systems without the approval of the CFO.
- B.4.2 The Council maintains and audits unofficial funds, which for this purpose shall be defined as any funds, associated with Council business, supervised or managed by Council staff, but which are not part of Council funds or trust funds of the Council.
- B.4.3 Any employee holding unofficial funds must deliver up a true account in writing of all money and property committed to their charge and of receipts and payments with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due, showing the amount due from or to each.
- B.4.4 Employees acting as honorary treasurers of unofficial funds shall notify the appropriate Strategic Director and CFO.

B.4.5 Key Controls

The key controls for accounting records and returns are:

- (i) all officers, finance staff and budget managers operate within the required accounting standards and timetables
- (ii) all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (iii) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (iv) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (v) prime documents are retained in accordance with legislative and other requirements.

B.4.6 Responsibilities of the Chief Finance Officer

- (i) To determine the accounting procedures and records for the Council and any subsidiaries of the Council.
- (ii) to arrange for the compilation of all accounts and accounting records under their direction. The Monitoring Officer and Audit and Business Improvement Manager shall be consulted before any records, books, forms or procedures which might affect the financial integrity of the financial systems, are introduced
- (iii) to comply with the following principles when allocating accounting duties:
 - separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them; and
 - employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

PART 4 – FINANCIAL PROCEDURE RULES

- (iv) to make proper arrangements for the audit of the Council's and any Subsidiary's accounts in accordance with the latest Accounts and Audit Regulations
- (v) to ensure that all claims for funds, including grants are made by the due date.
- (vi) to prepare and publish the accounts of the Council for each financial year in accordance with the statutory timetable
- (vii) to administer the Council's arrangements for under and overspendings for each financial year
- (viii) to ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

B.4.7 **Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to consult and obtain the approval of the CFO before making any changes to accounting records and procedures
- (ii) to comply with the principles outlined in paragraph B.3.4 when allocating accounting duties and report to the CFO and Audit and Business Improvement Manager if it is not possible to comply with these principles
- (iii) to maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements
- (iv) to supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the CFO
- (v) to ensure the proper retention of financial documents under his or her control in accordance with the requirements of the Council's document retention schedule and the security and privacy of information in accordance with the Data Protection Act 2018.

B.5 **REVENUE BUDGET MONITORING AND CONTROL**

- B.5.1 Budget monitoring ensures that once the budget has been approved by Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- B.5.2 By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual budget, approved when setting the overall budget. To ensure that the Council as a whole does not overspend, each service is required to manage its own expenditure within the budget allocated to it.
- B.5.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by individual Strategic Directors or Executive Heads of Service.
- B.5.4 For this purpose:
- a service unit includes relevant service areas, headed by a Strategic Director or a Executive Head of Service as defined in the Council's budget book
 - a defined service is as stated in the service unit summary in the budget book

PART 4 – FINANCIAL PROCEDURE RULES

- an account category is that stated on the subjective summary in the budget book
- an expenditure account, with an approved budget, is a line in the general ledger
- a Executive Head of Service, is a person who reports to a Strategic Director, is the manager of a service which is stated in the service unit summary in the budget book and is stated as the responsible officer on the service budget page in the budget book
- a budget manager is an officer with authority to spend an approved budget within a defined service area

Key Controls

B.5.5 The key controls for managing and controlling the revenue budget are:

- (i) budget managers should be responsible only for income and expenditure that they can influence
- (ii) there is a nominated budget manager for each cost centre. This will be the service manager identified as the responsible officer in the Council's budget book for the service unless delegated to another manager
- (iii) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (iv) budget managers follow an approved certification process for all expenditure
- (v) income and expenditure are properly recorded and accounted for
- (vi) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

B.5.6 **Responsibilities of the Chief Finance Officer**

- (i) to establish an appropriate framework of budget monitoring and control that ensures that:
 - budget management is exercised within annual budgets unless the Council agrees otherwise by virement or supplementary estimate.
 - each Strategic Director and Executive Head of Service has available timely information on receipts and payments on each budget, which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
 - expenditure is committed only against an approved expenditure account.
 - all officers responsible for committing expenditure comply with relevant guidance and the Financial Procedure Rules.
 - each service has a single named budget manager in the Council's budget book, determined by the relevant Strategic Director or Executive Head of Service. The budget manager is responsible for expenditure against the approved budget and as a general principle, the expenditure should align as closely as possible to the objectives of the service.
 - significant variances from approved budgets are investigated and reported by budget managers regularly
- (ii) to be responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor and control expenditure against budget allocations
- (iii) to administer the Council's scheme of virement

PART 4 – FINANCIAL PROCEDURE RULES

- (iv) to provide Strategic Directors and Executive Heads of Service with a budgetary information service in a format devised by the CFO in consultation with Strategic Directors
- (v) to submit reports to the Executive and Council, in consultation with the relevant Strategic Directors or Executive Heads of Service, where a Strategic Director or Executive Head of Service is unable to balance expenditure and resources within existing approved budgets and virement procedures under his or her control
- (vi) to prepare and submit reports on the Council's projected income and expenditure compared with the budget to Directors and budget managers on a regular basis.

B.5.7 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that budget estimates reflecting agreed business plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive
- (ii) to control income and expenditure within their areas and to monitor performance, taking account of financial information provided by the CFO. They should also take any action necessary to avoid exceeding their budget allocation and alert the CFO to any problems
- (iii) to maintain budgetary control within their services, in adherence to the principles in B.4.7, and to ensure that all income and expenditure is properly recorded and accounted for
- (iv) to ensure that an accountable budget manager is identified for each item of income and expenditure under their control. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure
- (v) to ensure that spending remains within the service's overall budget and that individual account categories are not overspent by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast
- (vi) to inform the CFO whenever there is a likelihood that expenditure on any item/project will exceed the approved revenue or capital estimate for it, or that income will be less than the amount included in the estimates, unless a virement or supplementary estimate has been approved so that action in accordance with these Procedure Rules may be taken as necessary
- (vii) to ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively
- (viii) to ensure prior approval by Council or the Executive (as appropriate) for new proposals, of whatever amount, that:
 - create financial commitments in future years
 - change existing policies, initiate new policies or cease existing policies
 - materially extend or reduce the Council's services
- (ix) to report to the Executive on new proposals explaining the full financial implications, following consultation with the CFO. Unless Council or Executive has agreed otherwise, Strategic Directors and Executive Heads of Service must plan to contain the financial implications of such proposals within their budget
- (x) to ensure compliance with the scheme of virement

PART 4 – FINANCIAL PROCEDURE RULES

- (xi) to agree with the relevant Strategic Directors or Executive Heads of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Strategic Director's or Executive Head of Service's level of service activity
- (xii) to report to Executive for approval of any commitment, which may be contained in the current year's budget, but incurs additional expenditure or additional income in future years before any commitment is made. This is particularly relevant to Grant Funded expenditure.

B.5.8 Responsibilities of Executive Heads of Service, Service Leaders, and Budget Managers

- (i) to ensure that budget estimates are submitted to the Strategic Directors and CFO so that they can submit them to Executive for approval
- (vi) to control income and expenditure within their areas and to monitor performance, taking account of financial information provided by the CFO. They should also take any action necessary to avoid exceeding their budget allocation and alert the CFO to any problems
- (vii) to report to Strategic Directors and CFO any commitment, which may be contained in the current year's budget, but incurs additional expenditure or additional income in future years before any commitment is made so that approval may be sought from Executive. This is particularly relevant to Grant Funded expenditure
- (viii) to inform the Strategic Directors and CFO whenever there is a likelihood that expenditure on any item/project will exceed the approved revenue or capital estimate for it or that income will be less than the amount included in the estimates, so that action in accordance with the Financial Procedure Rules may be taken as necessary
- (ix) to ensure prior approval by Council or the Executive (as appropriate) for new proposals, of whatever amount, that:
 - create financial commitments in future years
 - change existing policies, initiate new policies or cease existing policies; and
 - materially extend or reduce the Council's services.

B.6 MANAGING EXPENDITURE: REVENUE VIREMENTS

B.6.1 Detailed guidance on the control of revenue virements is given in the following paragraphs and in section B.7 for supplementary estimates. In summary the limits are:

Service areas	Value limit	Agreement
Virement		
Cost centres relating to the same service, specific account categories	£100,000	CFO and relevant Executive Head of Service
Cost centres relating to different services but within the same service unit, specific account categories	£100,000	CFO and relevant Strategic Director
From any budget head within the employees category	£100,000	Joint Chief Executive; a report to CMB requesting approval is required
Cost Centres relating to different service units, specific	£100,000	Joint Chief Executive; a report to CMB requesting approval is

PART 4 – FINANCIAL PROCEDURE RULES

Service areas	Value limit	Agreement
account categories		required
Between any service and any account categories	£100,001 - £200,000	Joint Chief Executive in consultation with appropriate lead councillor(s) and lead councillor with responsibility for finance, a report to CMB requesting approval is required
Between any service and any account categories	£200,001 - £500,000	Executive
Between any service and any account categories	Over £500,000	Council
Supplementary Estimate		
Any - subject to no on-going implication for future years over £100,000 and up to a total limit of £750,000 in any year	Up to £500,000	Executive
Any	Over £500,000	Council

A virement is the switching of resources between approved service estimates or account categories of expenditure, without creating additional budget liability. For the purposes of this scheme, a service is considered to be a service as listed in the service unit summary pages in the Council's budget book or, as a minimum, at an equivalent level to the standard service sub-division as defined by CIPFA's Service Expenditure Analysis. An account category is considered a line in the budget book. Council is responsible for agreeing the financial procedures for virement of expenditure.

B.6.2 The scheme of virement is intended to enable the Executive, Joint Chief Executive, Strategic Directors, Executive Heads of Service and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by Council and, therefore, to optimise the use of resources.

B.6.3 Key Controls

Key controls for the scheme of virement are:

- (i) it is administered by the CFO within the Constitution set by the Council. Any variation from this scheme requires the approval of the Council
- (ii) the overall budget is approved annually by Council. Strategic Directors, Executive Heads of Service and budget managers are therefore, authorised to incur expenditure in accordance with the estimates that make up the budget

The procedure rules below cover virement, that is, the switching of an approved budget or part of an approved budget between different expenditure accounts, either in the same service area or between different service areas or between different service units.

- (iii) Strategic Directors, Executive Heads of Service and budget managers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring expenditure from one-off sources of savings or additional income, or create future

PART 4 – FINANCIAL PROCEDURE RULES

commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Strategic Directors and Executive Heads of Service must plan to fund such commitments from within their own budgets.

- (iv) revenue virements may be made within the following criteria:
 - (a) Between expenditure accounts within the categories of premises, transport and supplies and services and within cost centres relating to the same service: to a maximum of £100,000, subject to the agreement of the CFO and relevant Executive Head of Service
 - (b) Between expenditure accounts within the categories of premises, transport and supplies and services, but between cost centres relating to different services within a service unit: to a maximum of £100,000, subject to the agreement of the CFO and relevant Strategic Director
 - (c) Between expenditure accounts within the categories of premises, transport and supplies and services, but between cost centres relating to different service units: to a maximum of £100,000, subject to the agreement of the Joint Chief Executive through a report to CMB
 - (d) From any expenditure accounts within the employee category: to a maximum of £100,000, subject to the agreement of the Joint Chief Executive through a report to CMB
 - (e) Joint Chief Executive, in consultation with the appropriate lead councillor(s) and lead councillor with responsibility for finance can approve virements between the value of £100,000 and £200,000, subject to a report to CMB
 - (f) Any virement with a value greater than £200,000 must be approved by the Executive to a limit of £500,000 and by Council for any greater amount
- (v) limitations to virement. Virement is not allowed:
 - (a) into expenditure accounts in the employee category, except when being vired within the employee category
 - (b) when one or both of the expenditure accounts concerned is an internal recharge
 - (c) when the opportunity to vire has been caused by the abandonment or reduction in the level of a service/item following a change in Council or national policy
- (vi) the following conditions must also be met for all virements:
 - (a) the proposal must conform to Council policy
 - (b) there must be no net increase in total revenue expenditure in the initial or any subsequent year as a result of the virement
 - (c) the virement must be made prior to the end of February of the relevant financial year
- (vii) where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that the amount is used in accordance with the purposes for which it has been established.

B.6.4 Responsibilities of the Joint Chief Executive

- (i) to approve, as the chair of CMB, virements between services and non-employee account categories up to £100,000
- (ii) to approve, as chair of CMB, virements from any budget head in the employees account category up to £100,000

- (iii) to approve, as the chair of CMB, virements between £100,001 and £200,000 in consultation with appropriate lead councillor(s) and lead councillor with responsibility for finance

B 6.5 Responsibilities of the Chief Finance Officer

- (i) to approve, in consultation with the relevant Executive Head of Service or Strategic Director, virements up to £100,000 for cost centres relating to the same service and non-employee account categories
- (ii) to report to Corporate Governance and Standards Committee, as part of the budget monitoring process, virements that have been approved under delegated authority
- (iii) to prepare with the Strategic Director or Executive Head of Service, and where appropriate in consultation with the appropriate lead councillor and the lead councillor with responsibility for finance, a report to CMB seeking Joint Chief Executive approval for virements between service units under £100,000, virements from employee account categories under £100,000 or virements between £100,001 and £200,000
- (iv) to prepare with the Strategic Director or Executive Head of Service a report to the Executive seeking approval for virements between £200,001 and £500,000.
- (v) to prepare with the Strategic Director or Executive Head of Service a report to Council seeking approval for virements in excess of £500,000
- (vi) maintain a record of all revenue virements approved.

B.6.6 Responsibilities of Budget Managers

- (i) to submit requests for virements within the categories of premises, transport and supplies and services and within cost centres relating to the same service up to a maximum of £100,000 in writing, on a delegated authority form for approval by the appropriate Executive Head of Service to the CFO
- (ii) to submit requests for virements within the categories of premises, transport and supplies and services and within cost centres relating to different services up to a maximum of £100,000 in writing, on a delegated authority form for approval by the appropriate Strategic Director to the CFO
- (iii) to write and submit reports to CMB, in consultation with the CFO, as outlined in B.6.3 to seek approval for virements between service units or between any account code in the employee category
- (iv) to write and submit reports, in consultation with the CFO, to CMB, lead councillors, Executive or Council as outlined in B.6.3 to obtain approval for all virements exceeding £100,001

B.7 REVENUE SUPPLEMENTARY ESTIMATES

B.7.1 A supplementary estimate is one that gives approval for increased expenditure or reduced income that was not included in the original budget and therefore increases the Council's overall net budget for the year.

B.7.1 Key Controls

The key controls for revenue supplementary estimates are:

PART 4 – FINANCIAL PROCEDURE RULES

- (i) subject to (ii) below, any request for a revenue supplementary estimate shall first be submitted by the budget manager to the relevant Strategic Director in consultation with the CFO. The Executive may approve revenue supplementary estimates up to £500,000 subject to there being no on-going implication over £100,000 for future years, up to a maximum supplementary limit of £750,000 in any one year
- (ii) any supplementary estimate in excess of £500,000, or where there is an on-going implication for future years in excess of £100,000, shall require the approval of Council
- (iii) once the Executive have approved supplementary estimates totalling £750,000 for any one year, Council must approve any further requests
- (iv) in cases of urgency and with the agreement of the chairman of the Overview and Scrutiny Committee that the matter is urgent, the Leader of the Council and CFO shall be authorised to approve revenue supplementary estimates in excess of the limits specified in (i) to (iii) above where it is not practical to convene a quorate meeting of the Council.

B.7.2 Responsibilities of the Chief Finance Officer

- (i) to prepare with the Strategic Director or Executive Head of Service a report to the Executive on requests for revenue supplementary estimates
- (ii) to maintain a record of all revenue supplementary estimates approved
- (iii) where external funding or specific grant funding is received after setting the revenue budget to amend the budget as set out in the Council's scheme of delegation

B.7.3 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) all requests for revenue supplementary estimates shall be submitted in writing by the appropriate Strategic Director, Executive Head of Service, or Service Leader to the CFO.

B.8 CAPITAL SUPPLEMENTARY ESTIMATES AND VIREMENTS

B.8.1 Detailed guidance on the control of capital virements and supplementary estimates is given in the following paragraphs. In summary the limits are:

Capital scheme	Value limit	Agreement
<u>Supplementary</u>		
Any	£1 million	Executive
Any	Over £1 million	Council
<u>Virement</u>		
Schemes on approved programme	£100,000	CFO in consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance
Schemes on approved programme	£100,001 to £200,000	Joint Chief Executive, via a report to CMB in consultation with the appropriate lead councillor(s) and the lead

PART 4 – FINANCIAL PROCEDURE RULES

		councillor with responsibility for finance
Schemes on approved programme	£200,001 - £1 million	Executive
Schemes on approved programme	Over £1 million	Council

- B.8.2 The rules on capital supplementary estimates and virements are intended to enable the Executive, CFO, Strategic Directors, Executive Heads of Service and their staff to manage capital budgets with a degree of flexibility within the overall programmes determined by Council and, therefore, to optimise the use of resources.
- B.8.3 A supplementary estimate is an extra sum of money added to the scheme budget and therefore creates an additional budget liability.
- B.8.4 A virement is a transfer of budget between schemes and does not create additional budget liability.
- B.8.5 The rules below cover supplementary estimates and virements between approved capital projects.
- B.8.6 **Key Controls**

Key controls for the rules relating to capital supplementary estimates and virements are:

- (i) they are administered by the CFO within the Constitution set by Council. Any variation from these rules requires the approval of Council
- (ii) overall capital programmes are agreed by the Executive and approved by Council. Strategic Directors, Executive Heads of Service and Budget Managers are authorised to incur expenditure in accordance with the approved estimates that make up the programmes.

Supplementary estimates

- (iii) subject to (iv) below, any request for a capital supplementary estimate shall first be submitted to the Executive by the Strategic Director or Executive Head of Service concerned, in consultation with the CFO. The Executive may approve capital supplementary estimates up to £1 million. Any supplementary estimate in excess of this amount shall require the approval of Council.
- (iv) in cases of urgency, and with the agreement of the chairman of the Overview and Scrutiny Committee that the matter is urgent, the Leader of the Council and CFO shall be authorised to approve capital supplementary estimates in excess of the limits specified in (iii) above where it is not practical to convene a quorate meeting of Council.

Virements

- (v) Strategic Directors and Executive Heads of Service are expected to exercise their discretion in managing capital projects responsibly and prudently. For example, they should aim to avoid creating future commitments, including full-year effects of decisions made part way through a year, for which they have

- not identified future resources. Strategic Directors and Executive Heads of Service must plan to fund such commitments from within their own budgets.
- (vi) The following conditions must be met for all capital virements:
 - (a) The proposal must conform to Council policy.
 - (b) There must be no net increase in total expenditure in the initial or any subsequent year as a result of the virement.
 - (vii) Virement that is likely to impact on the level of service activity of another Strategic Director or Executive Head of Service should be implemented only after agreement with the relevant Strategic Director or Executive Head of Service.
 - (viii) Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
 - (a) the amount is used in accordance with the purposes for which it has been established; and
 - (b) the Executive or Council has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Executive or Council (as appropriate).

B.8.7 Responsibilities of the Chief Finance Officer

- (i) To maintain a record of all capital supplementary estimates and virements approved

Supplementary estimates

- (ii) To prepare with the Strategic Director and Executive Head of Service a report to the Executive on requests for capital supplementary estimates. The Executive may approve capital supplementary estimates up to £1 million. Any supplementary estimate in excess of this amount shall require the approval of Council

Virements

- (iii) In consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance, to approve virements between capital projects on the approved capital programme up to a maximum of £100,000.
- (iv) To prepare, with the Strategic Director or Executive Head of Service a report to CMB and appropriate lead councillors seeking Joint Chief Executive approval for virement between capital projects on the approved capital programme between £100,001 and £200,000
- (v) To prepare, with the Strategic Director or Executive Head of Service a report to the Executive seeking approval for virement between capital projects on the approved capital programme between £200,001 and £1 million. Any capital virement in excess of this amount shall require the approval of Council
- (vi) Where external funding or specific grant funding is received after setting the capital budget, to amend the budget as set out in the Council's scheme of delegation, in association with the appropriate lead councillor.

B.8.8 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) All requests for capital supplementary estimates and virement between capital projects shall be submitted in writing, by the appropriate Strategic Director or Executive Head of Service, or Service Leader to the CFO, in a format determined by the CFO.

B.9 TREATMENT OF YEAR-END BALANCES

B.9.1 The Rules below cover arrangements for the transfer of resources between accounting years (a carry-forward). For the purposes of this scheme, a budget heading is a line in the estimates report. A service is considered to be a service as listed in the service unit summary pages in the Council's budget book or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service Expenditure Analysis.

Specific grants will automatically be carried forward (as per B.9.2)

B.9.2 Key Controls

- (i) Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.
- (ii) Statutory ring-fenced budgets such as Building Control and Land Charges will be automatically carried forward by transferring any balances to reserves.
- (iii) Budgets for Capital Schemes, which are unspent, will be carried forward automatically.
- (iv) All other carry forward requests shall be considered by the CFO for approval after the end of the financial year.

B.9.3 Responsibilities of the Chief Finance Officer

- (i) In consultation with the Leader of the Council and Lead Councillor for Finance, to agree the treatment of any year-end balance on the General Fund and HRA

B.9.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) Any overspending on service estimates in total on budgets under the control of a Strategic Director, Executive Head of Service, or Service Leader must be explained to the CFO. The CFO will report the extent of over and under-spending to the Corporate Governance and Standards Committee

B.10 MAINTENANCE OF RESERVES AND BALANCES

B.10.1 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves and balances are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

B.10.2 Key Controls

The key controls for maintenance of reserves and balances are:

- (i) To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies.
- (ii) For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- (iii) Authorisation and expenditure from reserves by the appropriate Strategic Director or Executive Head of Service, in consultation with the CFO.

B.10.3 Responsibilities of the Chief Finance Officer

- (i) To advise the Executive and/or Council on prudent levels of reserves for the Council on a risk basis and to take account of the advice of the external auditor in this matter.
- (ii) To set up earmarked reserves for specific purposes subject to budget availability
- (iii) To approve the expenditure of earmarked reserves and provisions for defined uses in accordance with the council's agreed policy
- (iv) In consultation with the Lead Councillor with responsibility for finance to approve expenditure from the Council's Budget Pressures, Business Rates Equalisation, Investments' Capital Value and LABGI reserves
- (v) In consultation with the Lead Councillor with responsibility for finance, to approve the amount of any transfer to the Investment Property Rent Reserve as a result of rent review income above that included in the relevant years' estimates

B.10.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) To ensure that resources are used only for the purposes for which they were intended.

B.11 THE ANNUAL STATEMENT OF ACCOUNTS

B.11.1 The Council has a statutory duty to prepare an annual statement of accounts. This duty falls to the CFO, who is required to ensure that the accounting procedures of the Council are sufficient to assure that any statements of accounts are complete, and that proper control systems exist to enable transactions to be timely and accurately recorded. The Corporate Governance and Standards Committee is responsible for approving the statutory annual statement of accounts.

B.11.2 Key Controls

The key controls for the annual statement of accounts are:

- (i) The Council is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the CFO.

- (ii) The Council's statement of accounts must be prepared in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

B.11.3 Responsibilities of the Chief Finance Officer

- (i) To sign and date the annual statement of accounts, stating that it presents a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March. To ensure that an Annual Governance Statement, is approved by the Corporate Governance and Standards Committee by the statutory deadline

B.11.4 Responsibilities of the Lead Specialist - Finance (Deputy Chief Finance Officer)

- (i) To ensure that the annual statement of accounts is prepared in accordance with the CIPFA / LASAAC Code of Practice on Local Authority Accounting in the United Kingdom. The Corporate Governance and Standards Committee is responsible for approving the annual statement of accounts by 31 July following the accounting date.
- (ii) To make judgements and estimates that are reasonable and prudent.
- (iii) To comply with the CIPFA Code.
- (iv) To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.
- (v) To report any unadjusted misstatements contained in the Accounts and other audit findings to the Corporate Governance and Standards Committee in consultation with the External Auditors.
- (vi) To ensure that the audited accounts of the Council are prepared and published in accordance with the statutory timetable.

B.11.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) To comply with accounting guidance provided by the CFO and to supply the CFO with information within the deadlines set.

B.12 TRANSPARENCY REPORTING

B.12.1 Government transparency aims to increase openness by sharing more government information with citizens. As such, the Council is increasingly encouraged to publish the information it has on how money is spent by the Council and its agencies, which companies have contracts with the Council, and how the Council performs. The Council must comply with the prevailing Transparency Code and subsequent regulations.

B.12.2 Citizens have the right to inspect the Council's detailed financial accounts and all books, deeds, contracts, bills, vouchers and receipts relating to them for a period of 20 working days prior to the appointed audit date, as set annually by the External Auditor. The Council will publish notice of when the 20-day period starts and ends on its website and in the local press 14 days before the start of the period in line with the latest Accounts and Audit Regulations. These rights allow the public to check any spending under the £500 threshold without having to submit a Freedom of Information Act request.

B.12.3 Responsibilities of the Lead Specialist - Finance

- (i) To make available (on request) all the books, deeds, contracts, bills, vouchers and receipts relating to all expenditure within the Council's accounts to any member of the public for a period of 20 working days each year in accordance with statutory regulations
- (ii) To publish job titles of officers who hold senior positions (as defined by the transparency code) in the council, their job descriptions and total remuneration (e.g., salaries, bonus' payments, pension payments and expenses) for the previous year.
- (iii) To publish details on council payments and contracts for goods and services worth more than £500 (including procurement card transactions and procurement information) on the Council's website to show residents how the Council spends its budget
- (iv) To publish details of councillors' allowances and expenses on the Council's website on an annual basis as part of the transparency reporting.

B.12.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) To ensure that adequate records of books, deeds, contracts, bills, vouchers and receipts relating to all expenditure within their service area are readily available and can be produced to the CFO when responding to a request from a member of the public during either the statutory period or as part of a Freedom of Information Act request.
- (ii) To ensure that the mandatory elements of the relevant Transparency Code are published, which include: expenditure exceeding £500; government procurement card transactions; procurement information; local authority land; grants to voluntary, community and social enterprise organisations; organisation chart; trade union facility time; parking revenues; controlled parking spaces; senior salaries; Constitution; pay multiple and fraud.

FINANCIAL PROCEDURE NOTE C: CONTROL OF RESOURCES

C.1 INTRODUCTION

C.1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating resources required. The use of resources must be properly controlled.

C.2 INTERNAL CONTROLS

C.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

C.2.2 The activities of the Council must be controlled. The system of internal controls is established in order to provide measurable achievement of:

- (i) efficient and effective operations
- (ii) reliable financial information and reporting
- (iii) compliance with laws and regulations
- (iv) risk management

C.2.3 Key Controls

The key controls for internal control systems are:

- (i) key controls should be reviewed on a regular basis and the Council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- (ii) managerial control systems. These include defining policies, planning and setting objectives, monitoring financial and other performance data and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (iii) financial and operational control systems. These include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (iv) an effective internal audit function that is properly resourced. The audit function must operate in accordance with the principles contained in the Public Sector Internal Audit Standards, the Auditing Practices Board's auditing guidelines Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

C.2.4 Responsibilities of the Internal Audit Manager

- (i) to advise on effective systems of internal control
- (ii) to assist the Council to put in place an appropriate control environment and effective internal controls, which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations

C.2.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

It is the responsibility of Strategic Directors and Executive Heads of Service 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.

- (i) to manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks
- (ii) to review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Audit and Business Improvement Manager. Strategic Directors and Executive Heads of Service will also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication
- (iii) to ensure staff have a clear understanding of the consequences of lack of control.

C.3 AUDIT REQUIREMENTS

C.3.1 The latest Accounts and Audit Regulations require every local authority to maintain an adequate and effective internal audit.

C.3.2 External auditors are appointed by statute to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.

C.3.3 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, which have statutory rights of access.

Internal Audit

C.3.4 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. Regulation 6 of the latest Accounts and Audit Regulations, more specifically requires that a “relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices ...”.

C.3.5 Internal Audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

C.3.6 Key Controls

The key controls for internal audit are:

- (i) that it is independent in its planning and operation

- (ii) the Internal Audit Manager has direct access to the Joint Chief Executive, all levels of management and directly to councillors
- (iii) the internal auditors comply with the Auditing Practices Board's guideline Guidance for Internal Auditors, as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and the Public Sector Internal Audit Standards

C.3.7 Responsibilities of the Internal Audit Manager

To ensure that internal auditors have the authority to:

- (i) access Council premises at reasonable times
- (ii) access all assets, records, documents, correspondence and control systems
- (iii) receive any information and explanation considered necessary concerning any matter under consideration
- (iv) require any employee of the Council to account for cash, stores or any other asset under his or her control
- (v) access records belonging to third parties, such as contractors, when required
- (vi) directly access the Joint Chief Executive and the Executive.

C.3.8 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work
- (ii) to ensure that auditors are provided with any information and explanations that they seek in the course of their work
- (iii) to consider and respond promptly to recommendations in audit reports.
- (iv) to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion
- (v) to notify the CFO immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Strategic Director or Executive Head of Service should take all necessary steps in consultation with the Audit and Business Improvement Manager to prevent further loss and to secure records and documentation against removal or alteration
- (vi) to ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Audit and Business Improvement Manager prior to implementation.

External Audit

C.3.9 Key Controls

External auditors are currently appointed by the Audit Commission for a prescribed period of years. On closure of the Audit Commission on 31 March 2015, new arrangements as prescribed by the Local Audit and Accountability Act 2014 came into force.

C.3.10 Responsibilities of the Chief Finance Officer

- (i) to ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work
- (ii) to ensure there is effective liaison between external and internal audit
- (iii) to work with the external auditor and advise Council, Executive, Strategic Directors and Executive Heads of Service on their responsibilities in relation to external audit.

C.3.11 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets, which the external auditors consider necessary for the purposes of their work
- (ii) to ensure that all records and systems are up-to-date and available for inspection

C.4 PREVENTING FRAUD AND CORRUPTION

C.4.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

C.4.2 The Council's expectation of propriety and accountability is that councillors and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

C.4.3 The Council also expects that individuals and organisations (for example suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

C.4.4 Key Controls

The key controls regarding the prevention of financial irregularities are that:

- (i) all councillors and staff act with integrity and lead by example
- (ii) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt
- (iii) high standards of conduct are promoted amongst councillors and officers by the Corporate Governance and Standards Committee
- (iv) the Council should maintain appropriate registers of interests and of gifts and hospitality for both councillors and officers, in accordance with the provisions of the Codes of Conduct in Part 5 of the Council's Constitution
- (v) whistle-blowing procedures are in place and operate effectively
- (vi) legislation including the Public Interest Disclosure Act 1998 is adhered to.
- (vii) maintain a written anti-money laundering policy

C.4.5 Responsibilities of the Chief Finance Officer

- (i) to maintain adequate and effective internal control arrangements
- (ii) to ensure that all suspected irregularities are reported to the Internal Audit Manager, Monitoring Officer (MO) and Executive.

C.4.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that all suspected irregularities are reported to the Internal Audit Manager
- (ii) to instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour
- (iii) to ensure that where financial impropriety is discovered, the CFO and Internal Audit Manager are informed and, where evidence exists to believe that a criminal offence may have been committed, to determine in consultation with the CFO and Internal Audit Manager whether the Police should be called in to investigate
- (iv) to maintain a register of gifts and hospitality received by officers from his or her service portfolio.

C.5 ASSET SECURITY

C.5.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

C.5.2 Key Controls

Key controls for General Fund land and buildings are that:

- (i) no proposed transactions, including the leasing, disposal or acquisition of land and buildings, or property related agreements of any kind with third parties shall be entered into without first consulting the Joint Strategic Director: Place and CFO. This consultation must take place prior to any discussion or correspondence with third parties that commits or could be construed as implying commitment by the Council to a course of action or to any specific terms and conditions. All proposed transactions should have regard to Section C6, Asset Disposal, in seeking approval for leasing out land and buildings or entering into property related agreements
- (ii) no lessees or other prospective occupiers of Council land or buildings are allowed to take possession or enter the land or building until a lease or agreement in a form approved by the Joint Strategic Director: Place in consultation with the CFO, Lead Specialist – Legal, and lead councillor with responsibility for finance, has been established as appropriate and accounting arrangements have been properly determined
- (iii) no leases in of land or buildings to the Council shall be entered into until a lease agreement in a form approved by the Joint Strategic Director: Place in consultation with the CFO, Lead Specialist - Legal, and lead councillor with responsibility for finance, has been established as appropriate, a business case has been evaluated and accounting arrangements have been properly determined. Before submitting proposals to lease in land or a building services should first check with the Executive Head of Assets and Property that there is no existing suitable council owned accommodation available
- (iv) any use of property by a service other than for direct service delivery must be supported by documentation identifying terms, responsibilities and duration of

PART 4 – FINANCIAL PROCEDURE RULES

- use. The Joint Strategic Director: Place will be responsible for all negotiations in respect of land and buildings, subject to consultation with the relevant Strategic Directors or Executive Heads of Service, Lead Specialist -Legal, CFO, and lead councillor with responsibility for finance
- (v) Subject to the over-riding requirement of public procurement legislation, the Council's Procurement Procedure Rules shall not apply to the acquisition of land and buildings unless the Joint Strategic Director: Place or Lead Specialist - Legal consider that tenders or quotations would be appropriate.
 - (vi) land and building assets are only disposed of in consultation with the Joint Strategic Director: Place, CFO, Lead Specialist - Legal, and the lead councillor with responsibility for finance
 - (vii) subject to appropriate budget availability having been approved, additions of land and buildings are subject to the following approvals:
 - asset purchases of up to £1 million to be approved by the Joint Strategic Director: Place, in consultation with the lead councillor with responsibility for assets
 - asset purchases between £1 million and £12 million to be approved by the CFO in consultation with the Joint Chief Executive, Leader of the Council and the lead councillor with responsibility for finance
 - the Executive to approve asset purchases above £12 million
 - purchases of investment land and buildings must meet all the scoring and financial criteria outlined in the Council's asset investment strategy. Purchases of investment land and buildings where the criteria set out in the Council's asset investment strategy are not met require the approval of the Executive
 - purchases of non-investment land and buildings must be in line with the business case approved for the capital programme. Purchases not meeting the business case approved for the capital programme require the approval of the Executive.
 - (viii) any purchase of land and buildings where no budget is available must be authorised by the Executive and a supplementary estimate obtained
 - (ix) the Lead Specialist - Legal shall be responsible for the custody of all title deeds on behalf of the Council

Key controls for land and buildings held within the Housing Revenue Account (HRA) are that:

- (i) no disposals or acquisitions of land and buildings shall be entered into without first consulting the Joint Strategic Director: Community Wellbeing. This consultation must take place prior to any discussion or correspondence with third parties that commits or could be construed as implying commitment by the Council to a course of action or to any specific terms and conditions. All proposed transactions should have regard to Section C6, Asset Disposal
- (ii) no leases in of HRA land or buildings to the Council shall be entered into until a lease agreement in a form approved by the Joint Strategic Director: Community Wellbeing in consultation with the CFO, Lead Specialist - Legal, and lead councillor with responsibility for housing, has been established as appropriate, a business case has been evaluated and accounting arrangements have been properly determined
- (iii) any use of HRA property by a service other than the HRA must be supported by documentation identifying terms, responsibilities and duration of use

PART 4 – FINANCIAL PROCEDURE RULES

- (iv) land and building assets are only disposed of in consultation with the Joint Strategic Director: Community Wellbeing, CFO, Lead Specialist - Legal, and the lead councillor with responsibility for housing
- (v) subject to the over-riding requirement of public procurement legislation, the Council's Procurement Procedure Rules shall not apply to the acquisition of HRA land and buildings unless the Joint Strategic Director: Community Wellbeing and Lead Specialist - Legal consider that tenders or quotations would be appropriate.
- (vi) subject to appropriate budget availability having been approved, additions of land and buildings to the HRA are subject to the following approvals:
 - purchases up to £12 million are approved by the CFO in consultation with the Joint Strategic Director: Community Wellbeing, Leader of the Council, lead councillor with responsibility for housing and lead councillor with responsibility for finance
 - purchases of HRA land and buildings above £12 million require the approval of the Executive
- (vii) the Lead Specialist - Legal shall be responsible for the custody of all title deeds on behalf of the Council

Key Controls – Plant, Vehicles and Equipment

The key control for the security of resources such as fixed plant machinery, equipment, software and information are:

- (i) resources are used only for the purposes of the Council and are properly accounted for
- (ii) resources are available for use when required
- (iii) resources no longer required are disposed of in accordance with the law and the asset disposal section of the financial procedure rules so as to maximise benefits to the Council
- (iv) an asset register is maintained for the Council. Assets are recorded when they are acquired and this record is modified as changes occur with respect to the location and condition of the asset with the whole register fully updated at year end
- (v) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (vi) all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer and internet security policies

C.5.3 Responsibilities of the Chief Finance Officer

- (i) to approve purchases of land and buildings between £1 million and £12 million, in consultation with the Joint Chief Executive, Leader of the Council and the lead councillor with responsibility for finance where budget provision exists on the approved capital programme
- (ii) to approve purchases of land and buildings for the HRA up to £12 million, in consultation with the Joint Strategic Director: Community Wellbeing, Leader of the Council, the lead councillor with responsibility for housing and the lead councillor with responsibility for finance where budget provision exists on the approved housing capital programme
- (iii) to receive the information required for accounting, costing and financial records from each Strategic Director and Executive Head of Service

PART 4 – FINANCIAL PROCEDURE RULES

- (iv) to ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC)
- (v) to advise, where appropriate, that a Strategic Director or Executive Head of Service should arrange for a suitable programme of continuous stock-checking to be undertaken throughout each financial year
- (vi) to advise on the financial evaluation and accounting treatment of leases
- (vii) to advise on the tax and accounting treatment of leases, asset acquisitions and disposals
- (viii) to ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £15,000 (in the case of land and buildings £20,000).
- (ix) to ensure the function of the asset register is to provide the Council with information about fixed assets so that they are:
 - (a) safeguarded
 - (b) used efficiently and effectively
 - (c) adequately maintained

C.5.4 Responsibilities of the Joint Strategic Director: Community Wellbeing

- (i) Subject to consultation with the relevant Strategic Director, Executive Head of Service, Lead Specialist - Legal, CFO and lead councillor with responsibility for finance, to accept terms for the grant, renewal, review, and variation of leases.
- (ii) To authorise in consultation with the lead councillor with responsibility for assets, purchases of land and buildings up to £1 million.
- (iii) To maintain a database in accordance with good practice for all non-housing land and building assets currently owned or used by the Council.
- (iv) To authorise in consultation with the CFO, Leader of the Council, lead councillor with responsibility for housing and lead councillor with responsibility for finance, purchases of HRA land and buildings up to £12 million.
- (v) To maintain a database in accordance with good practice for all HRA property assets currently owned or used by the Council.

C.5.5 Responsibilities of the Lead Specialist - ICT

- (i) To maintain a separate inventory of all computer hardware, software and telephony equipment. All computer hardware, software and telephony equipment should be returned to the ICT Service for disposal or re-use.
- (ii) To maintain a software library to control all of the Council's software assets and ensure compliance with contracts and licence agreements.
- (iii) To approve all software before it is used on Council computer systems.

C.5.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

Plant, Vehicles and Equipment

- (i) to maintain a database in a form approved by the CFO, of, plant and machinery and moveable assets currently owned or used by services for which they are responsible
- (ii) to ensure that no Council asset is subject to personal use by an employee without proper authority

PART 4 – FINANCIAL PROCEDURE RULES

- (iii) to ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council
- (iv) To ensure that the services for which they are responsible maintain a register of moveable assets in accordance with arrangements defined by the CFO
- (v) to ensure that assets are identified, their location recorded and that they are appropriately marked and insured
- (vi) to consult the Joint Chief Executive in any case where security is thought to be defective or where it is considered that special security arrangements may be needed
- (vii) to ensure cash holdings on premises are kept to a minimum
- (viii) to ensure contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place
- (ix) to ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Joint Chief Executive as soon as possible.
- (x) to record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless following consultation with the CFO, the Executive agrees otherwise.
- (xi) to arrange for the valuation of assets for accounting purposes to meet requirements specified by the CFO.
- (xii) to ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged or may possess some intrinsic value and its disclosure or loss could result in a cost to the Council in some way.

Land and building assets:

- (i) to ensure they consult with the Joint Strategic Director: Place and CFO on any proposed transactions, including the leasing, disposal or acquisition of land and buildings, or property related agreements of any kind with third parties. This consultation must take place prior to any discussion or correspondence with third parties that commits or could be construed as implying commitment by the Council to a course of action or to any specific terms and conditions. Strategic Directors and Executive Heads of Service should have regard to Section C6, Asset Disposal, in seeking approval for leasing out land and buildings or entering into property related agreements.
- (ii) to ensure that lessees and other prospective occupiers of Council land or buildings are not allowed to take possession or enter the land or buildings until a lease or agreement, in a form approved by the Joint Strategic Director: Place in consultation with the CFO and lead councillor with responsibility for finance, has been established as appropriate and accounting arrangements have been properly determined.
- (iii) to ensure that the Council does not enter into any leases to lease in land or buildings to the Council until a lease agreement in a form approved by the Joint Strategic Director: Place in consultation with the CFO, Lead Specialist - Legal, and lead councillor with responsibility for finance, has been established as appropriate, a business case has been evaluated and accounting arrangements have been properly determined. Strategic Directors and Executive Heads of Service should check with the Executive Head of Assets and Property that there is no existing suitable council owned accommodation available before submitting proposals to lease in a property
- (iv) to ensure that any use of property by a service other than for direct service delivery is supported by documentation identifying terms, responsibilities and

PART 4 – FINANCIAL PROCEDURE RULES

duration of use and that the Executive Head of Assets and Property shall negotiate in respect of all land and building transactions on behalf of the Strategic Director or Executive Head of Service, and agree terms on behalf of the Council

- (v) to ensure the proper security of all buildings and other assets under their control
- (vi) to ensure that where land or buildings are surplus to services' requirements, a recommendation for sale is the subject of a joint report by the Strategic Director or Executive Head of Service and Joint Strategic Director: Place, in consultation with the Lead Specialist - Legal, and CFO.
- (vii) to ensure that all title deeds are passed to the Lead Specialist - Legal, who is responsible for custody of all title deeds.

Inventories

- (i) to maintain inventories in accordance with policies recommended by the Joint Chief Executive and approved by the Executive with a replacement value in excess of £500, including all electrical and photographic equipment regardless of its cost. An annual check of the foregoing shall be undertaken by the service concerned and action shall be taken in respect of any surpluses or deficiencies not noted on the inventory. All surpluses and deficiencies above the value of £500 shall be notified to the CFO
- (ii) to carry out an annual check, at year-end, of all items on the inventory in order to verify location, review condition, and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council
- (iii) to make sure that assets are only used in the course of the Council's business, unless the Strategic Director or Executive Head of Service concerned has given permission otherwise.

Stocks and Stores

- (i) to make arrangements for the care and custody of stocks and stores within the services for which they are responsible
- (ii) to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion
- (iii) to investigate and remove from the Council's records (i.e. write-off) discrepancies, as necessary, or to obtain Executive approval if they are in excess of 3% of the value of stores held as at the start of that financial year
- (iv) to authorise the disposal or write-off of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction (including internet auction) unless, following consultation with the Joint Chief Executive, the Executive decides otherwise in a particular case
- (v) to seek Executive approval to the write-off of redundant stocks and equipment in excess of 3% of the value of items held at the start of that financial year
- (vi) each Strategic Director and Executive Head of Service responsible for stocks and stores shall produce to the CFO a signed certificate showing the value thereof as at 31 March each year.

C.6 ASSET DISPOSAL

C.6.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and rules of the Council.

C.6.2 Key Controls – Plant, Vehicles and Equipment

- (i) assets for disposal are identified and are disposed of at the most appropriate time and only when it is in the best interests of the Council, and the best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value (other than land or buildings), disposal should be by competitive tender, public auction or through internet auction sites
- (ii) procedures protect staff involved in the disposal from accusations of personal gain.

Key controls - land and buildings:

- (i) the disposal of land and building assets must be undertaken in accordance with the provisions set out in the Local Government Act 1972 including the obligation to receive the best consideration reasonably obtainable in accordance with s123 Local Government Act 1972.
- (ii) all disposals shall be at market value unless otherwise agreed by the CFO in consultation with the Leader or appropriate lead councillor. Except where a general consent exists, specific consent shall be obtained from the Secretary of State prior to an interest in land or property being disposed of for a price less than the market value (i.e. at under-value). Such disposals must follow the procedure outlined in (c) below, including a statement of estimated market value and that the under-value price still achieves best consideration reasonably obtainable
- (iii) where land or buildings are surplus to services' requirements, a recommendation for sale will be the subject of a joint report by the Strategic Director or Executive Head of Service and Joint Strategic Director: Place in consultation with the Lead Specialist - Legal, and CFO or the Executive (as appropriate). The report shall set out the relevant information, such as the planning position, potential use, legal issues, current and proposed development restrictions, estimated market value and confirmation that best consideration is achievable
- (iv) the delegated powers of the Joint Strategic Director: Place, in consultation with the Lead Specialist - Legal, appropriate ward councillor(s) and appropriate lead councillor includes authority to sell the land and buildings up to 0.2 hectares in area, as set out in Part 3 of this Constitution.
- (v) the delegated powers of the Joint Strategic Director: Place, in consultation with the Lead Specialist - Legal, and CFO include authority to sell small pieces of land adjoining former Council-owned properties to the owners, as set out in Part 3 of this Constitution.
- (vi) any disposal not delegated to the Joint Strategic Director: Place must be authorised by the Executive.
- (vii) approval for leasing out land and buildings or entering into property related agreements that constitutes a disposal of land and buildings under proper accounting requirements will be considered an asset disposal and the key controls and responsibilities provided under Section C6 will apply

PART 4 – FINANCIAL PROCEDURE RULES

- (viii) for all disposals, a Chartered Surveyor must provide a valuation. If the likely value exceeds £100,000, this must be supplemented by a second valuation by an external Chartered Surveyor.
- (ix) subject to the over-riding requirement of public procurement legislation, the Council's Procurement Procedure Rules shall not apply to the disposal of land and buildings unless the Joint Strategic Director: Place and Lead Specialist - Legal consider that tenders or quotations would be appropriate. Where quotations or tenders are not required, this will be subject to the agreement of the Joint Chief Executive and consultation with the Leader or appropriate lead councillor in relation to tenders.

In the event of disposal by formal tender, the tender process must be conducted in a fair, open and transparent manner following the principles set out in the Procurement Procedure Rules. The contract for the disposal must comply with relevant statutory provisions and be approved by the Joint Strategic Director: Place and Lead Specialist - Legal.

C.6.3 Responsibilities of the Chief Finance Officer

- (i) to issue guidelines representing best practice for disposal of assets.
- (ii) to ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's financial records and to include the sale proceeds if appropriate
- (iii) to update the asset register with the accounting impact of the disposal of assets
- (iv) to authorise in consultation with the Strategic Director or Executive Head of Service, Lead Specialist - Legal, and lead councillor with responsibility for finance, the disposal of land and buildings up to 0.2 hectares in area subject to the purchaser paying all the Council's costs in relation to the disposal.

C.6.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment or to use public auctions (including internet auction sites) to obtain the best consideration possible for the asset
- (ii) to ensure that income received for the disposal of an asset is properly banked and coded correctly to capital if greater than £10,000, or otherwise to revenue.
- (iii) to inform CFO of disposals, so that the asset register can be updated.

C.7 INSURANCE

C.7.1 Key Controls

C.7.2 No employee shall verbally admit liability, take any action or enter into any correspondence admitting liability on behalf of the Council.

C.7.3 No payments may be made in lieu of or in advance to third parties for damage to third party property where an insurance claim could be made, except as agreed with the Joint Chief Executive and the Council's insurer.

C.7.4 The key controls for insurance are:

PART 4 – FINANCIAL PROCEDURE RULES

- (i) procedures are in place to ensure that the Council has adequate insurance cover
- (ii) to keep appropriate records containing particulars of all insurances effected by the Council and to give Strategic Directors and Executive Heads of Service all necessary information as required
- (iii) no payments may be made in lieu of or in advance to third parties for damage to third party property where an insurance claim could be made, except as agreed with the Joint Chief Executive and the Council's insurer.

C.7.5 Responsibilities of the Joint Chief Executive

- (i) to effect all insurance cover and negotiate all claims in consultation with the Council's insurers and appointed brokers, where necessary
- (ii) to review the Council's insurance arrangements at least every five years, and its level of risk cover no less frequently than annually
- (iii) to review all insurances and policy excess levels in consultation with Strategic Directors and Executive Heads of Service, as appropriate, and at such periods as he may consider necessary
- (iv) to keep appropriate records containing particulars of all insurances effected by the Council and to give other Strategic Directors and Executive Heads of Service all necessary information as required
- (v) to make payment on behalf of the Council's insurers up to £2,000, or to any limit as agreed with insurers in respect of any single claim under the small claims procedure, and to make ex-gratia payments up to the sum of £250 for any single claim
- (vi) to ensure employees of the Council shall be included in a suitable fidelity guarantee policy
- (vii) to periodically inspect insurance documents to ensure that adequate insurance cover is in place in respect of all properties in mortgage to the Council, including those where the mortgagor has exercised the option to provide such cover with a company other than the Council's own insurers
- (viii) to periodically inspect insurance documents to ensure that adequate insurance cover is in place and maintained in respect of vehicles, which are the subject of car loan agreements.

C.7.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that the activities of their staff are covered by such professional indemnity insurance as the Strategic Director or Executive Head of Service considers appropriate. Any such insurances shall be arranged in consultation with the Joint Chief Executive
- (ii) to keep records of all plant, vehicles, furniture and equipment under their control and such records shall be available for inspection by the Executive Head of Finance.
- (iii) to give prompt notification to the Joint Chief Executive of all new risks, properties, vehicles or mechanical plant which require to be insured, of any alterations affecting existing insurances and of any special risks with regard to contracts, for example. pile driving
- (iv) to promptly notify and provide a written report to the Joint Chief Executive in respect of any loss, liability, damage, motor accident or compensation request or any event likely to lead to a claim

PART 4 – FINANCIAL PROCEDURE RULES

- (v) to ensure that any formal letters of claim received in accordance with the Civil Justice procedures shall, upon receipt, be immediately forwarded to the Joint Chief Executive unanswered. Strategic Directors and Executive Heads of Service shall ensure that any such incident is fully investigated and that the service for which they are responsible co-operates fully with the insurance officer and with the Council's insurers in meeting court deadlines
- (vi) any incident, which could potentially lead to a claim, should be investigated at the time of the incident occurring, rather than following receipt of an insurance claim, in order to comply with Ministry of Justice rules.
- (vii) to be responsible in conjunction with the Joint Chief Executive, for implementing any insurance company risk management requirement where the failure to implement would lead to insurers reducing or withdrawing insurance cover
- (viii) to consult the Joint Chief Executive and Lead Specialist - Legal in respect of the terms of any indemnity that the Council is requested to give
- (ix) to provide to the Joint Chief Executive, on request, details of insurance cover effected by organisations who own or lease buildings on Council held land or enter into contracts to use Council property or facilities
- (x) to examine the insurance cover in the case of any contract for which the Strategic Director or Executive Head of Service is responsible, where the cover is to be furnished by the contractor in respect of any act or default, and to be satisfied as to the insurance company, extent, and nature of coverage before approving it.

C.8 TREASURY MANAGEMENT

C.8.1 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

C.8.2 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 Local Authorities. The policy statement is proposed to Council by the lead councillor with responsibility for finance as part of the annual strategy report. The CFO has delegated responsibility for implementing and monitoring the statement.

C.8.3 All money in the hands of the Council is controlled by the officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in these Rules as the CFO.

C.8.4 Key Controls

That the Council's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management, CIPFA's Prudential Code for capital finance, and with the Council's Treasury Management Policy Statement. As recommended to all public services by CIPFA, the Council has adopted the following four clauses:

- (i) Clause 1 – Accordingly, we will create and maintain, as the cornerstones for effective treasury management:
 - a Treasury Management Policy Statement stating the policies, objectives and approach to risk management of our treasury management activities.
 - suitable Treasury Management Practices (TMPs), setting out the manner in which we will seek to achieve those policies and objectives, and prescribing how we will manage and control those activities.

PART 4 – FINANCIAL PROCEDURE RULES

- the content of the policy statement and TMPs will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code’s key principles
- (ii) Clause 2 - Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in the TMPs
- (iii) Clause 3 - Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Corporate Governance and Standards Committee, and for the execution and administration of treasury management decisions to the CFO, who will act in accordance with the organisation’s policy statement and TMPs, and if they are a CIPFA member, CIPFA’s Standard of Professional Practice on Treasury Management.”
- (iv) Clause 4 – Council nominates the Corporate Governance and Standards Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

This Council adopts the key recommendations of CIPFA’s Treasury Management in the Public Services: Code of Practice (“the Code”):

- (i) we have in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of our treasury management activities
- (ii) our policies and practices make clear that the effective management of risk, having regard to return, is a prime objective of the treasury management activities
- (iii) we acknowledge that the pursuit of best value in treasury management, and the use of suitable performance measures, are valid and important tools for responsible organisations to employ in support of their business and service objectives; and that within the context of effective risk management, our treasury management policies and practices should reflect this
- (iv) in order to achieve the above:
 - we adopt the four clauses of the Code;
 - we adopt a Treasury Management Policy Statement as recommended; and
 - we follow the recommendations concerning the creation of TMPs.

C.9 TREASURY MANAGEMENT, BANKING, INVESTMENTS AND BORROWING

C.9.1 Many millions of pounds pass through the Council’s books each year. This has led to the establishment of codes of practice. These aim to provide assurances that the Council’s money is properly managed in a way that balances risk with return, but with the over-riding consideration being given to the security of the Council’s principal sum invested.

C.9.2 Key Controls

- (i) that the Council’s borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the Council’s Treasury Policy Statement

PART 4 – FINANCIAL PROCEDURE RULES

- (ii) that the Council develops and maintains TMPs in accordance with the CIPFA code and undertakes its treasury management activity in accordance with the TMPs
- (iii) no interests shall be acquired in any Company, Joint Venture or other enterprise without the approval of the Executive, following consultation with the CFO in accordance with Section F of the Finance Procedure Rules
- (iv) all the Council's Banking arrangements shall be made by or under arrangements approved by the CFO, who shall operate such banking accounts, including National Giro Accounts, as they may consider necessary, and in accordance with the relevant bank mandates. No other accounts shall be opened without the agreement of CFO
- (v) the TMPs set out which officers of the Council are authorised to sign cheques, BACS & CHAPS payment requests on behalf of the Council.

C.9.3 Responsibilities of the Chief Finance Officer

- (i) to report to the Corporate Governance and Standards Committee and the Executive a proposed Treasury Management Strategy and Prudential Indicators for the coming financial year before the start of each financial year, who will recommend the proposed strategy to Council
- (ii) all decisions on borrowing, investment or financing shall be delegated to the CFO, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities
- (iii) to regularly report on the Council's treasury management activities to the Corporate Governance and Standards Committee during the course of the year
- (iv) to report an annual report on the Council's treasury management activities to the Corporate Governance and Standards Committee and Executive, who will recommend the annual report to Council
- (v) to operate bank accounts as are considered necessary – opening or closing any bank account, giro account or credit card account shall require the approval of the CFO
- (vi) to open and operate investment accounts as are considered necessary
- (vii) to ensure that all investments of money are made in the name of the Council or in the name of nominees approved by the Council
- (viii) to effect all borrowings in the name of the Council
- (ix) to act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council
- (x) manage CHAPS transfer arrangements on behalf of the Council.
- (xi) ensure that all cheque stationery drawn on the Council's main bank account shall be ordered only on the authority of the CFO, who shall ensure that proper arrangements are in place for its safekeeping
- (xii) ensure that cheques drawn on the Council's main banking accounts shall bear the facsimile signature of the CFO, or be signed personally by them, or one of their authorised Officers.
- (xiii) ensure that where the value of a cheque, drawn on the Council's main bank account, exceeds £50,000, it shall be countersigned by one of the authorised Officers
- (xiv) manage BACS funds transfer arrangements on behalf of the Council.

C.9.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the Lead Specialist - Legal.
- (ii) to follow the instructions on banking issued by the CFO.
- (iii) ensure that at least two signatories shall sign cheques drawn on any account, other than the Council's main account. Each Strategic Director or Executive Head of Service shall provide the CFO with the names of all signatories to the account, together with specimen signatures and details of the limits of their authorisation and position within the organisation, along with details of the account.

C.10. LOANS, LEASES, AND GUARANTEES

No lending or leasing arrangements, including hire purchase or similar agreements, or provision of loan or other financial guarantees shall be entered into without first consulting the CFO, and in addition, in relation to land and buildings, the Executive Head of Assets and Property. Where arrangements or guarantees exceed an estimated whole life value of £1 million, the approval of the Executive should be sought.

Leasing arrangements are defined as:

- (i) agreements that have the formal status of a lease, whereby a lessor conveys the right to use an asset for an agreed period of time under a lease contract to a lessee in return for a payment or a series of payments
- (ii) agreements that do not have the legal form of lease but convey the right to use an asset in return for payments (embedded lease) or example an IT or outsourcing contract

Loans to other organisations by the Council shall be charged at Market Rates unless otherwise directed by the CFO in consultation with the relevant Strategic Director or Executive Head of Service. If loans are provided at below market rates, the difference in interest income will be paid by the service.

C.10.1 Responsibilities of the Chief Finance Officer

Where leasing arrangements are provided to determine whether or not:

- (i) any leasing arrangement is deemed to be an operating or financing lease for accounting purposes and therefore whether it should be treated as revenue or capital expenditure
- (ii) the transaction will count against the Council's borrowing limit and prudential indicators
- (iii) there are any implications for VAT or other taxes.

To aid evaluation of the arrangement, the contract agreement should split the payment between those elements applicable for the asset and those elements applicable for the service and in the case of leases of land and buildings, the elements relating to the land and the element relating to the buildings.

C.10.2 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders:

- (i) to provide information to the CFO for inclusion in the Lease register and the Council's Statement of Accounts;
- (ii) advise the CFO of any transactions or proposed actions that may impact on the Council's investment policy or funds management
- (iii) to ensure that loan arrangements are properly constituted by formal agreement in consultation with the CFO and Lead Specialist - Legal.

C.11 Service Concession Arrangements

Where a contract is proposed which includes the use of a specific asset or conveys the right to use a specific asset as part of the arrangement, the contract shall be treated as an embedded lease. Contracts that convey to the operator the right to provide services that give the public access to major economic and social facilities and include the use of particular assets under which the Council controls the services provided and any residual interest in the asset should be treated as a Service Concession Arrangement.

Such contracts are typically but not exclusively related to Private Finance Initiative or Public Private Partnership (PFI or PPP) arrangements, however some contracts that were not planned as PFI or PPP schemes could also be classified as Service Concession Arrangements (for example certain asset transfers where the Council retains a legal charge over the infrastructure). Strategic Directors and Executive Heads of Service should inform and consult the CFO and Lead Specialist - Legal where any such arrangements are proposed to enable a proper evaluation of the accounting treatment and legal implications of the arrangement before a contract is entered into.

C.12. TRUST FUNDS AND FUNDS HELD FOR THIRD PARTIES

C12.1 Responsibilities of the Chief Finance Officer

- (i) to arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees, by virtue of their official position, shall deposit securities etc. relating to the trust with the CFO, unless the deed otherwise provides
- (ii) to arrange, where funds are held on behalf of third parties, for their secure administration, approval by the CFO, and to maintain written records of all transactions
- (iii) to ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust
- (v) to prepare accounts and returns for the trust as required by the Charities Commission

C12.2 Responsibilities of Officers acting as Trustees

- (i) to seek approval from both the Lead Specialist - Legal and the CFO prior to the setting up or formal involvement in negotiations to set up or enter into a trust fund
- (ii) to ensure all agreements and arrangements are properly documented
- (iii) to ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust

- (iv) to ensure that governance arrangements are in place including arrangements for exit if necessary
- (v) to ensure that risk management processes are in place to identify and assess all known risks
- (vi) to ensure that the trust fund has appropriate governance, financial systems and procedures in place to properly record and account for the income and expenditure, assets and liabilities of the trust fund as advised by the CFO
- (vii) to ensure adequate supporting records of the income, expenditure, assets and liabilities of the trust fund are held
- (viii) to ensure that the trust fund operates a financial year 1 April to 31 March and prepares its financial statements in accordance with the timetable set by the CFO

C.13 PETTY CASH, IMPREST ACCOUNTS, PROCUREMENT AND CREDIT CARDS

A petty cash account is where a service is given a petty cash allowance and manages small (petty) expenditure within the petty cash allowance. Examples of areas where this may occur is in community and/or day centres.

Imprest accounts are where a service is given a separate bank account to operate for small (petty) expenditure and income. The imprest bank account is linked to the Council's main bank account.

Credit cards are not normally issued to individual officers. The Council uses Government approved procurement cards rather than credit cards, which enables appropriate controls and electronic invoicing arrangements as well as provide automatic discounts on some purchases.

C13.1 Key Controls:

- (i) requests for new imprest accounts and petty cash accounts, or any changes to existing accounts must be agreed with the relevant Strategic Director and Executive Head of Service, before being forwarded to the CFO who shall provide these as considered appropriate, unless other statutory arrangements apply. The Strategic Director or Executive Head of Service shall ensure that there are three signatories to each imprest account and that any cheques shall be signed by any two of those signatories. The signatories shall be selected by the Strategic Director to ensure there is adequate control of the account without affecting the day-to-day operation of the service
- (ii) reimbursement of payments from imprest or petty cash accounts shall be made on receipt of a properly completed imprest or petty cash return, in a form approved by CFO. The return shall show the cost centres to be charged and the amounts relating to each cost centre. Payment will be limited to such items of expenditure as may be approved by the CFO. Vouchers supporting claims must be retained for audit purposes. No income received on behalf of the Council, may be paid into an imprest account without the approval of the CFO, subject to appropriate accounting procedures being in place. In all other cases, income must be banked or paid into one of the Council's bank accounts used for Income Collection (for example, the general or revenues receipts accounts). Where a Service receives income into an imprest account it shall issue a VAT receipt showing the rate and amount of VAT included in the receipt and shall record the income in full (net of VAT) before any expenses are met from it

PART 4 – FINANCIAL PROCEDURE RULES

- (iii) in some circumstances, the CFO will issue a Procurement Card to Executive Heads of Service. The Procurement Card operates in a similar way to a Credit Card to allow purchases to be made quickly over the phone, in person or via the internet. Requests for new Procurement Cards or any changes to existing cards must be supported by a business case agreed with the relevant Strategic Director or Executive Head of Service, before being forwarded to the CFO.

C.13.2 Responsibilities of the Lead Specialist - Finance

- (i) to provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the maximum limits as determined for each account
- (ii) to determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- (iii) To reimburse imprest and petty cash account holders as often as necessary to restore the imprest and petty cash, but normally not more than monthly.
- (iv) to issue procurement cards to employees of the Council, on behalf of the CFO, to ensure minor purchases can be made quickly over the phone or internet, to maintain a record of all transactions made and to periodically review the usage, arrangements and provision of procurement cards to officers

C.13.3 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

To ensure that employees operating an imprest, petty cash account or procurement card:

- (i) follow any policies or procedures established by the CFO for the control of imprest accounts and procurement cards
- (ii) obtain and retain vouchers to support each payment from the imprest account, petty cash account or procurement card. Where appropriate, an official receipted VAT invoice must be obtained
- (iii) make adequate arrangements for the safe custody of the imprest account, petty cash box or procurement card and that chequebooks relating to Imprest Accounts are kept secure
- (iv) produce upon demand by the CFO cash and all vouchers to the total value of the imprest or petty cash amount.
- (v) record transactions promptly
- (vi) reconcile and balance the imprest or petty cash account at least monthly; reconciliation sheets to be signed and retained by the imprest or petty cash holder
- (vii) provide the CFO with a certificate of the value of the account held at 31 March each year
- (viii) ensure that the imprest account, petty cash float or procurement card is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made

PART 4 – FINANCIAL PROCEDURE RULES

- (ix) ensure that the imprest account, petty cash float or procurement card is never used for mileage allowances for travelling, lump sum payments or other taxable benefit which should be paid through Payroll
- (x) ensure that the imprest account, petty cash float or procurement card is never used for cash advances or loans to employees
- (xi) petty cash accounts are not used for payments exceeding £100, and imprest accounts and procurement cards are not used for payments exceeding £500. Procurement cards have their own individual limit, a schedule of which is maintained by the Lead Specialist - Finance on behalf of the CFO. Payments in excess of this to be requested by cheque or BACS from the council's payments system
- (xii) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest account, petty cash account or procurement card, an employee shall account to the CFO and the relevant Strategic Director for the amount advanced to them.

In specific relation to procurement cards:

The Strategic Director, Executive Head of Service, or Service Leader shall ensure that:

- (i) nominated cardholders sign confirmation of receipt of the procurement card and acceptance of their conditions of usage
- (ii) the card is kept securely and only nominated cardholders use it
- (iii) any loss or misuse of the card is reported immediately to the Council's bank account provider and to the CFO at Millmead House
- (iv) card limits are not exceeded
- (v) the Card must not be used to circumvent Guildford Borough Council's Procurement procedure rules
- (vi) no loyalty rewards or other personal benefits are collected by the Card Holder
- (vii) the Cardholder is mindful of their duty in public office and under the Council's
- (viii) Code of Conduct and does not incur any expenditure on the card that could embarrass the Council or lead to any accusation of abuse
- (ix) breaches of the Conditions of Use and the Finance and Procurement
- (x) procedure rules will result in the card being withdrawn and disciplinary action being taken against officers
- (xi) expenditure made by procurement card is correctly coded within the General Ledger

FINANCIAL PROCEDURE NOTE D: SYSTEMS AND PROCEDURES

D.1 INTRODUCTION

- D.1.1 Sound systems and procedures are essential to an effective framework of accountability and control.
- D.1.2 Services have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Services are increasingly reliant on computers for their financial management information. The information must, therefore, be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- D.1.3 The CFO has a professional responsibility to ensure that all the Council's financial systems are sound and should, therefore, be notified of any new developments or changes.

D.1.4 Key Controls

The key controls for systems and procedures are:

- (i) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated
- (ii) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (iii) early warning is provided of deviations from targets, plans and budgets that require management attention
- (iv) operating systems and procedures are secure.

D.1.5 Responsibilities of the Chief Finance Officer

- (i) responsibility for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Strategic Directors or Executive Heads of Service to the existing financial systems or the establishment of new systems must be approved by the CFO. However, Strategic Directors and Executive Heads of Service are responsible for the proper operation of financial processes in their own service areas.
- (ii) to arrange for the proper administration of the Council's financial affairs, including to:
 - issue advice, guidance and procedures for officers and others acting on the Council's behalf
 - determine the accounting systems, form of accounts and supporting financial records
 - establish arrangements for audit of the Council's financial affairs
 - approve any new financial systems to be introduced
 - approve any changes to be made to existing financial systems.

D.1.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) any changes to agreed procedures by Strategic Directors and Executive Heads of Service to meet their own specific service needs should be agreed with the CFO

PART 4 – FINANCIAL PROCEDURE RULES

- (ii) to ensure that their staff receive relevant financial training that has been approved by the CFO
- (iii) to ensure that accounting records are properly maintained and held securely.
- (iv) to ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the CFO
- (v) to notify the CFO 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. The CFO shall have the right to inspect any documents or other evidence in this respect, as may be required
- (vi) to ensure that all staff under their control who receive money on behalf of the Council are accountable for that money and that all records maintained in connection with that money are approved by the CFO, including an accurate and chronological account of all receipts and deposits either with the CFO or the Council's bankers
- (vii) to ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained
- (viii) to incorporate appropriate controls to ensure that, where relevant:
 - all input is genuine, complete, accurate, timely and not previously processed
 - all processing is carried out in an accurate, complete and timely manner
 - output from the system is complete, accurate and timely
- (ix) to ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice
- (x) to ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption
- (xi) to ensure that systems are documented and staff trained in operations
- (xii) to consult with the CFO before changing any existing system or introducing new systems
- (xiii) to establish a scheme of delegation identifying officers authorised to act upon the Strategic Director or Executive Head of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority
- (xiv) to supply lists of authorised officers, with specimen signatures and delegated limits, to the CFO, together with any subsequent variations
- (xv) to ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off-site or at an alternative location within the building
- (xvi) to ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation
- (xvii) to ensure that relevant standards and guidelines for computer systems issued by the Lead Specialist - ICT are observed
- (xviii) to ensure that computer equipment, software and telephony equipment are protected from loss or damage and that any loss or damage is reported immediately to the Lead Specialist - ICT.
- (xix) to comply with the copyright, designs and patents legislation and, in particular, to ensure that:
 - only software legally acquired and installed by the Council is used on its computers
 - staff are aware of legislative provisions

PART 4 – FINANCIAL PROCEDURE RULES

- ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Strategic Directors and Executive Heads of Service must ensure that staff are aware of their responsibilities under freedom of information legislation

D.2 INCOME

D.2.1 INTRODUCTION

D.2.2 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts.

D.2.3 Key Controls

The key controls for income are:

- (i) all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed.
- (ii) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (iii) all money received by an employee or agent acting on behalf of the Council, is paid without delay to the Council's bank account and is properly recorded. The responsibility for cash collection should be separated from those officers that:
 - for identifying the amount due
 - for reconciling the amount due to the amount received
 - if not possible, then report to the CFO and Audit and Performance Manager (Head of Internal Audit)
- (iv) effective action is taken to pursue non-payment within defined timescales
- (v) formal approval for debt write-off is obtained
- (vi) appropriate write-off action is taken within defined timescales
- (vii) appropriate accounting adjustments are made following write-off action
- (viii) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (ix) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process
- (x) set up and operation of a PayPal or World Pay account for the collection of income from specific website transactions within services shall require the approval of the CFO, who shall establish appropriate procedures for their operation. Where applicable, a Strategic Director or Executive Head of Service should nominate a separate PayPal administrator and certifying officer whose responsibility will entail reconciling the income received via the PayPal account to the Council's financial system.

D.2.4 Responsibilities of the Joint Strategic Director: Place and CFO

- (i) to agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- (ii) to satisfy themselves regarding the arrangements for the control of all receipt forms, books or tickets and other similar items

PART 4 – FINANCIAL PROCEDURE RULES

- (iii) to ensure that any debts written-off are dealt with in accordance with established procedures and within approved authorisation limits. The limits for any individual debt are:
 - Principal Management Accountant up to £1,000
 - Lead Specialist – Revenues and Benefits, Lead Specialist - Finance or Joint Strategic Director: Place (as appropriate to the debt type) up to £5,000, any such action to be fully recorded
 - Joint Strategic Director: Place or CFO (as appropriate to debt type) up to £10,000, any such action to be fully recorded.
 - The lead councillor with responsibility for finance with the CFO or Joint Strategic Director: Place as appropriate to debt type up to £50,000
 - The Executive in excess of £50,000
- (iv) the Lead Specialist - Finance and Joint Strategic Director: Place shall be empowered to enter into arrangements with debtors to allow payments to be made in instalments, where this is considered the most appropriate action, to secure payment of the debt
- (v) where action to recover debts leads to action in the courts, the CFO shall have the authority to allow costs to the value included in the schedule of fees and charges for the year in question to be waived where this will encourage the payment of the full debt
- (vi) where recovery of debts leads to action in the courts, the Joint Strategic Director: Place and CFO shall have the authority to agree to the payment of a reduced amount in settlement where circumstances dictate.
- (vii) to ensure that appropriate accounting adjustments are made following write-off action
- (viii) in relation to business rates and council tax discretionary rate relief and council tax discount may be authorised by the Lead Specialist – Revenues and Benefits, in accordance with government guidance or Council policy. Business rates discretionary relief appeals shall be considered by the CFO. Council tax discretionary relief appeals shall be considered by the CFO, except in the case of flooding grants, which will be considered by the lead councillor with responsibility for finance.
- (ix) to set up and operate a PayPal account for the collection of income from specific website transactions within services as stated in key controls above

D.2.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders:

- (i) to establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly in line with corporate policies. All new charges and changes to existing charges are to be approved by the Council on an annual basis. Changes to charges and introduction of new charges in year can be made by Strategic Directors and Executive Heads of Service in line with the scheme of delegation as long as they are within budget and in consultation with the CFO and appropriate lead councillor
- (ii) to separate the responsibility for identifying amounts due and the responsibility for collection as far as is practicable
- (iii) to establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly where the administration of debts is under his or her control
- (iv) to issue official receipts or to maintain other documentation for income collection
- (v) to ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded

PART 4 – FINANCIAL PROCEDURE RULES

- (vi) to hold securely receipts, tickets and other records of income for the appropriate period
- (vii) to lock away all income to safeguard against loss or theft and to ensure the security of cash handling
- (viii) to ensure that income is paid fully and promptly into the appropriate Council bank account. Advice is to be sought from the CFO for the most appropriate banking method if necessary
- (ix) to ensure income is not used to cash personal cheque or other payments
- (x) to supply the CFO with details relating to work done, goods supplied, services rendered or other amounts due, to enable the CFO to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Strategic Directors and Executive Heads of Service should use established performance management systems to monitor recovery of income, and flag up areas of concern to the CFO. Strategic Directors and Executive Heads of Service have a responsibility to assist the CFO in collecting debts that they have originated by providing any further information requested by the debtor and in pursuing the matter on the Council's behalf. Cash can only be held on premises where their value falls within limits set by the Council's insurers
- (xi) to keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy
- (xii) to ensure that any discrepancy revealed between the amount deposited and the amount shown as received by the collector is recorded and investigated. Adequate records should be maintained to enable the performance of individual staff responsible for collecting income to be monitored
- (xiii) to recommend to the CFO all debts to be written-off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt
- (xiv) to obtain the approval of the CFO when writing-off debts in excess of the approved limit, and the approval of the Executive where required.
- (xv) to notify the CFO of outstanding income relating to the previous financial year as soon as possible after 31 March in accordance with the timetable issued by the CFO
- (xvi) to request the CFO to set up a PayPal account for their service if required and to nominate a PayPal administrator
- (xvii) to maximise the Council's cash flow by collecting all income due as soon as possible. This should include taking payment in advance of providing a service where possible. Otherwise invoices to be raised as soon as possible after the provision of a service, and not later than 8 weeks afterwards, in accordance with VAT rules

D.3 ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

- D.3.1 Every officer and councillor has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council in accordance with appropriate codes of conduct.
- D.3.2 Official orders must be in a form approved by the CFO. Official orders must be issued for all work, goods or services to be supplied to the Council except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases,

PART 4 – FINANCIAL PROCEDURE RULES

procurement card purchases, where other statutory arrangements apply or other exceptions specified by the CFO. At the appropriate time, as decided by the CFO, to use electronic ordering system to generate official order numbers.

D.3.3 Apart from petty cash, imprest accounts and procurement cards, the normal method of payment from the Council shall be by BACS and every effort should be made to obtain bank details and avoid cheque payments. The use of direct debit shall require the prior agreement of the CFO.

D.3.4 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

D.3.5 **Key Controls**

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

- (i) all goods and services are ordered only by appropriate persons and are correctly recorded
- (ii) all goods and services shall be ordered in accordance with the Council's Procurement Procedure Rules unless they are purchased from sources within the Council
- (iii) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- (iv) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards
- (v) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (vi) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (vii) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (viii) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically
- (ix) where a service is already provided by an in-house unit (for example, Legal, HR, Finance), orders must be placed with this unit and shall not be placed externally without consultation with the Strategic Director or Executive Head of Service providing the service. Where a Council wide contract is in existence, all orders for goods and services available under these contracts must use these contracts, unless an alternative has been agreed with the CFO
- (x) any requirements for vehicles must be referred to the Fleet Management Service who shall place orders for purchase or leasing, contracting or redistribution of existing vehicles as appropriate, to satisfy the requirement and ensure the Council's vehicles strategy operates in the most efficient manner

D.3.6 **Responsibilities of the Chief Finance Officer**

- (i) to ensure that all the Council's financial systems and procedures are sound and properly administered
- (ii) to approve any changes to existing financial systems and to approve any new systems before they are introduced

PART 4 – FINANCIAL PROCEDURE RULES

- (iii) to approve the form of official orders and associated terms and conditions.
- (iv) to make payments from the Council's funds on the Strategic Director or Executive Head of Service's authorisation and that the expenditure has been duly incurred in accordance with these Financial Procedure Rules
- (v) to make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order
- (vi) to make payments to contractors on the certification of the appropriate Strategic Director or Executive Head of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified
- (vii) to provide advice on making payments by the safest and most economical means
- (viii) to issue guidance with regard to the financial aspects of third-party contracts and the maintenance of the contracts register

D.3.7 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders:

- (i) to ensure that unique, pre-numbered official orders are used for all goods and services, other than the exceptions specified in D.3.2
- (ii) to ensure that orders are only used for goods and services provided to the services for which they are responsible. Individuals must not use official orders to obtain goods or services for their private use
- (iii) to ensure that only those staff authorised by them sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority on the Council's intranet. The authoriser should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. If the supplier is not a limited company they must be satisfied that checks have been made with the payments team regarding self-employed status and any additional assurances required before the order can proceed. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved
- (iv) to ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records
- (v) to ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment confirming:
 - receipt of goods or services;
 - that the invoice has not previously been paid;
 - that expenditure has been properly incurred and is within budget provision;
 - that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
 - correct accounting treatment of tax;
 - that the invoice is correctly coded;
 - that discounts have been taken where available;
 - that appropriate entries will be made in accounting records
- (vi) to ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice

PART 4 – FINANCIAL PROCEDURE RULES

- (vii) to ensure that the service for which they are responsible maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers, together with specimen signatures and details of the limits of their authority, shall be forwarded to the CFO. The CFO will be informed of all amendments to the list as soon as possible after they are agreed
- (viii) to ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Audit and Performance Manager (Head of Internal Audit)
- (ix) to encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the CFO, with invoices being forwarded to the CFO for coding and checking of VAT
- (x) to ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the CFO, which are in line with best value principles and contained in the Council's Procurement Procedure Rules
- (xi) to utilise the central purchasing procedures established by the CFO in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Council's Procurement Procedure Rules
- (xii) to ensure that employees are aware of the code of conduct for staff included in the Council's Constitution
- (xiii) to ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the CFO, see section C.10
- (xiv) to notify the CFO of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the CFO and, in any case, no later than the date determined by the CFO
- (xv) with regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the CFO and Joint Chief Executive the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub-contractors' tax status
- (xvi) to notify the CFO immediately of any expenditure to be incurred because of statute/court order where there is no budgetary provision
- (xvii) to ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.
- (xviii) to ensure that any payments for compensation of loss, damages or injury shall be made in consultation with the Lead Specialist - Legal.

D.4 PAYMENTS TO EMPLOYEES AND COUNCILLORS

D.4.1 INTRODUCTION

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

D.4.2 Key Controls

The key controls for payments to employees and councillors are:

- (i) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - starters
 - leavers
 - variations
 - enhancementsin addition, that payments are made on the basis of timesheets or claims.
- (ii) monthly reconciliation of payroll expenditure against approved budget and bank account
- (iii) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (iv) that HM Revenue and Customs regulations are complied with

D.4.3 Responsibilities of the Chief Finance Officer

- (i) to arrange and control secure and reliable payment of salaries, wages, compensation, overtime or other emoluments to existing and former employees on the due date and payment of allowances to councillors in accordance with procedures prescribed by them
- (ii) to record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions
- (iii) to make arrangements for payment of all travel and subsistence claims or financial loss and other allowances
- (iv) to make arrangements for paying councillors' travel or other allowances upon receiving the prescribed form, duly completed and authorised
- (v) to provide advice and encouragement to secure payment of salaries and wages by the most economical means
- (vi) to ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis

D.4.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure appointments are made in accordance with the Officer Employment Procedure Rules and approved establishments, grades and scale of pay, and that adequate budget provision is available
- (ii) to ensure that adequate and effective systems and procedures are operated so that:
 - payments are only authorised to bona fide employees
 - payments are only made where there is a valid entitlement
 - conditions and contracts of employment are correctly applied
- (iii) to send an up-to-date list of the names of officers authorised to sign records to the Executive Head of Finance, together with specimen signatures
- (iv) to ensure that payroll transactions are processed only through the payroll system. Strategic Directors and Executive Heads of Service should seek advice to the employment status of individuals employed on a self-employed, consultant, sub-contract or one-off appointment basis from Executive Head of Finance. HM Revenue and Customs applies a tight definition of employee status and, in cases of doubt, advice should be sought from the Executive Head of Finance

- (v) to certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Executive Head of Finance is informed where appropriate
- (vi) all payments will be made in accordance with policies and procedures established by the Executive Head of Finance
- (vii) to ensure that the Executive Head of Finance is notified of the details of any employee benefits in kind to enable full and complete reporting within the income tax self-assessment system
- (viii) to ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule

D.4.5 Responsibilities of Councillors

To submit claims for councillors' travel and subsistence allowances on a six-monthly basis and, in any event, by 12 April at the end of any financial year.

D.5 TAXATION

D.5.1 INTRODUCTION

D.5.2 Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is, therefore, very important for all officers to be aware of their role.

D.5.3 Key Controls

The key controls for taxation are:

- (i) budget managers are provided with relevant information and kept up-to-date on tax issues
- (ii) budget managers are instructed on required record keeping
- (iii) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (iv) records are maintained in accordance with instructions
- (v) returns are made to the appropriate authorities within the stipulated timescale

D.5.4 Responsibilities of the Chief Finance Officer

- (i) To advise Strategic Directors and Executive Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council
- (ii) to complete all HM Revenue and Customs returns regarding PAYE.
- (iii) to complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
- (iv) to provide details to the HM Revenue and Customs regarding the construction industry tax deduction scheme
- (v) to maintain all records, accounts and claims as directed by the relevant VAT legislation
- (vi) to provide guidance to staff and monitor compliance with tax regulations on behalf of the Council

D.5.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
- (ii) to ensure that where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
- (iii) to ensure that all persons employed by the Council are added to its payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency
- (iv) to record and notify the Executive Head of Finance of any taxable benefit or payment giving rise to the potential of a taxable benefit (e.g. award vouchers)
- (v) to follow the guidance on taxation issued by the CFO
- (vi) to ensure that the correct Stamp Duty Land Tax (SDLT) implication of any disposal or acquisition of property transactions are identified and discussed with the CFO

FINANCIAL PROCEDURE NOTE E: EXTERNAL ARRANGEMENTS

E.1 INTRODUCTION

E.1.1 The Council 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. Partnership arrangements are an increasingly significant feature of public service delivery. They are a response to the complex and multifaceted problems that face society, and which cannot be tackled effectively by any individual body working alone. They can provide flexibility, innovation and additional financial and human capital resources to enhance service delivery to the community. These are powerful incentives for organisations to work with others and now all local public bodies work in partnerships to different degrees. However, partnerships also bring risks. Working across organisational boundaries brings complexity and ambiguity that can generate confusion and weaken accountability. The public needs assurance that public money is spent wisely in partnerships and it should be confident that its quality of life would improve because of this form of working.

E.1.2 The term partnership can encompass a wide range of collaborative arrangements. The Council defines a Partnership as “a group of stakeholders brought together from a range of organisations, to be responsible for tackling mainly long-term challenges and opportunities in which they have a shared interest”. Examples of these types of arrangements include the Council’s involvement with social enterprise and other community or charitable organisations in which the Council doesn’t directly own a share of the organisation, or have voting rights within the organisation, but works in partnership with the organisation and may provide grant funding to it.

E.2 PARTNERSHIPS

E.2.1 Key Controls

Partnership activities should be carried out in accordance with the Council’s Partnership Strategy unless otherwise approved by the Joint Chief Executive. The creation of any new partnership must be supported by a Business Case. The anticipated level of Council resources to be directed at the partnership, the complexities of the partnership and its outcome, will determine the extent to which the approval checklist is completed.

A partnership arrangement can be a “Shared Service”. Prior to commencing discussions around a shared service, the CFO and Lead Specialist - Legal shall be consulted.

E.2.2 Responsibilities of the Chief Finance Officer

- (i) the CFO must ensure that the accounting arrangements to be adopted relating to partnerships are satisfactory. They must also consider the overall corporate governance arrangements and, in consultation with the Lead Specialist - Legal, legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies
- (ii) to advise on effective controls that will ensure that resources are not wasted
- (iii) to advise on the key elements of funding a project. They include:

- a scheme appraisal for financial viability in both the current and future years
- risk appraisal and management
- resourcing, including taxation issues
- audit, security and control requirements
- carry-forward arrangements
- accounting arrangements and impact on the requirement of the Council to produce group accounts

E.2.3 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the CFO
- (ii) to ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the CFO
- (iii) to ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council
- (iv) to ensure that all agreements and arrangements are properly documented by way of a partnership agreement
- (v) to provide appropriate information to the CFO to enable a note to be entered into the Council's statement of accounts concerning material items

E.3 EXTERNAL FUNDING

With increasing pressures on Council expenditure, external funding is potentially a very important source of income. However, terms and conditions attached to funding need to be carefully considered to ensure they are adhered to and compatible with the aims and objectives of the Council. Funds from external agencies such as the Big Lottery Fund, and Enterprise M3 (our local enterprise partner), as well as project funding from Central Government Departments, sponsorship and other Corporate Social Responsibility contributions from private companies and other donors, provide additional resources which can enable the Council to augment services it delivers to the local community.

Any proposal to spend monies received from any external funding source must be in accordance with approved Revenue or Capital budgets and the Corporate Plan. Prior to bidding, the CFO and CMB must first be consulted to ensure alignment with the Council's corporate plan and that any implications across Services are fully considered.

E.3.1 Responsibilities of the Chief Finance Officer

- (i) to ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts
- (ii) to ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements
- (iii) to ensure that audit requirements are met
- (iv) to maintain an external funding and grant register of all funds received, their terms and conditions and reporting requirements
- (v) to ensure that all claims for funds are met by the due date

- (vi) to authorise or sign any applications for external funding on behalf of the Council

E.3.2 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that all applications for external funding on behalf of the Council are agreed with and authorised by the CFO
- (ii) to ensure that all claims for funds are made in consultation with the CFO
- (iii) to ensure that the project progresses in accordance with the agreed timescale and that all expenditure is properly incurred and recorded

E.4 WORK FOR THIRD PARTIES

E.4.1 Current legislation enables the Council to provide a range of services to external organisations such as other local government and public bodies. Such work may enable a service unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

E.4.2 Key Controls

The key controls for working with third parties are:

- (i) to ensure that proposals are costed properly in accordance with guidance provided by the CFO
- (ii) to ensure that contracts are drawn up using guidance provided by the CFO and that the formal approvals process is adhered to
- (iii) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register

E.4.3 Responsibilities of the Chief Finance Officer

- (i) to ensure that appropriate trading accounts are established and maintained for the arrangement

E.4.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Executive Head of Finance
- (ii) to ensure that appropriate insurance arrangements are made
- (iii) to ensure that the Council is not put at risk from any bad debts
- (iv) to ensure that no contract is subsidised by the Council
- (v) to ensure that, wherever possible, payment is received in advance of the delivery of the service
- (vi) to ensure that the services for which they are responsible have the appropriate expertise to undertake the contract
- (vii) to ensure that such contracts do not impact adversely upon the services provided for the Council
- (viii) to ensure that all contracts are properly documented
- (viii) to provide appropriate information to the CFO to enable a note to be entered into the statement of accounts

FINANCIAL PROCEDURE NOTE F: LOCAL AUTHORITY COMPANIES AND CO-OPERATIVE SOCIETIES

F.1 Introduction

F.1.1 The Localism Act 2011 has given authorities a new general power of competence that includes the power to provide services for a commercial purpose or otherwise for a charge. To carry out the power for commercial purposes, it must be done through a local authority company or co-operative society.

F.1.2 The Council is developing a council wide policy on Income Generation and Trading, which seeks to explore the greater use of its trading powers and opportunities. The establishment of a company and adopting business models can facilitate this process in introducing innovative, efficient and sustainable forms of delivery with value for money for council taxpayers. In essence, the establishment of a company or co-operative society will enable the flexibility and freedom to take advantage of entrepreneurial opportunities, not normally associated with a multi-statutorily regulated public body such as a Council.

F.2 Key Controls:

The key controls for setting up or working with a local authority company or co-operative society are:

- (i) that a Business Case and Business Plan are prepared and approved by Executive before trading by the Company commences
- (ii) that the Executive is advised by the Lead Specialist - Legal and the CFO on the following key elements:
 - scheme appraisal and financial viability of the company and business plan
 - risk appraisal
 - governance arrangements
 - resourcing, including taxation issues
 - audit requirements
- (iii) that the Company's or Co-operative Society's Memorandum and Articles of Association include clauses to safeguard the Council's position;
- (iv) that the Company or Co-operative Society follows the accounting policies and procedures adopted and followed by the Council where the Council is the majority shareholder in the company or society;
- (v) that where the Council is the majority shareholder, at least one Officer of the Council is nominated on to the board of the Company or Co-operative Society to represent the Council's interest

F.3 Responsibilities of the Chief Finance Officer

- (i) to review and report on the financial viability of the Company and its business plan
- (ii) to advise on the appropriate company structure and governance arrangements in consultation with the Lead Specialist - Legal
- (iii) to ensure that arrangements are made for the audit of the company's accounts in accordance with the requirements set out in the Company's Act 2006 and the Accounts and Audit (England) Regulations 2013

PART 4 – FINANCIAL PROCEDURE RULES

- (iv) to ensure that the accounting policies adopted and followed by the Council are adopted and followed by the company where the Council is the majority shareholder in the company
- (v) to ensure that the company has appropriate financial systems and procedures in place to properly record and account for the income and expenditure, assets and liabilities of the company
- (vi) to ensure that adequate supporting records of the income, expenditure, assets and liabilities of the company are held
- (vii) to ensure that the company operates a financial year 1 April to 31 March and prepares its financial statements in accordance with the Council's statutory timetable
- (viii) to ensure that the Council as group parent has an adequate process in place to consolidate information from subsidiary company accounts with its own financial information and prepare Group Accounts in accordance with CIPFA guidance

F.4 Responsibilities of the Lead Specialist - Legal:

- (i) to advise on the appropriate company structure and governance arrangements in consultation with the CFO
- (ii) to include any clauses, within the Company's Memorandum and Articles of Association to safeguard the Council's position
- (iii) to ensure all agreements and arrangements are properly documented;
- (iv) to ensure that governance arrangements are in place including arrangements for exit if necessary
- (v) to ensure that any Council Officers who are to be directors are aware of their responsibilities under Companies legislation and the Company's articles and that appropriate indemnities and insurances are in place for the Council and the Company

F.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to seek approval from both the Lead Specialist - Legal and the CFO prior to the setting up or formal involvement in negotiations to set up or enter into a company. This will involve consideration of whether the trading should be carried out by an existing council-owned company, a subsidiary of an existing Company or a new company or co-operative society
- (ii) to obtain Executive approval before any negotiations to set up a company or co-operative society are concluded
- (iii) to ensure all agreements and arrangements are properly documented
- (iv) to ensure that governance arrangements are in place including arrangements for exit if necessary
- (v) to ensure that risk management processes are in place to identify and assess all known risks
- (vi) to ensure that a satisfactory Business Case and Business Plan are prepared before trading by the Company commences in conjunction with the CFO
- (vii) to ensure that where the Council is not the majority shareholder in the company that the Council's procurement procedure rules are followed when contracting services between the Council and the Company

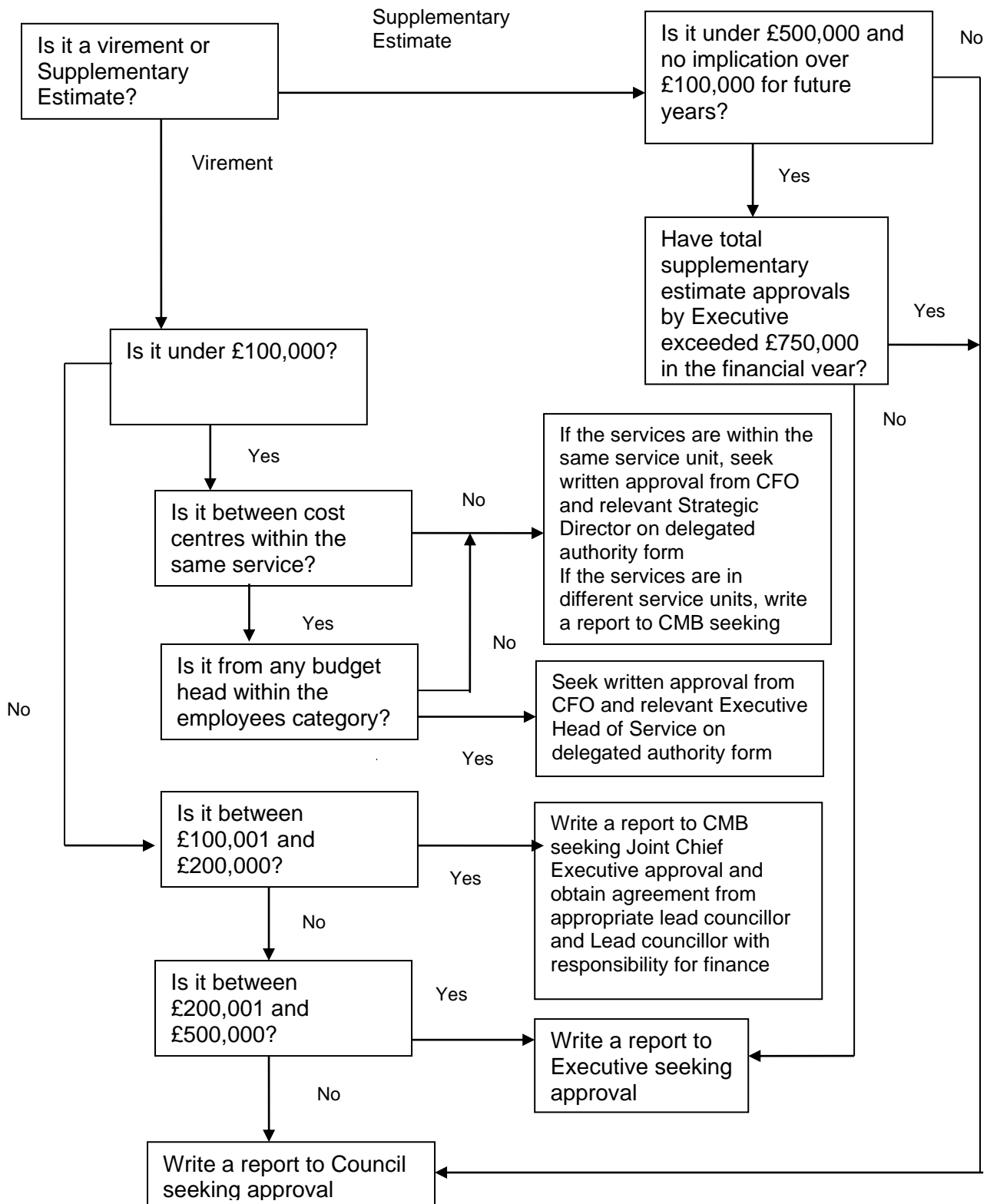
F.6 Responsibilities of Officers who become Company Directors:

- (i) to include any clauses, within the Company's Memorandum and Articles of Association to safeguard the Council's position, as required by the Lead Specialist - Legal and the CFO
- (ii) to ensure that risk management processes are in place to identify and assess all known risks
- (iii) to ensure that the company has appropriate financial systems and procedures in place to properly record and account for the income and expenditure, assets and liabilities of the company as advised by the CFO
- (iv) to ensure adequate supporting records of the income, expenditure, assets and liabilities of the company are held
- (v) To ensure that the company operates a financial year 1 April to 31 March and prepares its financial statements in accordance with the timetable set by the CFO
- (vi) to ensure that adequate information is provided to the Council in accordance with the timetable set out by the CFO of the Council to enable the consolidation of the company's accounts with the accounts of the Council for group reporting purposes
- (vii) to ensure that where the Council the majority shareholder in the company that the Council's procurement procedure rules are followed when contracting out services
- (viii) to safeguard the Council's right of audit access to the company

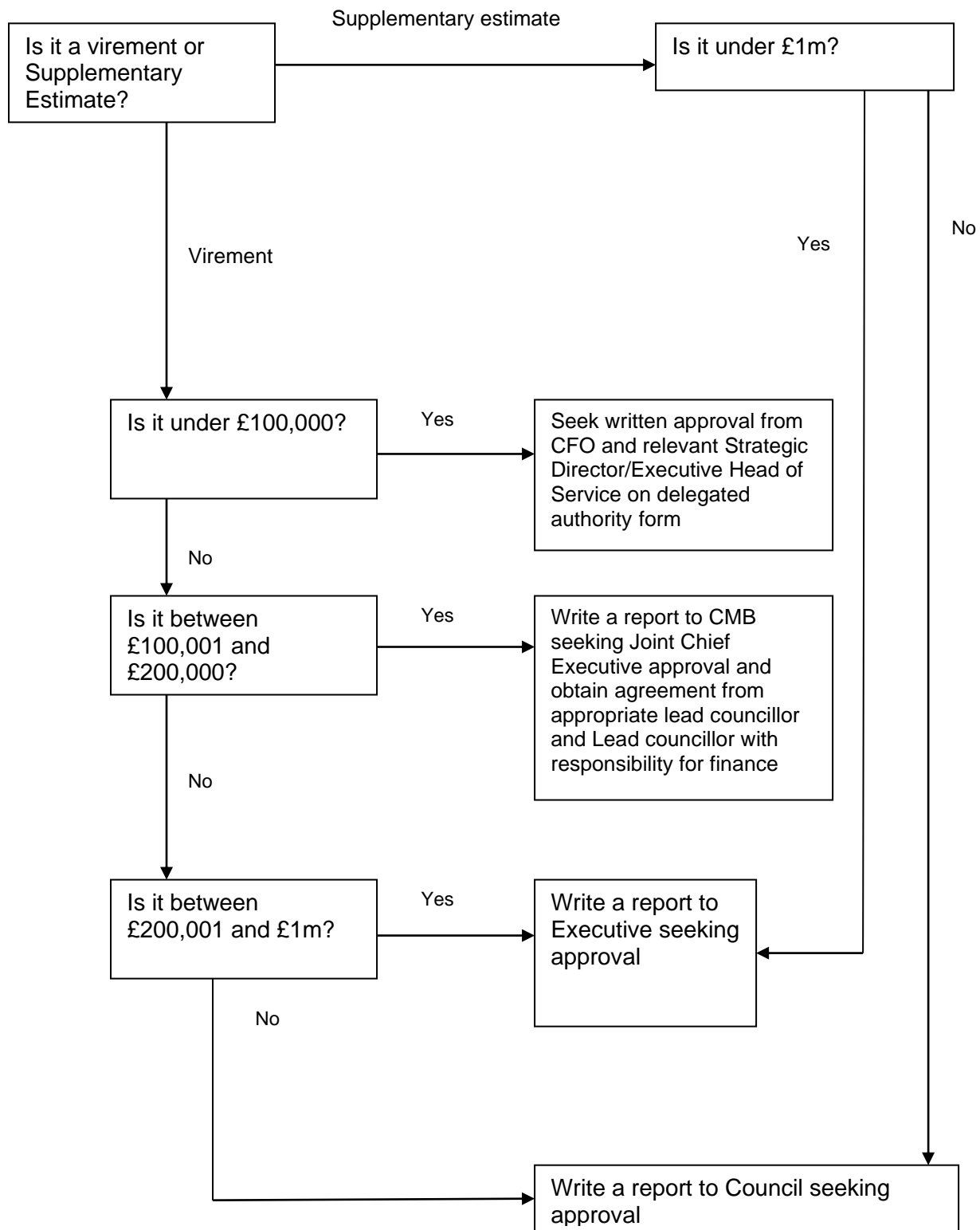
GLOSSARY

Capital	expenditure to purchase or construct a fixed asset, or expenditure adding to the value of an existing fixed asset. Expenditure that does not enhance an asset, such as repairs and maintenance expenditure, is not capital expenditure.
CFO	Chief Finance Officer, as defined by Section 151 of the Local Government Act 1972 (see Part 3 Delegation to Officers)
Revenue	expenditure on the day-to-day running of the council
General Fund	the Council's main revenue fund credited with charges, grants etc. and to which the costs of services are charged. However, separate accounts are maintained for other aspects of Council activities.
Supplementary Estimate	A supplementary estimate is approval for increased expenditure or reduced income that was not included in the original budget and therefore increases the Council's overall net budget for the year

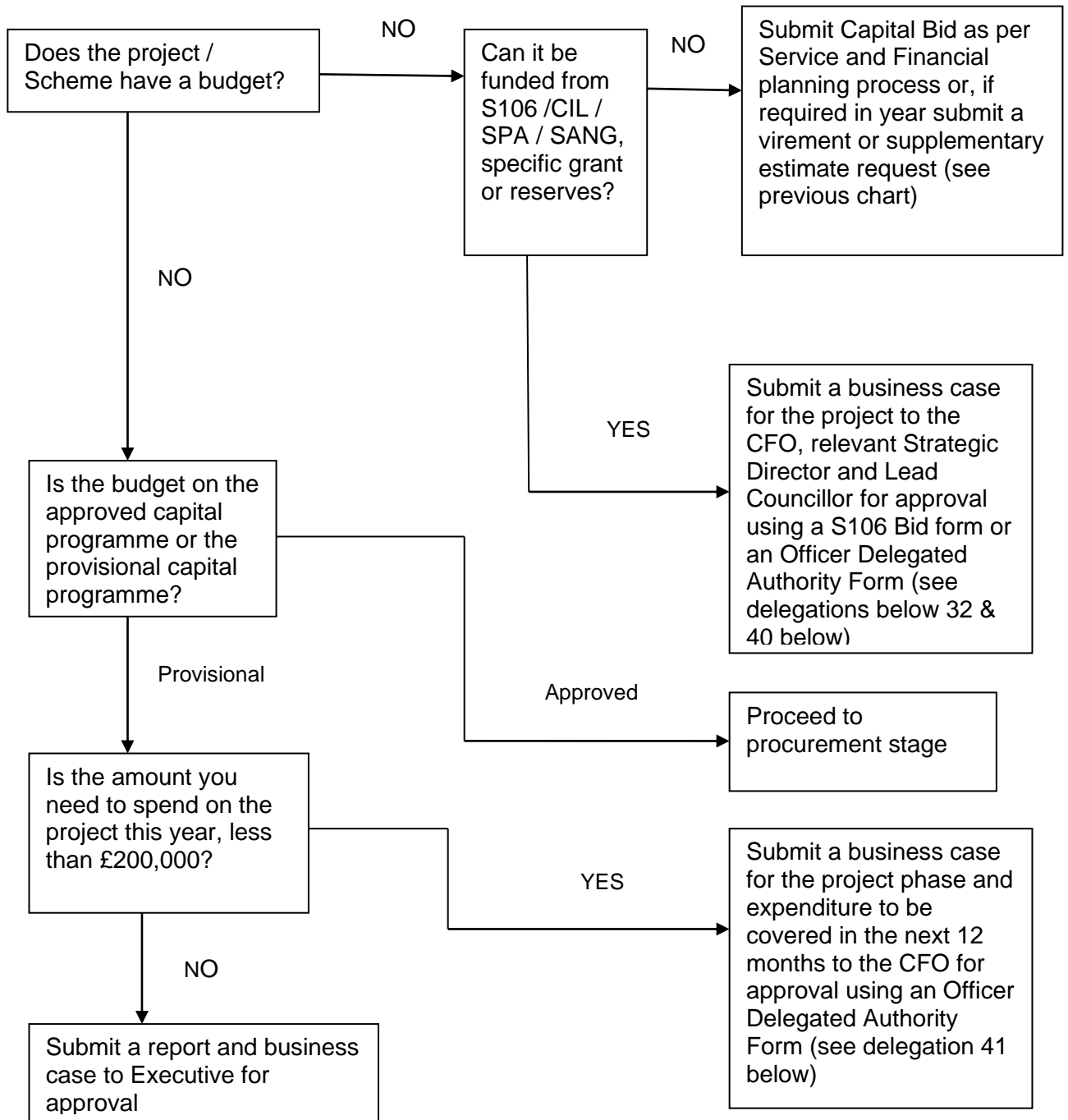
Revenue Virement and Supplementary Estimate Processes



Capital Virement and Supplementary Estimate Processes



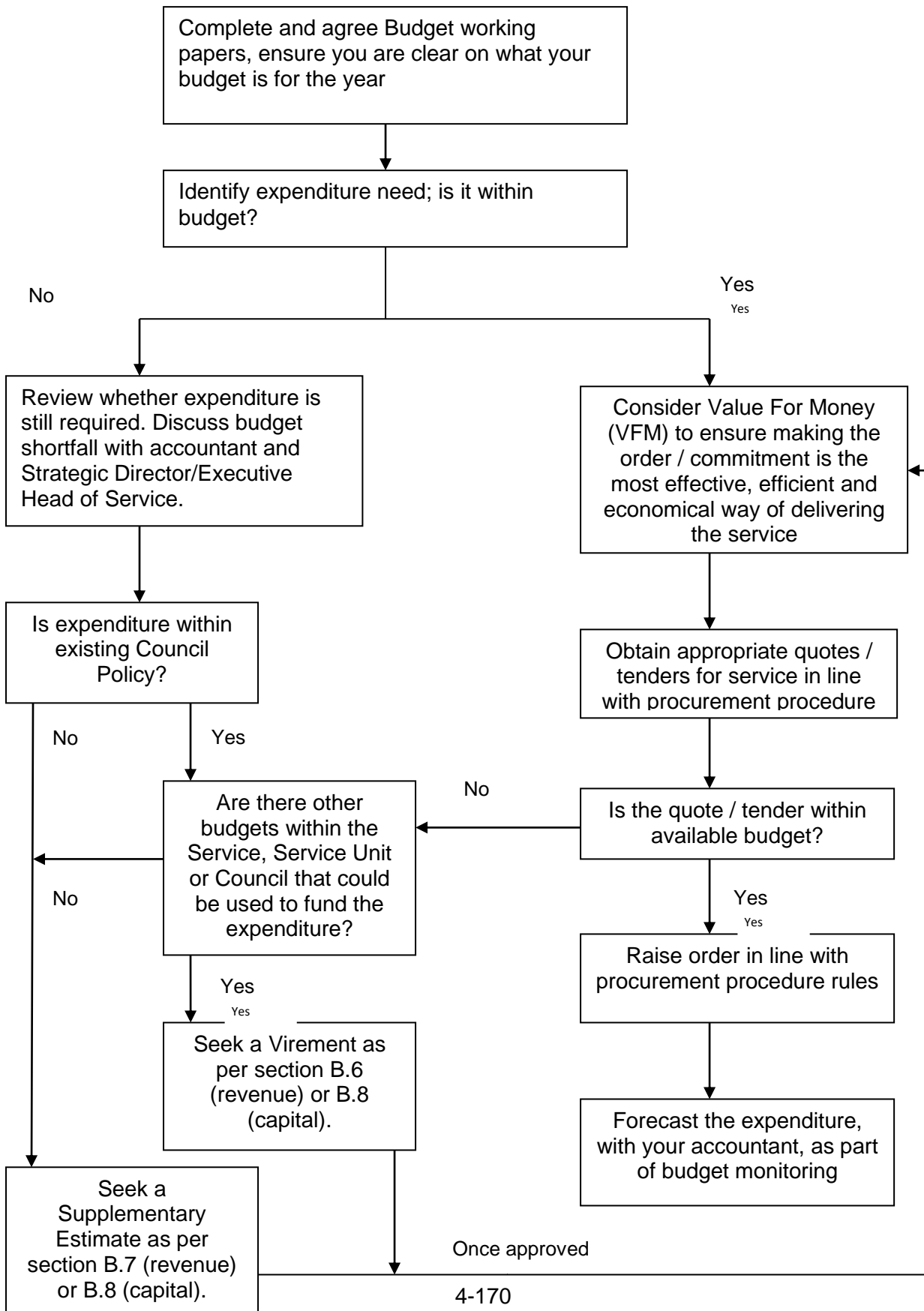
Capital Project / Scheme Approval Process



Relevant Extracts of Responsibilities and Powers of the Chief Finance Officer and Lead Specialist - Finance set out in Part 3 of the Council's Constitution 'Delegation to Officers':

- Lead Specialist - Finance (Paragraph 3): where confirmation of specific grant income is received after setting the capital budget for the year, to approve, in consultation with the relevant lead councillor and lead councillor for finance, amendments to the general fund budget during the year to incorporate the grant income and expenditure
- Lead Specialist - Finance (Paragraph 5): to add expenditure to the approved capital programme where it is fully financed by grant, s106, SPA, and CIL receipts and the project has been approved by the appropriate lead councillor and relevant strategic director for the service
- Chief Finance Officer (Paragraph 35): To authorise moving up to £200,000, capital projects from the provisional to the approved capital programme where a business case has been submitted by responsible officers

Budget Management Essential Practice for Budget Managers



GUILDFORD BOROUGH COUNCIL

LICENSING SUB-COMMITTEE (HEARINGS UNDER THE LICENSING ACT 2003): PROCEDURE RULES

1. General

- 1.1 These procedure rules are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 (the regulations). Where appropriate, the provisions of the regulations have been incorporated into these rules.

2. Composition of Sub-Committee

- 2.1 The Sub-Committee shall comprise three councillors drawn on a “panel” basis from the membership of the Licensing Committee in accordance with Section 9 of the Licensing Act 2003 (the ‘Act’). The quorum shall be three. Each hearing shall be chaired by a designated Licensing Sub-Committee chairman.

3. Notice of Hearing

- 3.1 The licensing authority shall give to the parties a notice stating the date and time and place at which the hearing is to be held (the ‘notice of hearing’) in accordance with the provisions of the regulations.
- 3.2 The notice of hearing shall be accompanied by information regarding the following:
- (a) the rights of a party provided for in paragraphs 4.1 and 8.5;
 - (b) the consequences if a party does not attend or is not represented at the hearing;
 - (c) the procedure to be followed at the hearing; and
 - (d) any particular points on which the licensing authority considers that it will want clarification from a party at the hearing.

4. Right of Attendance, Assistance and Representation

- 4.1 Subject to paragraphs 6.2 and 6.4, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their ward councillor. Any councillor undertaking such a role would take no part in the determination of the matter before the Sub-Committee.
- 4.2 Upon receipt of the notice of hearing and within the period of time prescribed by the regulations*, each party shall give to the licensing authority a notice stating:
- (a) whether he/she intends to attend or be represented at the hearing;
 - (b) whether he/she considers a hearing to be unnecessary.

(*The notice of hearing given by the licensing authority to the parties shall specify the relevant period of time within which each party must give the notice described in this paragraph.)

PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

- 4.3 In a case where a party wishes any other person (other than the person he/she intends to represent him/her at the hearing) to appear at the hearing, the notice referred to in paragraph 4.2 above shall contain a request for permission for such other person to attend at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
- 4.4 A party who wishes to withdraw any representations they have made may do so:
- (a) by giving notice to the Licensing Unit no later than 24 hours before the day or first day on which the hearing is to be held; or
 - (b) orally at the hearing.

5. Right to Dispense with Hearing if All Parties Agree

- 5.1 The licensing authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the licensing authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.
- 5.2 Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 5.1, the licensing authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the parties that the hearing has been dispensed with.

6. Hearing to be in Public

- 6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.
- 6.2 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 6.3 For the purposes of paragraph 6.2, a party and any person assisting or representing a party may be treated as a member of the public.
- 6.4 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:
- (a) refuse to permit that person to return, or
 - (b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

7. Report

- 7.1 A report will be put before the Sub-Committee, prepared by the Licensing Unit.

PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

7.2 The Democratic Services and Elections Manager will send a copy of the report to the parties in advance of the hearing.

8. Procedure at Hearing

8.1 The order of business shall be at the discretion of the Sub-Committee, but will normally proceed in accordance with the following paragraphs.

8.2 The chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.

8.3 The Sub-Committee shall then proceed to consider any request made by a party under paragraph 4.3 (request for permission for another person to appear at the hearing). Permission shall not be unreasonably withheld.

8.4 The chairman may ask a representative of the licensing authority to introduce the report and outline the matter before the Sub-Committee. Alternatively, the chairman may proceed directly to paragraph 8.5 below.

8.5 All parties shall be entitled to:

- (a) give further information in support of their application, representations or notice (as applicable) in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(d);
- (b) question any other party* if given permission by the Sub-Committee; and
- (c) address the Sub-Committee

(*Permission will not be given to question any other party unless the Sub-Committee considers that questioning is required for it to consider the representations, application or notice as the case may require.)

8.6 The parties will normally be invited to address the Sub-Committee in the following order:

- (a) applicant
- (b) responsible authorities
- (c) other persons (i.e. persons who have made relevant representations)

8.7 Members of the Sub-Committee may ask any question of any party appearing at the hearing.

8.8 Where there is more than one representation raising the same or similar grounds, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.

8.9 In considering any representations or notice made by a party, the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

8.10 The Sub-Committee shall disregard any information given or evidence produced by a party or any person to whom permission to appear at the hearing is given by the licensing authority which is not relevant to:

- (a) their application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance; and
- (b) the promotion of the Licensing Objectives* or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

*Note for information:

The Licensing Objectives referred to in sub-paragraph (b) above are as follows:

- 1. Prevention of crime and disorder
- 2. Public safety
- 3. Prevention of public nuisance
- 4. Protection of children from harm

8.11 Hearsay evidence may be admitted before the Sub-Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.

8.12 The parties shall be entitled to make closing submissions. The parties will normally be invited to make closing submissions in the following order:

- (a) other persons
- (b) responsible authorities
- (c) applicant

8.13 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.5 and 8.12 above. For the avoidance of doubt, these rights are repeated below:

- (a) in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(d), to give further information in support of their application, representations or notice (as applicable);
- (b) if given permission by the Sub-Committee, to question any other party; and
- (c) address the Sub-Committee (opening address and closing submissions).

All parties shall be allowed an equal maximum period of time.

8.14 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations. Alternatively, the Sub-Committee may ask all parties and the public to leave the room.

8.15 The Sub-Committee administrator will accompany the Sub-Committee when they retire to make their deliberations.

PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

9. Role of Legal Adviser

- 9.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.
- 9.2 The legal adviser shall not remain with members of the Sub-Committee when they retire to make their deliberations.
- 9.3 The legal adviser may join councillors during the course of their deliberations either when asked to do so or if he/ she realises there is a point of law on which they may need assistance but on which he/she omitted to advise them in open session.
- 9.4 Any advice given by the legal adviser to members of the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties have had an opportunity to comment on it. The legal adviser will then state in open session whether the advice is confirmed or varied (and if it is varied, in what way) before councillors act upon it.

10. Determination of Applications

- 10.1 The Sub-Committee shall make its determination at the conclusion of the hearing or otherwise as prescribed by the regulations.

11. Failure of Parties to Attend the Hearing

- 11.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.
- 11.2 If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may:
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
 - (b) hold the hearing in the party's absence.
- 11.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representations or notice made by that party.

12. Adjournments

- 12.1 Subject to the provisions of the regulations, the Sub-Committee may:
- (a) adjourn the hearing to a specified date (e.g. when a party fails to attend or be represented at a hearing and the Sub-Committee considers an adjournment to be necessary in the public interest);
 - (b) arrange for a hearing to be held on specified additional dates (e.g. when further time is required for the consideration of any representations or notice made by a party).
- 12.2 Where the Sub-Committee adjourns the hearing to a specified date, it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date, it shall forthwith notify the parties of the additional date on which and time and place at which the hearing is to be held.

13. Record of Proceedings

13.1 A record of the hearing shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

14. Waiver of Rules

14.1 Except where prescribed by the regulations, the Sub-Committee may in any particular case dispense with or modify these rules.

14.2 In particular, the licensing authority may extend any time limit provided for in the regulations for a specified period where it considers this to be necessary in the public interest.

14.3 Where the licensing authority has extended a time limit, it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

Note: Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:

- Article 6 – in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions

GUILDFORD BOROUGH COUNCIL

LICENSING SUB-COMMITTEE (HEARINGS UNDER THE GAMBLING ACT 2005): PROCEDURE RULES

1. General

- 1.1 These procedure rules are subject to the provisions of The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (the regulations). Where appropriate, the provisions of the regulations have been incorporated into these rules.

2. Composition of the Licensing Sub-Committee

- 2.1 The Licensing Sub-Committee shall comprise three councillors drawn on a "panel" basis from the membership of the Licensing Committee in accordance with Section 9 of the Licensing Act 2003. The quorum shall be three. Each hearing shall be chaired by a designated Licensing Sub-Committee chairman.

3. Notice of Hearing

- 3.1 The licensing authority shall give to the parties a notice specifying the date and time and place at which the hearing is to be held (the 'notice of hearing') in accordance with the provisions of the regulations.
- 3.2 The notice of hearing shall be accompanied by information regarding the following:
- (a) A statement that copies of representations made in relation to the application will be made available, if requested, to any person who has made representations in respect of the application and, in relation to an application under Section 188 for the transfer of a premises licence, to the licensee.
 - (b) the consequences if a party does not attend or is not represented at the hearing;
 - (c) the requirements imposed on the Sub-Committee in conducting the hearing and the procedure to be followed at the hearing; and
 - (d) the rights of a party provided for in paragraphs 4.1, 4.2 and 4.3 below;
 - (e) any matters on which the licensing authority considers that it will want clarification from a party at the hearing.

4. Right of Attendance, Assistance and Representation

- 4.1 Subject to paragraphs 6.2 and 6.3 below, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their ward councillor. Any councillor undertaking such a role would take no part in the determination of the matter before the Sub-Committee.

PART 4 - LICENSING SUB-COMMITTEE: GAMBLING ACT PROCEDURE RULES

4.2 Upon receipt of the notice of hearing and by no later than five working days before the day or first day on which the hearing is to be held, each party shall give to the Sub-Committee a notice in writing stating:

- (a) whether he/she wishes to attend or address the hearing;
- (b) whether he/she wishes to be assisted or represented by another person;
- (c) whether he/she wishes to call a witness to give evidence at the hearing and the matters in relation to which he/she wishes that witness to give evidence;
- (d) whether he/she is willing to consent to the application being determined without a hearing.

4.3 A party who wishes to withdraw any representations they have made may do so:

- (a) by giving notice to the Licensing Unit no later than 24 hours before the day or first day on which the hearing is to be held; or
- (b) orally at the hearing.

5. Procedure where a hearing is not to take place

5.1 Where all parties have given notice that they consent to the application being determined without a hearing, they will be notified as soon as reasonably practicable that the hearing has been dispensed with.

6. Hearing to be in Public

6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.

6.2 The Sub-Committee may direct that all or part of a hearing must be held in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to:

- (a) any unfairness to a party that is likely to result from a hearing in public; and
- (b) the need to protect as far as possible, the commercial or other legitimate interests of a party.

6.3 The Sub-Committee may require any person attending the hearing who is in its opinion behaving in a disruptive manner, or in breach of conditions specified below, to leave the hearing and may:-

- (a) refuse to permit that person to return, or
- (b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave. The Sub-Committee will take such information into account.

7. Report

- 7.1 A report on the application to be determined will be prepared by the Licensing Unit and put before the Sub-Committee.
- 7.2 The Democratic Services and Elections Manager shall send a copy of the agenda for the hearing (which will include the report) to the parties in advance of the hearing.

8. Procedure at Hearing

- 8.1 The order of business shall be at the discretion of the Sub-Committee, but will normally proceed in accordance with the following paragraphs.
- 8.2 The chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.
- 8.3 The chairman may ask a representative of the licensing authority to introduce the report and outline the matter before the Sub-Committee. Alternatively, the chairman may proceed directly to paragraph 8.4 below.
- 8.4 The parties will normally be invited to address the Sub-Committee in the following order:
- (a) applicant
 - (b) responsible authorities
 - (c) interested parties
- 8.5 Where there is more than one representation raising the same or similar grounds, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.
- 8.6 Each party shall be entitled to:
- (a) address the Sub-Committee or call witnesses to give evidence on any matter that is relevant to the application, or any representations made on the application;
 - (b) provide further information on, or explanation of, any matter on which the licensing authority has indicated that it will want further clarification under paragraph 3.2(e);
 - (c) question any other party or person representing a party on any matter that is relevant to the application, or any representations made on the application; where the Sub-Committee considers that in all the circumstances it is appropriate to do so
- 8.7 The Sub-Committee will take into consideration documentary or other information produced by a party in support of their application or any representations made on the application either before the hearing or at the hearing, with the consent of all the other parties in attendance.
- 8.8 Without prejudice to paragraphs 8.6 and 8.7 above, the hearing will be conducted so that it takes the form of a discussion led by the Sub-Committee. The Sub-Committee will not permit any cross-examination unless it considers that cross-examination is required for it properly to consider the application or representations made by any party on the application.

PART 4 - LICENSING SUB-COMMITTEE: GAMBLING ACT PROCEDURE RULES

- 8.9 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 8.10 The parties shall be entitled to make closing submissions. The parties will normally be invited to make closing submissions in the following order:
- (a) interested parties
 - (b) responsible authorities
 - (c) applicant
- 8.11 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.6 and 8.10 above. For the avoidance of doubt, these rights are repeated below:
- (a) address the Sub-Committee (opening address and closing submissions).
 - (b) if the Sub-Committee considers it appropriate, to question any other party; and
 - (c) in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(e), to give further information in support of their application, or representations made on the application (as applicable);

All parties shall be allowed an equal maximum period of time.

- 8.12 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations. Alternatively, the Sub-Committee may ask all parties and the public to leave the room.
- 8.13 The committee administrator will accompany the Sub-Committee when they retire to make their deliberations.

9. Role of Legal Adviser

- 9.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.
- 9.2 The legal adviser shall not remain with members of the Sub-Committee when they retire to make their deliberations.
- 9.3 The legal adviser may join councillors during the course of their deliberations either when asked to do so or if he/she realises there is a point of law on which they may need assistance but on which he/she omitted to advise them in open session.
- 9.4 Any advice given by the legal adviser to members of the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties have had an opportunity to comment on it. The legal adviser will then state in open session whether the advice is confirmed or varied (and if it is varied, in what way) before councillors act upon it.

10. Determination of Applications

- 10.1 The Sub-Committee shall make its determination at the conclusion of the hearing or otherwise as prescribed by the regulations.

11. Failure of Parties to Attend the Hearing

- 11.1 The Sub-Committee may proceed with a hearing in the absence of a party or a party's representative, if the party has
- (a) informed the Sub-Committee that he/she does not intend to attend or be represented at the hearing (and has not subsequently advised the Sub-Committee otherwise);
 - (b) failed to inform the Sub-Committee whether he/she intends to attend or be represented at the hearing, or
 - (c) left the hearing in circumstances enabling the Sub-Committee reasonably to conclude that he/she does not intend to participate further.
- 11.2 If a party has indicated that he does intend to attend or be represented at a hearing, but fails to so attend or be so represented, the Sub-Committee may:
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
 - (b) proceed with the hearing in the party's absence.
- 11.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee will consider at the hearing the application, or representations made by that party.

12. Adjournments

- 12.1 Subject to the provisions of the regulations, the Sub-Committee may:
- (a) adjourn the hearing to a specified date (e.g. when a party fails to attend or be represented at a hearing and the Sub-Committee considers an adjournment to be necessary in the public interest);
 - (b) arrange for a hearing to be held on specified additional dates (e.g. when further time is required for the consideration of any representations made by a party).
- 12.2 Where the Sub-Committee adjourns the hearing to a specified date it shall, as soon as reasonably practicable, notify the parties of the date, time and place to which the hearing has been adjourned.
- 12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date it shall, as soon as reasonably practicable, notify the parties of the additional date on which and time and place at which the hearing is to be held.

13. Record of Proceedings

- 13.1 A record of the hearing shall be kept for 6 years from the date of final determination (including any appeal or judicial review).

14. Waiver of Rules

- 14.1 Except where prescribed by the regulations, the Sub-Committee may in any particular case dispense with or modify these rules.

PART 4 - LICENSING SUB-COMMITTEE: GAMBLING ACT PROCEDURE RULES

14.2 In particular, the licensing authority may extend any time limit provided for in the regulations for a specified period where it considers this to be necessary in the public interest.

14.3 Where the licensing authority has extended a time limit, it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

Note: Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:-

- Article 6 – in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions