

PART 4
RULES OF PROCEDURE

Rules of Procedure
Council Procedure Rules
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1 ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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

The annual meeting will:

- (i) elect a person to preside if the chairman of Council is not present;
- (ii) elect the chairman of Council;
- (iii) elect the vice chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the chairman and/ or head of the paid service;
- (vi) elect the leader (in the year in which the current Leader's term of office expires);
- (vii) receive a report from the Leader on the members to be appointed to the Cabinet and their portfolios;
- (viii) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3, Table 1 of this Constitution;
- (ix) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree as set out in Part 3 Table 3 of this Constitution);
- (x) approve a programme of ordinary meetings of the Council for the year;
- (xi) consider any business set out in the notice convening the meeting; and
- (xii) receive any declarations of interest from members.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the council meeting will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats (and substitute seats) to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

2. ORDINARY MEETINGS

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

- (i) elect a person to preside if the chairman and vice chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the chairman, leader, members of the cabinet or the head of paid service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting, in accordance with the Council's Public Participation Scheme;
- (vi) deal with any business from the last Council meeting;
- (vii) receive a report from the Leader on any changes made to Cabinet appointments;
- (viii) receive a composite report from the Cabinet and individual reports from the Council's committees and receive questions and answers on any of those reports;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (x) consider motions; and
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the chairman of the Council;
- (iii) the monitoring officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the chairman of the council and he/ she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. TIME AND PLACE OF MEETINGS

4.1 The time and place of meetings will be determined by the Corporate Director (Monitoring Officer) and notified in the summons.

4.2 If an evening meeting this will be set at 6.30 p.m. to 9.30 p.m., except for the annual meeting which will commence at 5.30 p.m.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Corporate Director (Monitoring Officer) will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Corporate Director (Monitoring Officer) will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the chairman. Where these rules apply to committee and sub-committee meetings, references to the chairman also include the chairman of committees and sub-committees.

7. QUORUM

Unless otherwise specified in the Terms of Reference the quorum of a meeting will be one quarter of the whole number of members. During any meeting if the chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/ she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. DURATION OF MEETING

8.1 Majority Vote to continue

Unless the majority of members present vote for the meeting to continue, any evening meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next meeting.

9. QUESTIONS BY THE PUBLIC

9.1 General

Members of the public may ask questions of the Council and of members of the Cabinet at ordinary meetings of the Council, and may present petitions and deputations (see the Appendices to this Part).

9.2 Order of questions

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

9.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Democratic and Member Services Manager before the commencement of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

9.4 Number of questions

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

9.5 Scope of questions

The Corporate Director (Monitoring Officer) may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

9.6 Record of questions

The Corporate Director (Monitoring Officer) will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

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

9.7 Asking the question at the meeting

The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

9.8 Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 9.5 above.

9.9 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

9.10 Reference of question to the Cabinet or a committee

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

10. QUESTIONS BY MEMBERS

10.1 On the composite report of the Cabinet

At each ordinary meeting of the Council and at each extraordinary meeting where there is a composite report of the Cabinet, a period of 30 minutes will be allocated during which members of the Council may ask the leader of the Council or any portfolio holder present at the meeting questions on any topic that is within the jurisdiction or reasonable influence of the Council and is relevant to the leader or the portfolio holder's area of responsibility in accordance with the procedure set out in Rule 10.2.

10.2 Procedure for questions under Rule 10.1

Questions will be put in accordance with the following order of priority –

- (a) Each question where at least 24 hours' prior notice has been given to the leader or portfolio holder. If more than one such question then questions will be taken in alphabetical order (reversed at alternate meetings). If any member has asked more than one question, that member will ask their first question in accordance with the alphabetical order and the subsequent questions after all other members have asked their first or sole questions. If more than one member falls into this category then the subsequent questions will be asked alternatively until all questions have been asked or the 30 minute period has expired.
- (b) Any question of which prior written notice has not been given may be asked at the meeting to the leader or a portfolio holder present at the meeting. If more than one such question is asked the procedure set out in Rule 10.2(a) shall apply.
- (c) Once a response has been given to the question in accordance with Rule 10.3 the member who asked the question may ask one supplementary question without notice to the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.
- (d) In the event that a question of which prior written notice has been given under Rule 10.2(a) is unable to be asked through lack of time, that question shall receive a written answer from the leader or portfolio holder concerned and a copy of the question and the answer shall be circulated to all other members

10.3 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and all other members.

10.4 On reports of a committee

A member of the Council may ask the chairman of a committee any question without notice upon an item of the report of the committee when that item is being received or under consideration by the Council

10.5 Questions on notice at full Council

Subject to Rule 10.7, a member of the Council may ask the chairman of the Council or the chairman of any committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affects the area.

10.6 Questions on notice at committees and sub-committees

Subject to Rule 10.7, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that committee or sub-committee

10.7 Notice of questions

A member may only ask a question under Rule 10.5 or 10.6 if either:

- (a) they have given at least one working day's notice in writing of the question to the Corporate Director (Monitoring Officer); or
- (b) the question relates to urgent matters, they have the consent of the chairman to whom the question is to be put and the content of the question is given to the Corporate Director (Monitoring Officer) by 10.00 a.m. on the day of the meeting

10.8 Response

An answer to a question put under Rules 10.4, 10.5 or 10.6 shall take any of the forms set out in Rule 10.3

10.9 Supplementary question

A member asking a question under Rules 10.4, 10.5 or 10.6 may make a response to the question or may ask one supplementary question without notice to the member to whom the first question was asked. The response or supplemental question must arise directly out of the original question or the reply.

10.10 Length of Questions/Responses

Each question and each response under this Rule 10 shall be restricted to three minutes.

11 MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rule 12, and notice of a motion to remove the Leader as set out in 11.2 below, written notice of every motion, signed by at least one member, must be delivered to the Corporate Director (Monitoring Officer) not later than 10 days before the date of the meeting. These will be entered in a book open to public inspection.

11.2 Notice to Remove the Leader

Written notice, signed by three Councillors calling for the removal of the Leader and the appointment of another named Councillor as Leader, must be delivered to the Corporate Director (Monitoring Officer) not later than 10 days before the date of the meeting. This will be entered in a book open to public inspection.

11.3 Motion set out in agenda

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

11.4 Scope

Motions must be about matters for which the Council has a responsibility or which affect the area.

12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

13. RULES OF DEBATE

13.1 No speeches until motion seconded

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

13.2 Right to require motion in writing

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

13.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

13.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the chairman.

13.5 When a member may speak again

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

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

13.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - i. to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - ii. to leave out words;
 - iii. to leave out words and insert or add others; or
 - iv. to insert or add words.

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

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.7 Alteration of motion

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

13.8 Withdrawal of motion

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

13.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

13.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

13.11 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - i. to proceed to the next business;
 - ii. that the question be now put;
 - iii. to adjourn a debate; or
 - iv. to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

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

13.12 Point of order

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

13.13 Personal explanation

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

14. STATE OF SOUTH LAKELAND DEBATE

14.1 Calling of debate

The leader will call a state of South Lakeland debate annually on a date and in a form to be agreed with the chairman.

14.2 Form of debate

The leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of South Lakeland debate.

14.3 Chairing of debate

The debate will be chaired by the chairman.

14.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the leader in proposing the budget and policy framework to the Council for the coming year.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least six members.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least six members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. VOTING

16.1 Majority

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

16.2 Chairman's casting vote

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

16.3 Show of hands

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

16.4 Ballots

The vote will take place by ballot if eight members present at the meeting demand it. The chairman will announce the numerical result of the ballot immediately the result is known.

16.5 Recorded vote

If eight members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

16.6 Right to require individual vote to be recorded

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

16.7 Voting on appointments

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

17. MINUTES

17.1 Signing the minutes

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

17.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

18. RECORD OF ATTENDANCE

The Corporate Director (Monitoring Officer) will keep a record of attendance at every meeting.

19 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to speak

When a member speaks at full Council they must normally stand and address the meeting through the Chairman. If more than one member stands, the chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

20.2 Chairman standing

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

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

20.5 General disturbance

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

21. DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

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

21.2 Clearance of part of meeting room

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

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**22.1 Suspension**

All of these Council Rules of Procedure except Rules 16.6 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

22.2 Amendment

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

23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

- 23.1 All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Subject to Rule 23.2, only Rules 4.1, 6-7, 10-13, 15-23 (but not Rule 20.1) apply to meetings of committees and sub-committees.
- 23.2 In the case of Lake Administration Committee the quorum of a meeting will be one quarter of the whole membership of that Committee comprising Council Members and Co-opted Members and of those persons present the Members of the Council shall be in the majority.

APPENDIX 1

SOUTH LAKELAND DISTRICT COUNCIL

FORM OF PUBLIC PARTICIPATION/GUIDELINES AND PROCEDURES FOR THE ASKING OF QUESTIONS OR FOR PRESENTING DEPUTATIONS/PETITIONS

A. The General Public Participation Scheme

1. As part of its commitment to community governance and openness, South Lakeland District Council welcomes and encourages attendance and contributions by the public at its meetings. Information on when the Council, its Committees and the Cabinet meets can be found on the Council's website www.southlakeland.gov.uk or by contacting the Democratic and Member Services Manager.
2. The section of the meeting set aside for public contributions is known as "Public Participation". Some Committees, e.g. planning, licensing-sub have separate procedures for public speaking and these are referred to below. The General Public Participation Scheme applies to the following meetings –
 - a. Council (except the Annual Council meeting);
 - b. Cabinet;
 - c. Communities Overview and Scrutiny Committee;
 - d. Resources and Partnerships Overview and Scrutiny Committee;
 - e. Lake Administration Committee; and
 - f. Licensing Committee.
3. On meetings where there is no specific agenda item for public participation, any requests to speak are at the discretion of the Chair.
4. In addition, any part of a meeting where the meeting has decided that the press and public should be excluded under Access to Information Procedure Rules means that public participation cannot be included in the business.
5. Public Participation allows the public to make representations, put a question or present a petition or deputation to a meeting. However, it should be noted that public participants are not subject to the privilege rule and, therefore, individuals who take part should have regard to the laws governing defamation, libel and slander.
6. In order to ensure that Public Participation runs smoothly, the Council has adopted the procedure set out on the following pages.
7. The Public Participation Scheme is open to the following people:-
 - a resident and/or elector of South Lakeland District;
 - a representative of a South Lakeland District based group or organisation;
 - a representative of a town or parish council within South Lakeland District;
 - a business ratepayer of South Lakeland District; or
 - Anyone else, subject to the discretion of the Chairman.
8. Questions, representations, deputations or petitions must relate to those issues which are the responsibility of the meeting to which they are to be made. (For advice on this please contact the Democratic and Member Services Manager).

9. Public Participation at a meeting is not permitted where the issue relates to the circumstances of an individual, matters covered by legal or other proceedings or about a member of staff.
10. Representations can be made in respect of any item on the agenda for the meeting, unless the item, or specific part of the item, is confidential or exempt under the Access to Information Procedure Rules.
11. Public Participation time is restricted to 15 minutes at the start of each meeting
12. Requests must be made to the Democratic and Member Services Manager before the commencement of the meeting. Speakers will be allowed to speak in the order that their requests to speak have been received. However, where requests are made in writing, priority will be given to those requests within the time allocated.
13. Requests should include the following details:-
 - Name
 - Address
 - Contact telephone number
 - Whether you are asking a question, making representations, presenting a petition or deputation
 - Details of the question, representations and nature of the deputation or petition being made.
 - The names of those who are part of the deputation, subject to a maximum of 5 people.
 - Petitions – please see the Council's Petitions Scheme at Appendix 2.
14. Questions received will be put first, followed by representations, deputations, then petitions.
15. The Council's Monitoring Officer reserves the right to omit or refuse a request which includes any matter which appears to be defamatory, frivolous, offensive or for any other legitimate reason. In these cases, where time permits, the person concerned will be informed in writing of the reason for omission or refusal.
16. The Democratic and Member Services Manager will contact an individual, where time permits, if any clarification is needed regarding the request to participate and will let them know, in writing where possible, where and when the meeting is being held.
17. Each speaker in turn will be given 3 minutes to either make their representations, put their question or present their deputation or petition to the meeting.
18. A person who has submitted written authority to speak on behalf of a number of individuals may be allowed up to 5 minutes to make their comments or put their question. However, this provision does not apply where the other individual is one of the following:-
 - a family member
 - a partner
 - a business associate
 - a member of the same organisation
19. The time limits stated above may be varied at the discretion of the Chairman.

20. The manner in which public participation is responded to is at the discretion of the Chairman and may (but not necessarily) take one of the following forms:-
 - the Chairman or officers may answer any questions raised;
 - the issue may be discussed by Members under an agenda item;
 - the meeting can resolve that the matter should be referred to the appropriate Committee, or
 - the Chairman may decide that a written response is more appropriate. In this case, a written response will be given within 7 working days of the meeting.
21. Only one petitioner may hand in a petition to the Chairman and will be given the opportunity to address Members on the issue, subject to a maximum period of 5 minutes.
22. If a speaker wishes to ask a question, then the question should be submitted in writing when submitting the application to speak at the meeting. This will give the Chairman and officers the ability to consider a response. Questions must be about matters which are the responsibility of the Council or which affect the District.
23. Should any questions not be dealt with during the allotted Public Participation period, the Democratic and Member Services Manager will refer the question to the appropriate officer for a written answer to be given within 7 working days of the date of the meeting.
24. The Chairman will ask the person who requested to present a question, petition, make representations or present a deputation to put it to the meeting.
25. If you are not able to attend the meeting, you should contact the Democratic and Member Services Manager as soon as possible. In some cases arrangements may be made for someone else to attend on your behalf.
26. A person who has spoken at one of the Council's meetings may not speak on the same matter at the next or any subsequent Council meeting within six months.
27. Where an issue has been the subject of a Public Participation item at a committee meeting or Cabinet, a person may not speak on the same subject, or a related issue, at any subsequent meeting without the express consent of the Chairman.
28. Any disruptive behaviour may result in the Chairman adjourning the meeting and/or the individual concerned being asked to leave.
29. The use of video (including mobile phones) and/or tape recordings is not permitted in the public gallery unless the express permission of the Chairman has been obtained prior to the meeting.
30. All mobile phones should be switched off during the meeting to avoid disruption.

B. Public Participation at Planning Committee Regarding Specific Planning Applications

1. Any person (with the exception of the applicant or their agent) who has a material planning interest in the outcome of a planning application and has submitted a written request to speak prior to noon, on the last working day before the meeting date will be allowed to speak at the Council's Planning Committee on individual applications.

PLEASE NOTE THAT REQUESTS SHOULD BE ADDRESSED TO THE DEMOCRATIC AND MEMBER SERVICES MANAGER.

2. The following points should be noted: -
- a) Although there is no specific time period allocated to the public participation period relating to planning applications on the Planning Committee agenda, within that period, the time restrictions for individual speakers is the same as for the General Public Participation Scheme. (i.e. Individuals are allowed 3 minutes, a representative of a group is allowed 5 minutes, applicants or their agents are normally allowed 3 minutes but, where a number of representations have been heard on a specific application, the Chairman may permit the applicant or their agent to have up to 5 minutes to respond.
 - b) Normally, requests to speak on planning applications will be taken in the order in which they appear on the printed Agenda for the meeting. However, it should be noted that this can vary at the discretion of the Chairman.
 - c) Although applicants or their agents are not able to apply to speak on their own applications under this scheme, they do have the automatic right to respond to a representation made regarding their planning application. They do not need to apply to respond.
 - d) Any presentations must be limited to land use-planning considerations. The appropriate Planning Officer will be able to provide guidance in this respect.
 - e) Requests to speak which are received after the deadline will not be permitted.
 - f) A request to speak must include the speaker's name, address and contact telephone number, details of the relevant application and indicate whether the person wishes to object, support or comment on the proposal.
 - g) Speakers must submit copies of any letter, photographs, plans, etc., which they wish the Planning Committee to take account of at the same time as when they register their request to speak. (Due to the cost and staffing implications it is not possible to provide photocopying facilities. It should also be noted that it is unreasonable to expect Members to give careful consideration to large amounts of written or other material whilst listening to a presentation from a speaker. Therefore, the production of lengthy handouts and other materials will not be acceptable.)
 - h) Whilst there is no limit on the number of speakers, any group of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. (Please read the section under General Public Participation Scheme regarding the limitations on the definition of group members).
 - i) While every attempt will be made to contact an applicant, it is the applicant's responsibility to find out if a request to speak on their application has been made. The Democratic Services Section will be able to advise on this point.
 - j) A list of those speakers who have registered to speak on planning applications within the prescribed time limits will be given to the Chairman at the start of the meeting. Only those people will be allowed to speak at the meeting.
 - k) When the Committee comes to that part of the meeting where representations on planning applications are to be heard the following procedure will be adhered to:-
 - Subject to the will of the Committee, each application where a request to speak has been made will be heard in numerical order as per the printed Agenda;
 - Where more than one person, or group of people, have asked to speak on the same application, they will normally be heard in the order that the applications to speak have been received;

- the applicant, or their agent, will be asked to respond;
 - the Planning Officer will be asked to give their report on the application; and
 - the Committee will then debate the item.
- l) Where a speaker, applicant or agent, is not present in the room when they are called to address the Committee by the Chairman they will lose their right to speak on the application.
- m) Speakers on planning applications are not permitted to ask questions of Members or officers at the meeting.
- n) Committee Members are not permitted to cross-examine speakers at the meeting.
- o) Where an application is deferred, e.g. For a site visit by the Committee, anyone, or group, who has spoken on the application will not be permitted to speak again unless the application has been significantly amended. The relevant Planning Officer can provide clarification on this point. (As the applicant or agent always has the right of reply, they are not restricted to only being permitted to speak once on their application but cannot defer their right to reply to another meeting)
- p) Where the Committee is recommended to visit the site before making a decision, any speakers on the item will be given the opportunity to defer making their representations until the application comes before the Committee again. This does not apply to applicants or their agents.

C. Public Participation at Licensing Sub-Committees Regarding Specific Licensing Applications

Licensing Hearings

1. In general, the applicant for a licence will be allowed to speak at a hearing in line with the agreed protocol for hearings. (Details of the procedure are available to view on the Council's website or by contacting the Public Health and Licensing Manager). In addition, responsible authorities or "interested parties" who make valid representations within the consultation period (28 days for a premises licence) will also be allowed to speak to outline their representation or objection to the application. "Interested parties" may be represented if they so wish but must inform the Public Health and Licensing Manager in writing if they wish someone else to speak on their behalf.
2. "Interested parties" are the bodies or individuals who are entitled to make representations to the District Council on applications for the grant, variation or review of premises licences. In addition, interested parties may themselves seek a review of a premises licence. The group deemed to be interested parties includes -
 - a person living in the vicinity of the premises in question;
 - a body representing persons living in that vicinity e.g. A residents' association, parish council;
 - a person involved in a business in the vicinity of the premises in question. (This will be given its widest possible interpretation and will not necessarily be confined to those engaged in trade and commerce e.g. Partnerships, charities, churches and medical practices; and
 - a body representing persons involved in such businesses e.g. a trade association.
3. Any of these individuals or groups may specifically request a representative to make his, her or its representation on his, her or its behalf e.g. A legal representative, a friend, a Member of Parliament, a local ward Councillor, could act in such a capacity.
4. However, a local ward Councillor who was also a Member of the Licensing Committee and who is making a representation on behalf of the interested party would be expected not to take part or have any involvement with the decision-making process.

5. "Responsible authorities" include public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premise licence.
6. All representations made by responsible authorities are relevant representations if they concern the effect of the application on the licensing objectives. For all premises, these include the Chief Officer of Police, the local fire authority, the local enforcement agency for the Health and Safety at Work Act 1974, the local authority with responsibility for environmental health, the local planning authority, any body that represents those who are responsible for, or interest in, matters relating to the protection of children from harm and is recognised by the licensing authority as being competent to advise it on such matters and the local trading standards authority.

Procedures for Hearings in relation to Licensing applications can be viewed on the Council's website or obtained from the Public Health and Licensing Manager.

D. PUBLIC PARTICIPATION AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

Overview and Scrutiny Committees work differently to other committees in their questioning procedures. After an Overview and Scrutiny Committee discusses an item on the agenda, but before a decision is taken, there is the opportunity for those present at the meeting who are not committee members to ask questions. Any Councillors present will be given this opportunity first, followed by members of the public. There is no requirement for prior notification of an intention to speak, but any time restrictions regarding the length of speeches are at the Chairman's discretion.

E. MEMBERS AND PUBLIC PARTICIPATION

Under the provisions of paragraph 12(2) of the Council's Code of Conduct, Members who have a prejudicial interest in a matter have the same rights as a member of the public to speak at a meeting on the matter. They may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business. However, once they have spoken they must leave the room before any debate starts. In addition, Members must state the nature and extent of their prejudicial interest before speaking and may not take part in the discussion or observe the vote.

CONTACT DETAILS

Democratic and Member Services Manager
 South Lakeland District Council
 South Lakeland House
 Lowther Street
 Kendal
 LA9 4 UQ

Tel: 0139 717440
 Fax: 01539 740300
 Email: committeeservices@southlakeland.gov.uk

Public Health and Licensing Manager (for Licensing issues)
 South Lakeland District Council
 South Lakeland House
 Lowther Street
 Kendal
 LA9 4UQ

Tel: 01539 717468
 Fax: 01539 740300
 Email: licensing@southlakeland.gov.uk

Development Control Manager (for Planning issues)
South Lakeland District Council
Lowther Street
Kendal
LA9 4UQ

Tel: 01539 797564

Email: development.control@southlakeland.gov.uk

APPENDIX 2

The following scheme will take effect from 15 June 2010, when the Regulations come into force. Please note, however, that those parts of the scheme relating to e-Petitioning and typed in italics, will not come into effect until after full implementation of the Petitions Legislation and establishment of an e-Petition system on the Council's Website by 15 December 2010.

PETITIONS SCHEME

The petitions process allows members of the public to have direct influence on the political process and to raise concerns that are important to them. A petition is defined as a communication in writing or using an electronic facility which is signed by the appropriate number of qualifying persons.

1. Types of petitions

Essentially there are three types of petitions:

“Ordinary” petitions

These must be signed by at least 30 people but the Council will use its discretion where there are fewer than 30 signatories in cases where there is clear local support for action (e.g. where all the residents of an isolated community have petitioned for action on an issue of local concern).

Petitions requiring debate

Petitions which contain 1000 signatures or more will be debated by the Full Council. (see section 6 for more information)

Petitions to hold a Senior Council Officer to account

Petitions which call for evidence from a Senior Council Officer and have at least 500 signatures will trigger that response. (see section 7 for more information)

2. What sort of issues can be the subject of a petition?

Members of the public can submit petitions on the following

- Issues relating to the Council's responsibilities
- Issues which affect the District of South Lakeland or communities in the area, as long as the Council is in a position to exercise some degree of influence.
- Anything relating to an improvement in the economic, social or environmental well-being of the District to which any of the Council's partners could contribute

The Council will respond to all the petitions it receives and we will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.

Before submitting a petition you should first check with your local councillor or with the Council so see if the Council is already acting on your concerns and that the District Council is the most appropriate body to receive your petition as sometimes your petition may be more appropriate for another public body such as the County Council.

All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to the Democratic Services Manager (contact details are available at the end of this guidance).

Or be created, signed and submitted online by following this link (to be included).

Petitions can also be presented to a meeting of the Council. The dates and times of these meetings can be found on the Council's website www.southlakeland.gov.uk. If you would like to present your petition to the Council, or would like your Councillor to present it on your behalf, please contact the Democratic Services Manager in writing (email committeeservices@southlakeland.gov.uk) at least 5 working days before the meeting. If you would like to discuss this please contact the Democratic Services Manager on 01539 7171440 and they will talk you through the process.

Who can submit a petition?

Anyone who lives, works or studies in the District of South Lakeland, including under 18s, can sign or organise a petition.

3. What are the guidelines for submitting a petition?

Petitions submitted to the Council must include –

- A clear and concise statement covering the subject of the petition. It should also state what action the petitioners wish the Council to take.
- The name, address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. Petitions which do not identify a petition organiser will not be accepted.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

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

An acknowledgement will be sent to the petition organiser within 10 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.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (e.g. requesting a referendum on having an elected mayor), or on a matter where there is already a right of appeal, such as Council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available on the Council's website.

We will not take action on any petition which we consider to be vexatious (annoying), abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgment of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (personal details will be removed). ***When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.***

5. How will the Council respond to petitions?

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 –

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by one of the Council's Overview and Scrutiny Committees*
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition

*Overview and Scrutiny Committees are Committees of Councillors and co-opted members who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committees have the power to hold the Council's decision makers to account.

In the vast majority of cases your petition will be submitted to one of the Council's formal meetings where elected councillors will decide how to respond to the petition. These meetings will be held in public and petitioners are welcome to attend to meeting to observe the proceedings. The petition organiser will be entitled to briefly address the meeting.

Depending on the subject matter your petition will be submitted to either the Full Council, the Cabinet or one of the Council's Overview and Scrutiny Committees. There are two exceptions to this –

- If your petition contains more than 1000 signatures then it must be debated by the Full Council.
- If your petition is asking for a Senior Council Officer to give evidence at a public meeting then it will be considered by one of the Council's Overview and Scrutiny Committees provided it contains at least 500 signatures.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
Alcohol related crime and disorder	If your petition is about crime and disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public places order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.

Petition subject	Appropriate steps
Anti-social behaviour	As the elected representative or your local area, as social landlord and licensing authority, the Council plays a significant role in tackling anti-social behaviour. The Council, in conjunction with other partners in the South Lakeland Crime and Disorder Reduction Partnership have set out minim service standards for responding to issues of anti-social behaviour. You can find more details of these standards here (insert link)

If your petition is about something over which the Council has no direct control e.g. the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are unable to do this for any reason (e.g. if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find out more information on the services for which the Council is responsible on our website www.southlakeland.gov.uk.

If your petition is about something that a different Council is responsible for, we will give consideration to what is the best method for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

6. Full Council Debates

If a petition contains more than 1000 signatures it will be debated by Full Council unless it is a petition asking for a senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillor can attend. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. The petition organiser will receive written confirmation of the decision. This confirmation will also be published on the website.

7. Officer Evidence

Your petition may ask for a Senior Council Officer to give evidence at a public meeting about something for which the Officer is responsible as part of their job e.g. your petition may ask a Senior Council Officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision.

If your petition contains at least 500 signatures, the relevant Senior Officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. The list of Senior staff that can be called to give evidence is below –

- Chief Executive
- Corporate Director (Monitoring Officer)
- Corporate Director (Vision and Strategy)
- Corporate Director (Communities)
- Assistant Director (Resources) and Section 151 Officer

You should be aware that the Overview and Scrutiny Committees 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. Committee Members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting the Democratic Services Manager, up to three working days before the meeting.

After the meeting the Committee will submit a report to the authority within 14 working days and this report will be considered at the next meeting of the authority. The petition organiser will receive a copy of this report.

8. Are there any petitions which the Council cannot accept?

We believe that the vast majority of petitions we receive will be accepted but in certain circumstances petitions may not be accepted, including:-

- If the petition applies to a planning application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal or a separate complaints process
- Any petition which we consider to be vexatious, abusive or otherwise inappropriate. We will explain the reasons for this in our acknowledgement of the petition.
- Where a person or organisation (or someone on their behalf) has submitted a petition which is the same or substantially the same as one submitted within the previous 12 months

If we decide that a petition is not acceptable then we will let the petition organiser know our reasons.

9. E-petitions

The Council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions (see above). The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you 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.

When an e-petition has closed for signature, it will automatically be submitted to the Democratic Services Manager. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the Council, please contact the Democratic Services Manager within five days of the petition closing.

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 the Council's website.

10 How do I “sign” an e-petition?

You can see all the e-petitions currently available for signature here (link to be included).

When you sign an e-petition you will be asked to provide your name, postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your "signature" will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

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

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that one of the Council's Overview and Scrutiny Committees review the steps that the Council has taken in response to your petition.

The Committee will consider your request within 30 days of receiving it. Should the Committee determine we have not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's executive and arranging for the matter to be considered at a meeting of the Full Council.

Once the appeal has been considered the petition organiser will be informed of the results with 5 working days. The results of the review will also be published on our website.

12. Is there anything else I can do to have my say?

The Council recognises that petitions are just one way in which people can let us know about their concerns. There are a number of other ways in which you can have your say including asking questions at Council meetings and through the Council's complaints system.

If you have any queries on the Petitions Scheme please contact –

The Democratic Services Manager
South Lakeland District Council
South Lakeland House
Lowther Street
Kendal
LA9 4UQ

Telephone 01539 717440

Email – committeeservices@southlakeland.gov.uk

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), the Standards Committee and regulatory and other committees and public meetings of the Cabinet (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at South Lakeland House, Kendal, Cumbria.

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 at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

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 in the agenda; and
- (c) if the Corporate Director (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.

7. ACCESS TO MINUTES ETC 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 meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/ her opinion:

- (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 Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

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 is kept at and made available to the public at the Council's main 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.

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 on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any condition):

Category

- 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.

Where a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, is convened to consider a matter referred under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58 (1) of the Local Government Act 2000. The provisions of Parts 1 to 3 of Schedule 12A to the Local Government Act 1972 still apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted -

- 7A Information which is subject to any obligation of confidentiality.
- 7B Information which relates in any way to matters concerning national security.
- 7C Information presented to a Standards Committee or of a Sub-Committee of a Standards Committee set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee [England] Regulations 2008, or referred under Section 58[1] of the Local Government Act 2000.

Conditions:

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under -

- a) The Companies Act 1985;
- b) The Friendly Societies Act 1974;
- c) The Friendly Societies Act 1992;
- d) The Industrial and Provident Societies Acts 1965 to 1978;
- e) The Building Societies Act 1986; or
- f) The Charities Act 1993.

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.

Information which -

- a) Falls within any of paragraphs 1 to 7 above; and
- b) Is not prevented from being exempt by virtue of paragraph 8 or 9 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.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Corporate Director (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 Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE CABINET

Rules 13 - 24 apply to the Cabinet and its committees. If the Cabinet 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. A key decision is as defined in Article 13.03 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

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

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN

14.1 Period of forward plan

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

14.2 Contents of the forward plan

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

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

14.3 Publication of the forward plan

The forward plan must be published at least 14 days before the start of the period covered. The Corporate Director (Monitoring Officer) will publish once a year a notice in at least one newspaper circulating in the area, stating:

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

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 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 defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public unless the information is exempt.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the chairman of the Council, or in his/ her absence the vice chairman will suffice.

17. REPORT TO COUNCIL

17.1 When an overview and scrutiny committee can require a report

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the chairman/ vice chairman of the Council under Rule 16;

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to 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 Quarterly reports on special urgency decisions

In any event the leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

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

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will meet in public for all its decisions, except where they relate to exempt or confidential matters.

20. OFFICERS

The head of the paid service, the chief finance officer and the monitoring officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.

21. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

21.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which he/ she intends to take into account in making any key decision, then he/ she will not make the decision until at least 5 clear days after receipt of that report.

21.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

21.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/ she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political adviser.

22. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet.

22.2 Limit on rights

An overview and scrutiny committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 7, 7A, 7B and 7C of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

23.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 23.1 (a) or (b) above applies.

23.3 Nature of rights

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

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for executive decisions

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

2. Process for developing the framework

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

- (a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Cabinet Member and the Chairmen of Overview and Scrutiny Committees will also be notified. The consultation period in each instance will ideally be not less than 8 weeks but no longer than 12 weeks.
- (b) During a consultation period, the relevant Overview and Scrutiny Committee may investigate and research the subject matter and may report to the Cabinet in detail on the policy recommendations before the end of the consultation period.
- (c) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses received to the consultation, including any report from an Overview and Scrutiny Committee. The report to Council, which accompanies the firm proposals, will summarise all comments made by consultees and the Cabinet's response to those comments.
- (d) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- (e) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or, in principle, substitute its own proposals in their place.
- (f) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (g) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (h) An in-principle decision will automatically become effective five working days from the date of the Council's decision, unless the Leader informs the proper officer in writing within that period that he/she objects to the decision becoming effective and provides reasons why.
- (i) In that event, the proper officer will call a Council meeting to be held within a further fifteen working days. At that meeting, the Council will reconsider its decision and the Leader's written submission. The Council may
 - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
 - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.

- (j) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (k) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and the degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rules 5 to 8 of these Rules. Any other changes to the budget and policy framework are reserved to the Council.
- (l) Where the proposals are submitted before the 8th February in any year and relate to:
- 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;
 - estimates of other amounts to be used for the purposes of such a calculation; or
 - estimates of such a calculation;

other than calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; or

- amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992 other than amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act

and following consideration of the proposals the Council wishes to amend them, refer them back to the Cabinet for further consideration, or substitute its own “in-principle proposals” in their place, the Council must follow the procedure set out in paragraphs (h) to (j) above with reference to “revised proposals” meaning “revised estimates or amounts”.

- (m) Where the proposals are submitted after 8th February in any year, the Council’s decision is final.

3. Decisions outside the budget or policy framework

- (a) Subject to the provisions of paragraph 5 the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons 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 paragraph 4 below.
- (b) If the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/ or the chief financial 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 paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the budget or policy framework

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements 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 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 chair of a relevant 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 chair of the relevant overview and scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant overview and scrutiny committee the consent of the chairman of the Council, and in the absence of both the vice-chairman, 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.

5. Supplementary Revenue Estimates, Unspent Estimates and Transfer of Estimates

The Procedures for these items are set out under the Financial Procedure Rules of the Constitution.

6. Capital Expenditure

- (a) Capital Expenditure shall not be incurred until the Cabinet has considered a report from the Assistant Director (Resources) and approved a capital estimate.
- (b) The Cabinet may adjust the phasing of expenditure, by deferment or advancement, of existing schemes in the Capital Programme.
- (c) The Cabinet may transfer Capital Programme provisions from one approved scheme to another approved scheme, subject to a limit of £25,000 per individual transfer.
- (d) The Cabinet may allocate available capital resources within the Programme to new schemes which are urgent, necessary and generally in accordance with Council priorities, subject to a limit of £25,000 per individual allocation, provided in all cases that the Assistant Director (Resources) is consulted and is satisfied with the affordability and advisability of the proposed use of resources.

Beyond these limits, amendments to the Capital Programme can only be made by Council.

7. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging Cabinet 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.

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

- (a) Where an 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 financial officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the monitoring officer's report and/ or chief financial officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to 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 financial 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 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. The Council shall meet within ten working days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/ or the chief financial 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 regulations 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, the Council require the Cabinet to reconsider the matter in accordance with the advice of either the monitoring officer/ chief finance officer.

CABINET PROCEDURE RULES

1. HOW DOES THE CABINET OPERATE?

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

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

1.2 Delegation by the leader

At the annual meeting of the Council, the leader will present to the Council a written record of delegations made by him/ her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- i) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- ii) the terms of reference and constitution of such executive committees as the leader appoints and the names of Cabinet members appointed to them;
- iii) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
- iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (c) Unless the leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the leader is able to decide whether to delegate executive functions, he/ she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the leader must give written notice to the proper officer 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, committee or the Cabinet as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the leader.
- (c) Where the leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the leader has served it on its chairman.

1.5 Conflicts of Interest

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member 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 Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Cabinet meetings - when and where?

The Cabinet will meet at least 12 times per year at times to be agreed by the leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the leader.

1.7 Public or private meetings of the Cabinet?

Meetings of the Cabinet will be open to the press and public, subject to the normal rules on exempt information in Schedule 12A of the Local Government Act 1972 (see Rule 10 of the Access to Information Procedure Rules).

1.8 Quorum

The quorum for a meeting of the Cabinet shall be three.

1.9 How are decisions to be taken by the Cabinet?

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

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1 Who presides?

If the leader is present he/ she will preside. In his/ her absence, then the Deputy Leader, or in his/her absence a person appointed to do so by those present shall preside.

2.2 Who may attend?

See 1.7 above.

2.3 What business?

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

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Cabinet (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Cabinet in accordance with the 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 from overview and scrutiny committees;
- v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution; and
- vi) reports from the Chief Executive and Directors.

2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the Cabinet agenda?

The leader will decide upon the schedule for the meetings of the Cabinet. He/ she may put on the agenda of any Cabinet meeting any matter which he/ she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.

- (a) Any member of the Cabinet may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/ she receives such a request the proper officer will comply.
- (b) The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the Cabinet.
- (c) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by overview and scrutiny committees.

- (d) Any member of the Council may ask the leader to put an item on the agenda of an Cabinet meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. [This individual will be invited to attend the meeting, whether or not it is a public meeting.]
- (e) The monitoring officer and/ or the chief finance officer may include an item for consideration on the agenda of an Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. **What will be the number and arrangements for overview and scrutiny committees?**

The Council will have the overview and scrutiny committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees.

In addition a co-ordinating board comprising the chairs and vice-chairs of the overview and scrutiny committees, and one member appointed by each of the committees (a membership of six in total) will be set up to make administrative decisions in relation to the work of these committees with the following terms of reference:-

The purpose of the board is:

- (a) to co-ordinate the use of resources available;
- (b) to prioritise scrutiny work programmes;
- (c) to ensure that projects are properly scoped;
- (d) to foster best practice amongst the Overview and Scrutiny Committees;
- (e) to report to Council annually on the programme of work and to discuss any improvements to be made;
- (f) to consider whether a Councillor Call for Action should be placed on an overview and scrutiny committee agenda in accordance with the approved Councillor Call for Action Scheme.

Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

2. **Who may sit on overview and scrutiny committees?**

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

3. **Co-optees**

- (a) Each overview and scrutiny committee shall be entitled to appoint up to 25% of the total membership of the Committee as non-voting or voting Co-optees.
- (b) The Council operates a Scheme of Voting Rights for Co-opted Members of Overview and Scrutiny Committees. If Co-optees are to be voting co-optees then their appointment must be approved by Full Council before they can take up their voting rights.
- (c) The exercise of voting rights for Co-optees must be in accordance with the Council's Scheme of Voting Rights for Co-opted Members of Overview and Scrutiny Committees.

4. **Meetings of the overview and scrutiny committees**

There shall be at least five ordinary meetings of each overview and scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny committee meeting may be called by the chair of the relevant overview and scrutiny committee, by any three elected members of the committee or by the proper officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution. For the avoidance of doubt the number for a quorum relates to the number of elected members and does not include co-optees.

6. **Who chairs overview and scrutiny committee meetings?**

Chairs of overview and scrutiny committees will be drawn from among the councillors sitting on the committee and, subject to this requirement, the committee may appoint such a person as it considers appropriate as chair.

7. Work programme

Subject to the role of the Co-ordination Board each overview and scrutiny committee will be responsible for setting its own work programme and, in doing so, it shall take into account the wishes of members on that committee.

8. Agenda items

Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Proper Officer that he/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. On receipt of such a request, the proper officer will ensure that it is included on the next available agenda. Any three members of the Council who are not members of the overview and scrutiny committee may give written notice to the proper officer that they wish an item to be included on the agenda of that relevant overview and scrutiny committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the relevant overview and scrutiny committee for consideration by the committee.

The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the overview and scrutiny committee within one month of receiving it.

9. Councillor Call for Action

The Council has a Councillor Call for Action Scheme, details of which are attached to these procedural rules. Upon receipt of a Councillor Call for Action request, the Overview and Scrutiny Co-ordination Board shall convene a meeting within ten working days of the request being received. If the Councillor Call for Action is accepted by the Board, a meeting of the relevant Overview and Scrutiny Committee shall be convened within ten working days to consider the Councillor Call for Action.

10. Policy review and development

- (a) The role of the overview and scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, overview and scrutiny committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11. Reports from overview and scrutiny committee

- (a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- (b) If an overview and scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the overview and scrutiny committee within eight weeks of it being submitted to the proper officer.

12. Making sure that overview and scrutiny reports are considered by the Cabinet or policy committees

Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy framework. If the proper officer refers the matter to Council, he/she will also serve a copy on the leader with notice that the matter is to be referred to Council. The Cabinet will have four weeks in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an overview and scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet.

Where an overview and scrutiny committee or sub-committee prepares a report for consideration by the Cabinet in relation to a matter where the leader of the Council has delegated decision making powers to another individual member of the Cabinet, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the proper officer and the leader. If the member with delegated decision making powers does not accept the recommendations of the overview and scrutiny committee, then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the overview and scrutiny committee. The Cabinet member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.

Overview and scrutiny committees will, in any event, have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

13. Rights of overview and scrutiny committee members to documents

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

14. Members and officers giving account

- (a) Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. as well as reviewing documentation, in fulfilling the scrutiny role, it may require the leader/any (other) member of the Cabinet, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:-
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance.

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

- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chair of that committee will inform the proper officer. The proper officer shall inform the member or officer in writing, giving at least ten working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

15. Attendance by others

An overview and scrutiny committee may invite people other than those people referred to in Paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

16. Call-in

Call-in should only be used in exceptional circumstances.

- (a) When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including, where possible, by electronic means, and shall be available at the main offices of the Council normally within two days of being made. Chairs of all overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by the chair of an Overview and Scrutiny Committee, or any three members of the council who are not Cabinet members, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the relevant committee on such date as he/she may determine, where possible after consultation with the chair of the committee and, in any case, the meeting will be called, within ten days of the decision to call-in, for the meeting to be held as soon as practicable, but in any event within one calendar month of the date of the call-in. Those calling in the decision will be notified of this date at the same time as the agenda going out.
- (d) At least two of the three Members who call in the decision will be required to attend the meeting to address the Committee in order to elaborate on the written reasons given for the call-in. Failure to attend the Committee may result in the Executive Decision as submitted being accepted without further debate. The decision maker will also be permitted to explain why the decision was taken and the relevant officer (if different from the decision maker) will also be allowed to be present at the meeting to deal with any issues that may arise. The addresses from the Member(s) calling-in the decision and the decision maker will be heard before the matter is opened up to debate by the Committee'.

- (e) If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further ten working days, amending the decision or not, before adopting a final decision.
- (f) If, following an objection to the decision, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further five working day period, whichever is the earlier.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no powers to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten working days of the Council request.
- (h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

Exceptions

- (i) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use and the process will be monitored as follows:-
 - (i) A decision may only be called-in by the chairman of an Overview and Scrutiny Committee or any three Members of Council who are not members of Cabinet;
 - (ii) The chairmen of the overview and scrutiny committees will meet from time to time to review the exercise of the call-in power and the use of the urgency procedures set out in the following paragraph of this Rule. If the chairmen believe that call-in has been abused or used unreasonably, they shall request the Monitoring Officer to prepare alternative proposals for consideration by the Council to remedy the situation, The chairmen will report annually to the Council on the operation of the call-in provisions.

Call-in and Urgency

- (j) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests. 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. The chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the chairman, the vice-chairman's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (ii) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17. The party whip

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

When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip, the member 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 overview and scrutiny committee meetings

- (a) Overview and scrutiny committees and sub-committees shall consider the following business:-
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
 - (iv) responses of the Cabinet or Council to reports of the overview and scrutiny committee; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:-
 - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and

- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public.

19. Matters within the remit of more than one overview and scrutiny committee

Where an overview and scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another overview and scrutiny committee, before submitting its findings to the Cabinet and/or Council for consideration, the report of the reviewing overview and scrutiny committee shall be considered by the other overview and scrutiny committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration.

TABLE 1**Terms of Reference for Overview and Scrutiny Committees.****Membership**

The Resources and Partnerships Overview and Scrutiny Committee shall have twelve Council Members and up to five co-optees who may vote in accordance with the Council's Scheme of Voting Rights for co-opted members of Overview and Scrutiny Committees.

The Communities Overview and Scrutiny Committee shall have twelve Council Members and up to five co-optees who may vote in accordance with the Council's Scheme of Voting Rights for co-opted members of Overview and Scrutiny Committees.

Terms of Reference

To fulfil all the functions of overview and scrutiny committees in the areas detailed for each of the two committees in Article 6.01 of the Constitution.

SCHEME OF VOTING RIGHTS FOR CO-OPTED MEMBERS OF OVERVIEW & SCRUTINY COMMITTEES

South Lakeland District Council, in exercise of the powers conferred by Schedule 1 of the Local Government Act 2000, as amended by Section 115 of the Local Government Act 2003, adopted the following Scheme on 16 July 2009:-

1.

Citation

This Scheme may be cited as the Scheme for Voting Rights for Co-opted Members of Overview and Scrutiny Committees

2.

Definitions

2.1 This Scheme shall be called "The Scheme of Voting Rights for Co-opted Members of Overview & Scrutiny Committees".

2.2 In this Scheme:

"Council" means South Lakeland District Council

"Councillor" means an Elected Member of South Lakeland District Council.

"Co-optee" means a person who is not a member of the Council but who is a member of an Overview and Scrutiny Committee.

"Overview & Scrutiny Committee" means a Committee appointed pursuant to Section 21 of the Local Government Act 2000

3.

The Scheme

3.1 The Council's Constitution allows for each Overview and Scrutiny Committee to appoint up to 25% of the total membership of an Overview & Scrutiny Committee as co-optees. Where voting co-optees are to be appointed these must be approved by full Council and operate in accordance with this Scheme.

3.2 The Council would like to draw on the experience and knowledge of people within South Lakeland when undertaking its Scrutiny function. There are a number of benefits to giving such co-opted Members voting rights. These include:-

3.2.1 Encouraging a sense of ownership and therefore more involvement by co-opted Members in debates before a Scrutiny Committee.

3.2.2 Allowing non-elected Members of the public a more active voice in scrutiny.

3.2.3 Inclusivity in the decision making process of all who have contributed to a scrutiny process both elected and non-elected Members

3.2.4 Improved quality of decision making by including broader based issues and views.

3.2.5 A pseudo "partnership" approach to scrutiny decision making in line with the Government's "Partnership Agenda".

- 3.3 There are also circumstances where co-opting non-voting Members also adds value to the scrutiny process.
A person specification and role description for a co-opted member on Overview & Scrutiny Committee is attached to this Scheme.

4.

When a Co-optee may vote

Where co-optees have been approved by full Council as voting co-optees they may exercise a vote in considering items of business on Overview and Scrutiny Committees with the exception of those matters under discussion as set out under Paragraph 5 below.

5.

When a Co-optee may not vote

Voting rights will not apply in relation to the following matters of business:

- a) Appointment of Chair/Vice-Chair of the Committee
- a) Call-ins exercised under the relevant provisions of the Local Government Act 2000

6.

Voting Protocol of the Scheme

To recognise the overarching importance of the elected accountability of Council Members the following Voting Protocol will be observed.

- 6.1 The total number of voting co-opted Members on any Overview and Scrutiny Committee will not exceed 25% of the total membership of the Overview & Scrutiny Committee at any one time.
- 6.2 Co-opted Members will exercise their voting rights in accordance with the Principles of Decision Making set out in the Constitution, namely:
- To take into account all relevant considerations and to ignore irrelevant considerations.
 - A realistic evaluation of alternatives and consultation through access by the public to decision-making and decision-makers.
 - Proportionality [ie the action must be proportionate to the desired outcome].
 - Due consultation and the taking of professional advice from Officers.
 - Respect for human rights.
 - A presumption in favour of openness.
 - Clarification of aims and desired outcomes.
 - An explanation of the options that were considered and the reasons for the decision.

7.**General Principles**

- 7.1 This Scheme and arrangements made in accordance with its terms shall be subject to regular review.
- 7.2 Co-opted Members will be subject to the Members' Code of Conduct and must sign a declaration of office and complete a Register entry of any relevant interests.
- 7.3 Co-opted Members will be entitled to an allowance and/or reimbursement of their reasonable expenses in accordance with the Council's Members' Allowances Scheme.

Role of Overview and Scrutiny Co-opted Members

In order to help clarify what is expected of co-opted members on Overview and Scrutiny Committees at South Lakeland District Council the following role descriptions have been drawn up based on best practice.

Key Skills

An ability to act as an independent voice for those who live and / or work in South Lakeland.

An interest in local government and an understanding of how scrutiny fits into the Council's structure.

An ability to establish good relations with Members, Officers and other Co-opted Members.

To be able to work as part of a team.

To have good communication skills and a willingness to take part in meetings and task groups raising questions and comments as necessary.

Duties and Responsibilities – What will be expected of you

To attend an induction session, identify training needs, and have a willingness to attend all subsequent relevant training as required.

Attend the bi-monthly Overview and Scrutiny meetings and any additional Scrutiny Committee meetings agreed to be held by the Chair.

Read and review the agenda provided for the Overview and Scrutiny Committee meeting in advance of the meeting.

Actively participate in the work of the Overview and Scrutiny Committee under the guidance of the Chair.

To bring specialist skills and knowledge to the scrutiny process and / or an external challenge by representing the public and the body from which you have been appointed.

Actively participate in monitoring the Council's decision making process

Investigate the quality of services provided and hold the Executive to account in respect of their actions in carrying out policy.

Take part in task and finish groups as agreed by the Overview and Scrutiny Committee.

If appointed to a task and finish group to undertake those duties and responsibilities associated with this role, (full description found in the Members' Scrutiny Handbook).

Guidance for Councillors

SLDC Councillor Call for Action scheme

What is a Councillor Call for Action?

Ward councillors play a key role in local government as community leaders and champions for local concerns. The Councillor Call for Action (CCfA) strengthens this role and provides councillors with an opportunity to request that the overview and scrutiny committees consider any local problem or issue of concern, after all other attempts to resolve them have been exhausted. CCfA is about helping councillors resolve problems and issues on behalf of their residents.

Overview and scrutiny has powers to scrutinise local authorities and other public bodies across organisational boundaries, and councillors sit at the centre of this process. Councillors have a democratic mandate to challenge existing practice, involve local communities in the decision-making process and help councils change and improve. CCfA should help councillors drive improvements to services provided by the Council and partner organisations.

CCfA is a last resort and is only to be used after all other means of resolving an issue have been exhausted. A CCfA is not appropriate for planning or licensing matters, or any other matter where there is an established complaints procedure. Also a CCfA is not appropriate for an individual complaint about a service, for example someone whose bin hasn't been emptied, or someone who has received a parking ticket.

The Overview and Scrutiny Coordination Board will consider each Councillor Call for Action within ten days of its receipt to ensure that it meets the necessary criteria to be heard.

More information is available over the next couple of pages and there is a flow chart to help guide councillors through the CCfA process.

If a councillor has any questions on CCfA or wishes to raise a CCfA Scrutiny Team will provide help and assistance.

How do I decide if a CCfA is the right approach?

The purpose of CCfA is to act as a means of solving local problems when all other avenues and approaches have failed. Consequently the first step is to establish whether an issue can be resolved through any other means.

There are many avenues open to councillors to help resolve problems – both formal and informal which could be explored before deciding to initiate a CCfA. For example:

- informal discussions with the Portfolio Holder, officers and/or other councillors;
- formal letters written on behalf of constituents;
- public meetings and community campaigns;
- raising the issue at the Local Area Partnership;
- communication with local partner organisations, such as the Police, Primary Care Trust, Environment Agency, the County Council Area Committees and Neighbourhood Forums, and the Local Area Partnerships, etc.
- petitions and deputations;
- written questions or Motions on Notice put to Full Council;
- encouraging constituents to make use of the Public Participation at Meetings scheme;
- communication with local MPs.
- requesting that an item be included on a Committee agenda – currently aside from CCfA arrangements any member of an overview and scrutiny committee or any three non-overview and scrutiny committee councillors may request that an item be placed on an overview and scrutiny agenda;

Councillors wishing to raise CCfAs should think carefully about their reasons for doing so and in particular be sure that all other routes have been explored to resolve the issue.

It is important to recognise that CCfA is not guaranteed to solve a particular problem. CCfA does provide:

- recognition that an issue is significant enough for time, attention and resources to be spent in trying to resolve it;
- a public forum for discussion of issues;
- an opportunity for all parties to discuss an issue in a neutral environment;
- an opportunity to discuss a problem with the explicit aim of resolving it;
- a high-profile process owned by the ward councillor.

Councillors will also need to be clear at the outset about what outcomes they hope to get from the CCfA process. For example will an issue be successfully resolved when:

- the matter has been resolved to the satisfaction of the person or persons who raised the issue with the ward councillor?
- the councillor is satisfied that the desired outcome has been achieved?
- the Overview and Scrutiny Committee have considered the issue and are happy with the outcome?
- a response has been received from Cabinet or other executive body?

If I think that a CCfA is the right approach – how do I go about it?

Any councillor may submit a CCfA request. The request needs to be in writing, should be submitted to the Head of Legal, Democratic and Member Services. A form is available on the Members Section of the website or from the Scrutiny Team.

The request should clearly set out:

- the nature of the problem;
- the action that has been previously taken to try to resolve the problem;
- what outcomes the councillor hopes to achieve from the CCfA;
- which partners if any, for example the County Council, the Police, the LDNPA, etc, are involved.

The Overview and Scrutiny Co-ordination Board will meet to consider each CCfA request and will decide whether the request is valid, or whether the issue may be better resolved through other means. The Overview and Scrutiny Co-ordination Board shall meet and consider each Call for Action within ten days of its receipt. The councillor initiating the CCfA may be asked to attend the Overview and Scrutiny Co-ordination Board meeting to clarify why they have initiated a call for action.

If the Board feels that it is appropriate for overview and scrutiny to consider the CCfA it will be included on the next agenda of the relevant overview and scrutiny committee. Any appropriate partners and witnesses will also be invited to attend to help the overview and scrutiny committee explore how the issue may best be resolved. The overview and scrutiny committee may deal with the CCfA at a single meeting or agree to establish a task group to look at the issue in more detail.

Councillors need to be clear at the outset about what they hope to get out of the CCfA process. The overview and scrutiny committee discussion should focus on the outcomes sought and councillors initiating CCfAs should expect to be challenged at committee.

Having considered the CCfA the overview and scrutiny committee may prepare a report and recommendations for Cabinet or Full Council as appropriate. Alternatively (or in addition) the overview and scrutiny committees may also present their report to the executive of relevant partner organisations.

What will happen at the Overview and Scrutiny Committee meeting?

The Chairman will provide a short introduction to the issues and then invite the councillor who has raised the CCfA to briefly outline the reasons behind the CCfA and the outcomes sought.

The Chairman may then open the discussion and invite other overview and scrutiny committee members to ask questions to help clarify the issues and outcomes sought.

The relevant Portfolio Holder, senior officers and/or representatives from partner organisations will be invited to attend and provide information, respond to questions and assist the Committee arrive at the appropriate outcome.

Do other public bodies and partner organisations have to respond to CCfAs?

Overview and Scrutiny at SLDC has powers to scrutinise a wide range of national, regional and local organisations, including the County Council, Fire and Rescue Authorities, the Police Authority and Chief Officer of Police; Primary Care Trusts, National Park Authorities, Probation Boards, Development Agencies, Youth Offending Teams, the Sports Council, Environment Agency, Health and Safety Executive, Learning and Skills Council, Natural England, the Highway Authority and so on. All partners involved in the Cumbria Local Area Agreement have a duty to respond to CCfAs (contact the Scrutiny team for a full list of partner organisations under a duty to respond).

Partners have a duty to provide information to overview and scrutiny when requested and to consider and respond to overview and scrutiny reports and recommendations, setting out what action they will take in response, or their reasons for taking no action, within two months of receiving the report.

Executive members of partner organisations and/or their officers are not under any obligation to attend overview and scrutiny meetings - but again in the spirit of closer partnership working we hope they will agree to attend and help resolve CCfAs if requested.

CCfA can be a useful tool for partners. It can involve them in working more closely with local councillors and by extension, with local communities. Local councillors can in turn provide valuable advice to partners on local concerns and issues and can act as a vital conduit for information and discussion.

Cumbria has always been at the forefront of joint scrutiny work and all of the Cumbrian local authorities fund a Joint Scrutiny Officer post. The Joint Scrutiny Officer supports councillors serving on the Cumbria Joint Scrutiny Overview Group (the county-wide joint scrutiny body, with councillors from all Cumbrian local authorities).

The Joint Scrutiny Officer will monitor CCfAs countywide and if similar issues are being raised across the county, the Joint Scrutiny Overview Group may carry out countywide scrutiny work on an issue.

Local Crime and Disorder and Community Safety issues.

The Police and Justice Act 2006 introduced a CCfA for local crime and disorder and community safety issues.

Local crime and disorder matters include any matter concerning crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or the misuse of drugs, alcohol and other substances.

Crime and disorder CCfAs will be considered by the Community Services Overview and Scrutiny Committee.

What issues are excluded from the CCfA process?

Regulations state that issues should be excluded from CCfA when they relate to a formal complaints process. These include:

- any planning matter;
- any licensing matter; and
- all other areas where a person has a route to resolve the problem through the established complaints process (for example council tax and non-domestic rates).

It is also not appropriate for some complaints made by individual residents about a service the Council provides to be brought to the attention of the Council through the CCfA process where procedures already exist for resolving such issues. For example if bins have been missed on a waste collection round, residents should call the Contact Centre who will arrange for the bin to be emptied.

However overview and scrutiny may act where it is felt that a series of complaints demonstrates a 'systematic failure' in a particular service area. So for example a large number of individual complaints about waste collection – even if quickly resolved to the satisfaction of the person making the complaint – may lead to scrutiny acting to establish why so many complaints are being made in the first place.

In addition regulations state that 'any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee is to be excluded'.

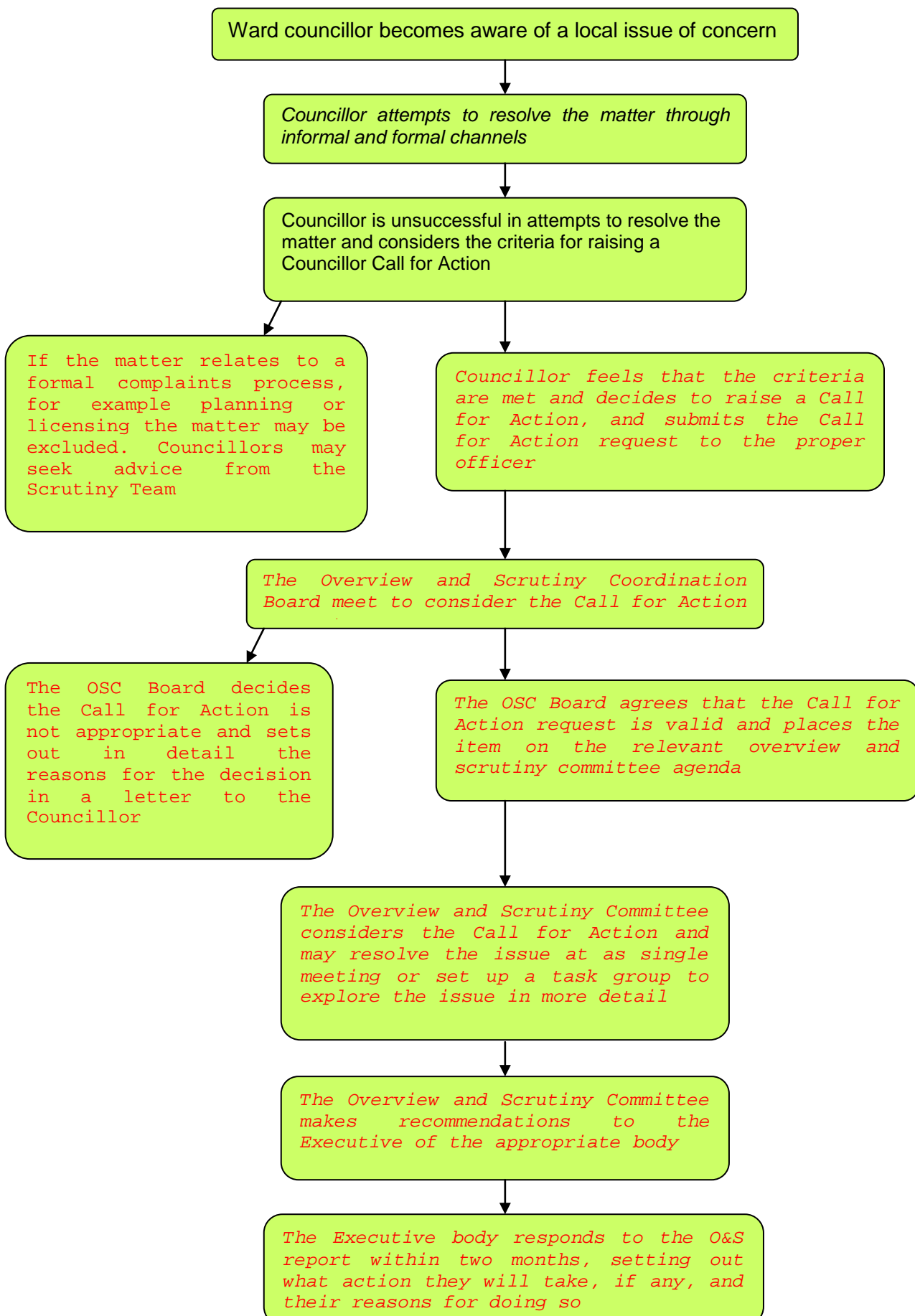
In addition all CCfAs logged will be considered by the overview and scrutiny committees when deciding upon issues for potential inclusion in their work programmes.

CCfA and the call-in procedure.

CCfA should not be used by councillors to have a second bite of the cherry where previously a call-in has failed to achieve the outcomes sought.

However if there have been material or other changes in the nature of an issue that has previously been subject to call-in, and where the CCfA may add something to the process and not merely duplicate what has happened before – then the CCfA should not be automatically excluded and the Board may decide that it should go ahead.

Councillor Call for Action flowchart



Guidance for the Overview and Scrutiny Co-ordination Board when considering if a CCfA is appropriate

General principles

The purpose of CCfA is to help resolve local issues of concern and CCfA procedures must concentrate on this key aim. Procedures are necessary, but should not be overly prescriptive, as each CCfA should be judged on its merits. Too much restriction on discussions and too much of a focus on procedures would limit openness and meaningful discussion.

CCfAs should only be considered where a councillor feels they have exhausted all their powers as a ward member to resolve an issue and feel that they need to call on the resources of overview and scrutiny to achieve the required outcomes for their local community.

Councillors initiating CCfAs are required to show how they have previously tried to resolve the issue. CCfA is meant to be a last resort, a long stop when all other attempts to resolve the issue have been exhausted.

Councillors initiating CCfAs need to clear at the outset about what they hope to get out of the CCfA process. The Committee discussion should focus on those expected outcomes and councillors initiating CCfAs should expect to be challenged on those outcomes if the overview and scrutiny committee feel they are unreasonable.

CCfA issues will feed into the broader overview and scrutiny work programmes. The purpose of CCfA is to give councillors more of a voice, and as scrutiny is member-led, CCfA sits alongside existing methods of placing items of overview and scrutiny work programmes.

The fact that some scrutiny work relating to the CCfA issues may already be in place should not automatically exclude a CCfA from being considered by a scrutiny committee. CCfAs can help make the work programmes more relevant and responsive to community concerns and issues and give them a higher profile.

Overview and scrutiny may respond to CCfAs as one-off items on committee agendas, or may decide that more work is required, in the form of a more in-depth piece of task group scrutiny.

In addition all CCfAs logged will be considered by the overview and scrutiny committees when considering issues for potential inclusion in their work programmes.

Statutory Exclusions

Regulations state that issues should be excluded from CCfA when they relate to a formal complaints process. These include:

- any planning matter;
- any licensing matter; and
- all other areas where a person has a route to resolve the problem through the established complaints process (for example council tax and non-domestic rates).

It is also not appropriate for some complaints made by individual residents about a service the Council provides to be brought to the attention of the Council through the CCfA process where procedures already exist for resolving such issues. For example if bins have been missed on a waste collection round, residents should call the Contact Centre who will arrange for the bin to be emptied.

However overview and scrutiny should act where it is felt that a series of complaints demonstrates a 'systematic failure' in a particular service area. So for example a large number of individual complaints about waste collection – even if speedily resolved to the satisfaction of the person making the complaint – may lead to scrutiny acting to establish why so many complaints are being made in the first place.

Vexatious and discriminatory

In addition regulations state that:

'Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee is to be excluded.'

The Freedom of Information Act provides a definition of 'vexatious':

'Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause'.

A request which some may consider vexatious for political reasons may be entirely reasonable. The fact that there may be political motivation behind a CCfA does not make it invalid.

It is important to keep in mind when considering whether a request is vexatious that it is the subject matter that is the deciding factor, and not the personality of the councillor or the way the request is made. CCfAs need to be looked at on their merits and not on the basis of who is raising them, or whether there may be an ulterior motive.

In addition a series of requests that may be considered vexatious could have some validity. Repeated requests may indicate a systematic failure or problem that has not been adequately resolved.

All CCfAs will be recorded – even where the Call for Action inappropriate – as they may signpost areas of concern for overview and scrutiny and recording all CCfAs may act as an impetus for the Council to resolve an issue.

Section 45 of the Equality Act 2006 defines ‘discrimination’ in relation to religion and belief as:

‘A person (A) discriminates against another person (B)... if on grounds of the religion or belief of B or of any other person except A (whether or not it is also A’s religion or belief), A treats B less favourably than he treats or would treat others (in cases where there is no material difference in the relevant circumstances).’

This definition can also accommodate other forms of discrimination, such as discrimination for reasons of sex or race. Local authorities are required to comply with the Equality Act and other anti-discriminatory legislation, including the Race Relations Act, the Disability Discrimination Act and the statutory equalities duties that arise from them.

Where a request for a CCfA is vexatious, the Overview and Scrutiny Co-ordination Board is required to give detailed reasons for their decision to the councillor concerned.

CCfA and the call-in procedure.

CCfA should not be used by councillors to have a second bite of the cherry where previously a call-in has failed to achieve the outcomes sought.

However if there have been material or other changes in the nature of an issue that has previously been subject to call-in, and where the CCfA may add something the process and not merely duplicate what has happened before – then the CCfA should not be automatically excluded and the Board may decide that it should go ahead.

Procedure at committee meetings

The Chairman will provide a short introduction to the issues and then invite the councillor who has raised the CCfA to briefly outline the reasons behind the CCfA and the outcomes sought.

The Chairman will then open the discussion and invite other overview and scrutiny committee members to ask questions to help clarify the issues and outcomes sought and the appropriate outcome.

The relevant Portfolio Holder, senior officers and/or representatives from partner organisations will be invited to attend and provide information, respond to questions and assist the Committee arrive at the appropriate outcome.

The Committee may resolve the issue at that meeting, or decide to set up a task group to explore the issue in detail.

The Committee will agree a report and any recommendations it wishes to make on the matter and refer these to the relevant executive body. Partners under a duty to respond have two months to do so.

FINANCIAL PROCEDURE RULES

STATUS

These Financial Procedure Rules provide a framework for managing the Council's financial affairs. They apply to every Officer and Member of the Council and anyone acting on its behalf.

The Assistant Director (Resources) is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Officers and Members of the Council and anyone acting on its behalf are required to follow.

Failure to comply with the requirements of the Financial Procedure Rules may, if appropriate, lead to action being taken against officers under the Council's Disciplinary Procedure and against Members by the Council's Standards Committee.

1. GENERAL

Statutory References

- 1.1 Under Section 151 of the Local Government Act 1972, the Assistant Director (Resources) is responsible for the financial affairs of the Council and is particularly responsible for:
- (a) Supervising arrangements for the receipt of income due to the Council and expenditure incurred by the Council.
 - (b) The preparation and presentation of final accounts.
 - (c) The maintenance of a continuous and effective internal audit of the Council's activities.
- 1.2 Under Section 114 of the Local Government Finance Act 1988 the Assistant Director (Resources) or in her/his absence a designated member of his staff has a duty to make a report if it appears to him that the Council, a Committee, a Member or Officer of the Council or joint committee on which the Council is represented:
- (a) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful;
 - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful or likely to cause a loss or deficiency on the part of the Council; or
 - (c) is about to enter an item of account, the entry of which is unlawful.

The Assistant Director (Resources) must make a report under Section 114 if it appears to her/him that the Council's expenditure (including commitments) in a financial year is likely to exceed the resources (including sums borrowed) available to meet them.

Any Officer of the Council who is or should be aware of the circumstances specified at (a), (b) and (c) above or any expenditure which is likely to exceed the amounts allocated in the Council's Budgets shall notify the Assistant Director (Resources) to enable her/him to carry out their statutory duty.

General

- 1.3 Reference in these Rules to Portfolio Holders refer equally to Committees which manage budgets.
References to Directors include the three Corporate Directors, the Chief Executive and the six Assistant Directors.

References to Departments refer to the accompanying administrative organisations.

- 1.4 Each Director shall consult the Assistant Director (Resources) with respect to any matter within his control which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to Members.
- 1.5 In allocating the duties of officers within their Departments, each Director shall arrange for internal checks to ensure that
 - (a) The duty of keeping records relating to income shall not be carried out by officers who are also responsible for the collection of income.
 - (b) The duties of issuing orders, certifying the receipt of goods or the completion of work, and approving accounts for payment shall be carried out by different officers.
- 1.6 It is the duty of all officers appointing consultants to carry out work on behalf of the Council to bring these Rules to the attention of those consultants and instruct them to follow such procedures as are relevant.

2. ACCOUNTING

- 2.1 All accounting procedures and records of the Council and its officers shall be in a form approved by the Assistant Director (Resources). Where such procedures and records are maintained in an Assistant Directorate other than that of the Assistant Director (Resources) the Director or Assistant shall, before giving approval, gain the Assistant Director's (Resources) approval to any proposed changes.
- 2.2 No accounting procedure or financial records shall be amended or discontinued without the prior approval of the Assistant Director (Resources).
- 2.3 All accounts and accounting records of the Council shall be compiled by the Assistant Director (Resources) or under her/his direction.
- 2.4 The Assistant Director (Resources) shall ensure that all accounts, accounting records, balance sheets, etc of the Council are properly completed, presented to the Members and submitted to external audit in accordance with statutory requirements.

3. BUDGETS - GENERAL

- 3.1 Budget Preparation – will cover the forthcoming five year period and be subject to a timetable prepared by the Assistant Director (Resources) and approved by Cabinet. The Assistant Director (Resources) will produce the Five Year Medium Term Financial Plan on an annual basis in consultation with Cabinet Members and Management Team for approval by the Council. Regular updates of the strategic financial position will be provided to the Cabinet and Council.
- 3.2 The detailed form of capital and revenue estimates shall be determined by the Assistant Director (Resources) in accordance with any general directions of the Cabinet and after consultation with the Management Team.
- 3.3 Revenue Budgets – Staffing budgets shall be prepared by the Assistant Director (Resources) in consultation with the relevant Director. All other estimates of revenue income and expenditure shall be prepared by appropriate Directors in consultation with the Assistant Director (Resources) and submitted to Members for approval. The Assistant Director (Resources) shall collate the estimates and submit them to the Cabinet with a report setting out how this compares to the Council's existing Medium Term Financial Plan.

- 3.4 Capital budgets shall be prepared in the form of a rolling five-year Capital Programme. The Assistant Director (Resources) shall review and estimate the capital resources available to the Council over the five year period. Bids for the use of capital resources shall be made in a form agreed by the Cabinet, to include an appropriate level of project appraisal and an assessment of the revenue consequences of the capital scheme. The Cabinet shall be responsible for the allocation of resources within a viable Capital Programme for submission to the Council for approval.

4. BUDGETARY CONTROL

- 4.1 It is the duty of the Cabinet and/or every Committee to monitor and regulate the Council's performance against the targets set out in the Corporate and Service Plans and how resources have been utilized against the approved Budget during each budget period.

Financial sustainability of the Council is paramount and projected variations to approved budgets and service delivery must be properly managed within a robust control system. Directors and other Budget holders responsible for budgets shall maintain an effective system of budgetary control. Budgets are the reflection of service plans and variations in either must be matched to the other in performance and other reports.

All budgets will be assigned to a budget holder who is responsible and accountable for spending and generating income in accordance with the approved budget and associated service plan. Budget holders are responsible for the underlying reliability of the financial data and service performance. The responsibility of Officers for budgets will be clearly defined and determined by the Chief Executive and Directors, who shall determine relevant procedures to be followed by those officers. (See 4.2)

The Assistant Director (Resources) shall make available to all budget holders information on commitments, receipts and payments to enable them to carry out these duties and to allow them to monitor performance and make proposal/take decisions on changes. Budget holders will be provided with training to assist them (provided by the Assistant Director (Resources)). Each Director/budget holder shall utilize the Council's corporate financial management system to maintain records of orders raised and other commitments, recording their effect on budgeted expenditure.

- 4.2 The Assistant Director (Resources) has overall responsibility for the Budget Framework including the Budget Timetable, Budgetary Control reporting arrangements and preparation of the Year End Statement of Accounts. Each Budget will have a single named Manager, determined by Management Team. The Assistant Director (Resources) is responsible for ensuring that the Budget and Council Tax Setting is carried out in accordance with the statutory deadlines.

Finance Section responsibilities:

The Assistant Director (Resources) is responsible for the following areas of budget setting and budgetary control:

- assisting Assistant Directors and budget holders in the preparation of draft budgets
- provision of timely, accurate, relevant financial information to budget holders to enable effective budgetary control to be carried out
- budgetary control reporting arrangements
- provision of financial advice and training to budget holders
- to actively use information from Directors on service trends that may have a impact on budgets.

Responsibilities of Directors:

- preparation of detailed revenue budgets, including the compilation of information produced centrally, to the standards and timescales set by the Assistant Director (Resources).
- liaison with Accountancy and other staff in the provision of budgets
- identification of areas in which budget savings and/or efficiencies can be made
- assistance in the preparation of service reviews and the implementation of these and other approved changes to budgets.
- identification of development proposals and implementation if approved
- ensuring that budgets are consistent with approved service plans
- identification and subsequent review of meaningful profiles for budgets
“signing off” detailed budgets and profiles to indicate that managers accept their content and accuracy and believe that they are sufficient to deliver the service
- monitoring budgets using monthly budgetary control reports and managing the service within budget
- Where overspends are identified, or projected, to alert Directors or Management Team as appropriate and to propose actions to correct the overspending
- notifying Directors and/or Management Team of potential underspendings/ increased income that could be of corporate benefit to the Council
- compliance with the Council’s Financial Procedure Rules
- provision of timely, relevant and accurate explanations for budget variances as required by the Assistant Director (Resources), Management Team and Members
- update Finance staff on service trends that may have a impact on budgets.
- developing performance information to complement budgetary control processes

Responsibilities of Members:

Members generally are responsible for taking an overview of the Council’s finances and its performance against budgets. In particular:

- Full Council is required to review periodically the adequacy of the Council’s overall budget.
- Portfolio holders are required, in conjunction with budget holders, to monitor and manage budgets for the services under their control.

Budget monitoring reports shall be produced by the Assistant Director (Resources) on the first working day of each month. The Service Accountants are responsible for checking the reports prior to their distribution. Each Director and Portfolio Holder will receive budget monitoring reports for their services. A summary report will be produced for publication electronically for Members and officers.

Reports will be submitted to the Assistant Directors’ Team, Management Team, Corporate Strategy & Performance Group, Cabinet and Council quarterly on the Authority’s projected Income and Expenditure compared with the budget.

- 4.3 The inclusion of items in approved budgets represents the authority to incur expenditure except where the Cabinet has a reservation on such items.
- 4.4 The Cabinet shall not approve a supplementary revenue estimate or amend a capital budget without Directors first having consulted with the Assistant Director (Resources) on the financial implications. A comment will be sought from the Assistant Director (Resources) to be incorporated to the Report on the proposal made to Council to approve a supplementary revenue or capital estimate.

- 4.5 Nothing in these regulations shall prevent a Director from incurring expenditure which is essential to meet any immediate needs created by an emergency subject to their action being reported forthwith to the Cabinet.

5. SUPPLEMENTARY REVENUE ESTIMATES

General

- 5.1 Prior to any request for a supplementary revenue estimate being made Portfolio Holders and Directors should consider whether the expenditure can be accommodated within existing budgets by the use of virement. All requests for supplementary revenue estimates must be discussed with the Assistant Director (Resources) prior to being considered by Cabinet.
- 5.2 No supplementary estimates below £20,000 should be granted; instead virement should be identified to accommodate the expenditure;
- 5.3 The Cabinet is able to grant supplementary revenue estimates up to a value of £50,000 from the budgeted contingency provisions for the General Fund or Housing Revenue Account. Supplementary revenue estimates above that limit or those which would exhaust the contingency provision (and so require allocations from working balances) can only be approved by full Council.

General Fund

- 5.4 Supplementary revenue estimates shall only be granted where suitable virement cannot be identified. Such supplementary estimates shall be restricted to the following genuinely exceptional and inescapable items of expenditure:
- (a) contractual claims, court and litigation costs;
 - (b) health and safety items constituting a risk to "life and limb";
 - (c) additional expenditure arising from tenders following competitive tendering of services (conversely, savings on such tendering should be returned to contingencies);
 - (d) additional legislative responsibilities.
- 5.5 Supplementary revenue estimates may be allowed for income-generating schemes where expenditure in the year will result in increased net income in subsequent years which will, at least, cover the amount of the supplementary estimate;
- 5.6 No supplementary revenue estimates should be granted that have an ongoing financial implication for subsequent years.

Housing Revenue Account

- 5.7 All requests from the Housing Portfolio holder for supplementary revenue estimates will be considered on their merits, as they have no corporate implications.

Reporting

- 5.8 Regular reports to the Cabinet shall clearly state the ongoing implications of proposed expenditure, identify the source of finance being used for supplementary estimates and the balance available within the general contingency provisions.

6. UNDERSPENT BUDGETS

General

- 6.1 All requests for the carry forward of unspent budgets should be discussed with the Assistant Director (Resources) and submitted to Cabinet for consideration.
- 6.2 The mechanism, for the carry forward is the granting of a supplementary revenue estimate, on the strength of an underspending in the previous year. Items up to a value of £50,000 can be approved by Cabinet with larger requests to be considered by full Council.
- 6.3 Carry forwards are limited to 10% of the total gross expenditure budget for that service. Requests for carry forwards must be submitted to the Assistant Director (Resources) by the 28 February each year and be accompanied by an explanation of the service need and implications. Carry forward requests due to unplanned underspends e.g. staff vacancies will not be allowed. Only specific planned items can be carried forward.
- 6.4 In many cases, requests for carry forward of budgets will be made before the final expenditure for the financial year is known. Approvals can be made in these instances but will be subject to possible withdrawal if the Portfolio, Assistant Directorate, Department or Council budget is subsequently found to be overspent.

General Fund

- 6.5 Savings:

10% of an unspent budget arising from savings will be considered for carrying forward for use on specific items of expenditure which have no on-going cost implications for subsequent years.

A minimum limit of £10,000 per item will apply to the gross value of savings considered for carry forward.

The Portfolio Holder will be required to identify and explain the reasons for his opinion that underspendings have arisen from savings.

In the context of this policy, savings are defined as underspending of expenditure budgets or additional income against income budgets, where the variations are due to conscious decisions of service managers to

- (a) provide the same level of service more economically; or
- (b) generate more income from a Council service

provided that those savings have not been anticipated for corporate use.

Limitations

- 6.6 A Portfolio Holder will not be allowed to carry forward any unspent budget where the overall net expenditure for the year exceeds the portfolio's revenue budget. In these circumstances the Portfolio Holder may be required to deduct the overspending from its budget for the following year. Individual cases will be considered on their merits, taking into account the degree to which external factors are responsible for the overspending.

The amount of any unspent estimates to be carried forward will be limited to the Portfolio's overall net underspending for the year, where this is a smaller amount.

- 6.7 Subject to these limitations, approval to the carry forward of qualifying unspent budgets will not normally be withheld. However, corporate considerations, particularly budgetary constraints, may cause individual provisions to be over-ridden or the whole policy to be suspended in the overall interests of the Council.

7. TRANSFER OF BUDGETS (VIREMENT)

- 7.1 Virement is intended to enable the Cabinet, Directors and their staff to manage budgets with a degree of flexibility within the overall Budget and Policy Framework to optimise the use of resources. However, it may be appropriate to suspend these provisions and apply more restrictive procedures if required by the Council's financial position.

Virements are administered by the Assistant Director (Resources).

- 7.2 The overall Revenue and Capital Budget is approved by Council and published in the Annual Budget book. Directors are authorised to spend in accordance with the estimates that make up the Budget. Virement will be required if resources are to be moved between the lines set out in the Budget Book.

Virement must not create additional overall budget Commitment. Directors are expected to exercise discretion in managing their budgets responsibly and prudently, for example by avoiding future commitments for which they have not identified resources.

- 7.3 Virement can only be applied to direct expenditure. It cannot be applied to the budget headings such as Capital Charges, Deferred Charges, Recharged Employees, Departmental Recharges or Indirect Income. In general, virement will not be allowed from employee budgets.

- Following consultation with the Assistant Director (Resources), the responsible Director in association with the appropriate Portfolio Holder shall be entitled to transfer resources between budgets of a single Budget Service up to a maximum of £20,000.
- Following advice from the Assistant Director (Resources), an individual Portfolio Holder shall be entitled to transfer estimates from one service to another within that Portfolio, with a limit per individual transfer of £20,000.

The Cabinet shall be entitled to transfer estimates from any one service to another up to a limit of £50,000 per transfer.

Beyond these limits, approval to transfers can only be given by full Council.

- 7.4 Virements will only be allowed where they are within these rules and generally in accordance with the policies of the Council and there will be no overall effect on the Budgets of either the General Fund or the Housing Revenue Account.
- 7.5 The Assistant Director (Resources) is able to transfer budgets to correct allocations, to reflect restructures and in the case of 'housekeeping' where budgets could be held under more appropriate headings.

8. CAPITAL EXPENDITURE

- 8.1 Capital expenditure shall not be incurred unless it forms part of the approved Capital Programme and has been allocated an expenditure account by the Assistant Director (Resources).
- 8.2 The Cabinet may adjust the phasing of expenditure, by deferment or advancement, of existing approved schemes in the Capital Programme.
- 8.3 The Cabinet may transfer Capital Programme provisions from one approved scheme to another approved scheme, subject to a limit of £50,000 per individual transfer.
- 8.4 The Cabinet may allocate available capital resources within the Programme to new schemes which are urgent, necessary and generally in accordance with Council priorities, subject to a limit of £50,000 per individual allocation, provided in all cases the Assistant Director (Resources) is consulted and is satisfied with the affordability and advisability of the proposed use of resources.

Beyond these limits, amendments to the Programme can only be made by Council.

9. FINANCING OF CAPITAL EXPENDITURE

- 9.1 The Assistant Director (Resources) may adjust the planned method of financing capital expenditure within the aggregate resources available to the Council, provided that such 'switching' of financing is in the Council's interest and in accordance with the Prudential Framework and Treasury Management Policy and Statement. Factors to be taken into account in such adjustments shall include prudence, affordability, financial advantage, flexibility and risk considerations.

10. RESERVES AND WORKING BALANCES

- 10.1 The power to establish financial reserves is restricted to full Council except that Cabinet is able to set aside minor amounts (up to £50,000 in aggregate) where this would assist in the efficient operation of the Council's activities. The Assistant Director (Resources) must be consulted and be satisfied with the proposed setting aside of resources.
- 10.2 The purpose and limits on the operation of each significant reserve should be set out in the annual Medium Term Financial Plan.
- 10.3 Unless determined otherwise by Council, the use of resources held in reserves and the Council's working balances shall be determined by full Council (as agreed in the annual Revenue Budget, Capital Programme or otherwise) except that Cabinet is able to make or adjust transfers from reserves not exceeding £50,000 after consultation with the Assistant Director (Resources) where these would assist in the financial management of the Council.

- 10.4 The Assistant Director (Resources) is required, as part of the annual budget process, to carry out a formal review of balances and reserves and to advise the Council on their adequacy. In particular she/he is responsible for:
- (a) preparing a statement for Council showing the estimated opening working balance for the year ahead, the addition to/withdrawal from balances, and the estimated end of year balance, including reference to the extent to which such reserves are to be used to finance recurrent expenditure.
 - (b) reporting on the annual review of earmarked reserves, listing the various earmarked reserves, the purposes for which they are held, showing the estimated opening balances for the year, planned addition/withdrawals and the estimated closing balances, and advising on their appropriate levels.
 - (c) making a statement on the adequacy of the general reserves and provisions in respect of the forthcoming financial year and the Council's Medium Term Financial Plan, taking into account the strategic, operational and financial risks facing the authority.

The advice given by the Assistant Director (Resources) should be recorded formally in the minutes of the Council meeting, including whether or not that advice has been accepted.

- 10.5 Following the closure of the accounts for a financial year, the Assistant Director (Resources) will report to Cabinet and Accounts Committee on the transfers to and the use of reserves and working balances for that year and seek approval of those transactions by full Council.

11. MEDIUM TERM FINANCIAL PLAN

- 11.1 The Assistant Director (Resources) is required to produce and seek approval from Council for a Medium Term Financial Plan, detailing the Council's projected financial position for a period of five years ahead. The Plan should be drawn up by reference to the Council's Corporate Plan and include the financial implications of that Plan. As a minimum the Medium Term Financial Plan should contain

- current and projected revenue budgets, including the revenue effects of capital and other investments;
- projections of council tax levels to finance those budgets;
- an indication of identifiable budgetary pressures and an action plan to deal with those pressures;
- capital expenditure plans and resource projections;
- projections of reserves and working balances; and
- an assessment of the adequacy of reserves and the risks attaching to the assumptions in the Plan.

- 11.2 The Plan should be updated at regular intervals during the year and form part of the Annual Budget Process. All significant proposals with financial implications should be assessed against the Medium Term Financial Plan and the effects of those proposals reported at the time of making a decision.

12. EXTERNAL AUDIT

- 12.1 The Council's activities will be audited by the External Auditor approved by the Audit Commission. The Assistant Director (Resources) will notify the Council of the impact of the changes arising from the Government's decision to abolish the Audit Commission as this becomes clearer. The current practice will remain for the audit of the 2011/12 Accounts.

13. INTERNAL AUDIT

- 13.1 Regulation 6 of the Accounts and Audit Regulations 2003 requires the Council to maintain an adequate and effective Internal Audit. Arrangements for that audit will be approved by the Audit Committee.
- 13.2 The Internal Audit Strategic Plan and Annual Plans will be submitted for approval by the Audit Committee. An Annual Report of the activities of Internal Audit and the completion of the Audit Plan are to be submitted to the Assistant Director (Resources) within three months of the end of each financial year and subsequently reported to the Committee.
- 13.3 A continuous risk based internal audit, under the independent control and direction of the Assistant Director (Resources), shall be arranged to carry out an examination of accounting, financial and other operations of the Council.
- 13.4 For the purpose of Internal Audit, the Assistant Director (Resources) or her/his authorised representative shall have authority to:
- (a) enter at all reasonable times on any Council premises or land
 - (b) have access to all records, documents and correspondence relating to any financial or other transaction of the Council
 - (c) require and receive such explanations as are necessary concerning any matter under examination, and
 - (d) require any employee of the Council to produce cash, stores or any other Council property under his control.
- 13.5 The Internal Auditor shall have the right to report any concerns directly to the Chief Executive, appropriate Councillors and the District Auditor.

14. BANKING ARRANGEMENTS, CHEQUES AND BACS

- 14.1 All arrangements with the Council's bankers shall be made or approved by the Assistant Director (Resources), who shall be authorised to operate such banking accounts as they may consider necessary.
- 14.2 All cheques, or other payment instruments/stationery excluding those drawn on authorised imprest accounts, shall be ordered only on the authority of the Assistant Director (Resources), who shall make proper arrangements for their safe custody.
- 14.3 Cheques on the Council's main banking accounts shall bear the facsimile signature of the Assistant Director (Resources) or be signed by the Assistant Director (Resources) or other officer authorised to do so in accordance with the Council's banking arrangements.
- 14.4 Payments made by BACS shall be authorised by the Assistant Director (Resources) or his/her representative in accordance with the Council's banking arrangements.

15. IMPREST ACCOUNTS

- 15.1 The Assistant Director (Resources) shall provide such petty cash and advance accounts as he/she considers appropriate for such officers of the Council as may need them for the purposes of defraying petty cash and other expenses. Such accounts shall be maintained on the imprest system.

- 15.2 Where he/she considers it appropriate, the Assistant Director (Resources) shall open an account with the Council's bankers for use by the imprest holder who shall not allow such account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holder's banking account shall forthwith be reported to the Assistant Director (Resources).
- 15.3 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the authority as provided elsewhere in these regulations.
- 15.4 Payments shall be limited to minor items of expenditure and to such other items as the Assistant Director (Resources) may approve and shall be supported by a receipted voucher to the extent that the Assistant Director (Resources) may require.
- 15.5 An officer responsible for an imprest account shall carry out periodic reconciliations of his/her account and give the Assistant Director (Resources) a certificate as to the state of his/her imprest advance.
- 15.6 On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Assistant Director (Resources) for the amount advanced to him/her.
- 15.7 All cash floats held are to be confirmed to the Assistant Director (Resources) in writing at the end of each financial year.
- 15.8 Every transfer of official money from one member of staff to another shall be evidenced in the records of the Departments concerned by the signature of the receiving officer, or by an official receipt.

16. CONTRACTS

- 16.1 The Contract Procedure Rules deal with the regulation and control of contracts for the execution of work and the supply of goods, materials and services awarded by the Council. These Rules should be followed in conjunction with those Rules.
- 16.2 In the paragraphs under this section reference to the "relevant person" shall mean the appropriate Director, an officer nominated by him/her in writing for that contract or a private architect, engineer or other consultant engaged by the Council for the purpose of that contract.
- The Assistant Director (Resources) shall be consulted as to any Performance Bonds to be obtained or given in respect of a proposed contract.
- 16.3 Each Director responsible for the awarding of contracts, which provide for payment to be made by instalments, shall arrange for the keeping of a register, to the satisfaction of the Assistant Director (Resources), to show the state of account on each contract between the Council and a contractor, together with any other payments and related professional fees.
- 16.4 Payments to contractors on account of contracts shall be made only on a certificate issued by the relevant person.
- 16.5 Subject to the provision of the contract in each case, every variation shall be authorised in writing by the relevant person. Each variation shall include an estimate of the increase or reduction in cost arising from that variation of the contract.

- 16.6 When the net effect of such variations exceeds the following limits, this shall be reported as soon as possible to the Cabinet or relevant Committee of the Council:
- for contracts up to £100,000 (in amount or budgetary provision) – 3% of the contract sum or budgetary provision (but not less than £1,000)
 - for contracts in excess of £100,000 (in amount or budgetary provision) - £3,000 + 1.5% of the excess of the contract sum or budgetary provision over £100,000.
- Provided that it shall not be necessary to report such net effect in the case of contracts undertaken under agency or contractual arrangements on behalf of another local or public authority where that authority has approved the cost of the variation.
- 16.7 Where the relevant person issues a certificate and the amount to be paid on that certificate, when added to amounts previously certified for payment, would result in the contract sum or budgetary provision being exceeded, then the certificate shall be accompanied by a report fully explaining the position from the relevant person to the Assistant Director (Resources).
- 16.8 The final certificate of completion of any contract shall not be issued until the relevant person has produced to the Assistant Director (Resources) a detailed final statement of account and all relevant documents, if required.
- 16.9 The Assistant Director (Resources) shall, to the extent that is considered necessary, examine final accounts for contracts and shall be entitled to make all such enquiries and receive such information and explanations as may be required in order to be satisfied as to the accuracy of the accounts.
- 16.10 Every works contract and every other contract which is estimated to exceed £60,000 in value or amount shall include provision for liquidated damages, except where the contract is a partnering contract entered into under the Council's procurement policy. Where there has been a delay in the completion of a contract and an extension of time is not appropriate to be authorised, the relevant person shall impose the liquidated damages clause in all instances, unless, after consultation with the Corporate Director (Monitoring Officer), it is decided it is inappropriate to do so.
- 16.11 A report as to final costs under each contract shall, after agreement of the final account, be incorporated into the Post Implementation Review submitted to the Corporate Management Team, Cabinet or relevant Committee by the appropriate Director after consultation with the Assistant Director (Resources).
- 16.12 Claims from contractors in respect of matters not clearly within the term of any existing contract shall be referred to the Corporate Director (Monitoring Officer) for consideration of the Council's legal liability and, where necessary, to the Assistant Director (Resources) for financial consideration, before a settlement is reached.
- 16.13 Where a contractor enters into liquidation or receivers are appointed or the contractor makes arrangement or composition with his/her creditors, the relevant person shall report the full circumstances in writing to the Cabinet or relevant Committee of the Council as soon as they are known to him/her.
- 16.14 Every Officer and Member of the Council 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 established Codes of Conduct.

17. ORDERS FOR WORK, GOODS AND SERVICES

17.1 The following procedures and those in Rule 18 relate to the manual certification and processing of orders and accounts. The same principles apply to the electronic certification process and to purchases using procurement (purchasing) cards.

17.2 Official orders shall be issued in advance for all work, goods or services to be supplied to the council except for contracts under seal, supplies of public utility services, for periodical payments such as rent or rates, for petty cash purposes and such other exceptions as the Assistant Director (Resources) may approve

In exceptional circumstances where an order cannot be dispatched at the time of making the commitment, the supplier should be given an order number and the Confirmation Order issued not later than the next working day.

17.3 Official orders shall be in the form approved by the Assistant Director (Resources) and are to be approved only by officers authorised by the appropriate Director who shall be responsible for official orders issued from his department. The Director shall ensure that value for money is obtained in all cases, primarily by obtaining and recording alternative quotations for the supply and also that the relevant budget is not exceeded

17.4 Each order should record the agreed price for the supply or the estimated cost of the supply, delivery and invoicing addresses.

17.5 Each order shall conform with the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.

17.6 Orders must never be split to avoid authorisation limits.

17.7 Procurement cards will be issued to Officers based on an assessment of needs. Cardholders must follow procedures laid down by the Assistant Director (Resources): cards will be withdrawn if the facility is misused.

18. PAYMENT OF ACCOUNTS

18.1 Apart from Credit Card, petty cash and other payments from imprest accounts, the payment of monies due from the Council shall be by BACS payment or other instrument drawn on the Council's banking account by the Assistant Director (Resources).

All requests for payment submitted to the Assistant Director (Resources) must be in the form prescribed by him/her.

18.2 The Director issuing an order is responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment vouchers or accounts arising from sources in his department. Such certification shall normally be electronically through the integra purchase ordering system. A list of officers authorised to approve such records shall be sent to the Assistant Director (Resources) by each Director together with specimen signatures and shall be amended on the occasion of any changes to signatories. The Director shall ensure that adequate separation of duties exists by arranging that the officer certifying an account for payment is a different person to the one who ordered the supply.

- 18.3 Before certifying an account, the certifying officer shall, save to the extent that the Assistant Director (Resources) may otherwise determine, satisfy himself that:
- (a) the work, goods or services to which the account relates have been received, carried out, examined and approved.
 - (b) the quantities, prices, extension, calculations, discounts, other allowances, credits and tax are correct
 - (c) the relevant expenditure has been properly incurred, is allocated to the correct accounting code and is within the relevant budget provision
 - (d) appropriate entries have been made in inventories, stores records or stock books as required, and
 - (e) the account has not been previously passed for payment and is a proper liability of the Council
 - (e) a proper VAT invoice is obtained where appropriate.
- 18.4 Properly certified accounts shall be passed without delay to the Assistant Director (Resources) who shall examine them to the extent that he considers necessary, for which purpose he shall be entitled to make such enquiries and to receive such information and explanations as he may require.
- 18.5 Amendments should not normally be made to an invoice. Where an amendment is required the invoice shall be returned to the supplier for replacement.
- 18.6 Each Director shall, as soon as possible after 31 March, and not later than a date specified by the Assistant Director (Resources) in each year, notify the Assistant Director (Resources) of all outstanding expenditure relating to the previous financial year which has not been paid at that date.

19. PAYROLL

- 19.1 The payment of all salaries, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Assistant Director (Resources) or under arrangements approved and controlled by him/her.
- 19.2 Each Director shall notify the Assistant Director (Resources) as soon as possible and in the form prescribed by him/her, of all matters affecting the payment of such emoluments, and in particular:
- (a) appointments, resignations, dismissals, retirements, suspensions, secondments and transfers
 - (b) absences from duty for sickness or other reason, apart from approved leave
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application
 - (d) information necessary to maintain records of service for superannuation, income tax, national insurance, etc.

- 19.3 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.
- 19.4 All time records or other pay documents shall be in a form prescribed or approved by the Assistant Director (Resources) and shall be certified in manuscript by or on behalf of the appropriate Director. The names of officers authorised to certify such records shall be sent to the Assistant Director (Resources) by each Director together with specimen signatures and shall be amended on the occasion of any change.

20. TRAVELLING, SUBSISTENCE AND ATTENDANCE ALLOWANCES

- 20.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Assistant Director (Resources), duly certified in a form approved by him, made up to a specified day of each month, within a prescribed period. The names of officers authorised to certify such records shall be sent to the Assistant Director (Resources) by each Director together with specimen signatures and shall be amended on the occasion of any change.
- 20.2 The certification by or on behalf of the Director shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 20.3 Officers shall normally submit claims for expenses at monthly intervals. Any claims submitted more than two months after the expenses were incurred will be paid only with the express approval of the Assistant Director (Resources). All claims for a financial year are to be submitted within one month of 31 March.
- 20.4 Payments to Members, including co-opted members of the Council or its Cabinet, Committees or Sub-Committees, Panels and Working Parties, who are entitled to claim travelling or other allowances will be made by the Assistant Director (Resources) upon receipt of the prescribed form duly completed. Any claims submitted more than two months after the expenses were incurred will be paid only with the express approval of the Monitoring Officer. All claims for a financial year are to be submitted within one month of 31 March.

21. INCOME

- 21.1 The collection of all money due to the Council shall be under the supervision of the Assistant Director (Resources) and all systems, procedures and documentation involved in the assessment, collection, receipt and recovery of all income due to the Council shall be approved by him/her. All account forms shall require remittances to be sent in accordance with instructions issued by the Assistant Director (Resources).
- 21.2 Subject to arrangements made by the Assistant Director (Resources), each Director shall either furnish him/her with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due, or shall arrange to record those transactions and details in the appropriate system within his Department.
- 21.3 The Assistant Director (Resources) shall be notified promptly of all money due to the Council including contracts, leases and other agreements and arrangements entered into which involve the receipt of income by the Council and the Assistant Director (Resources) shall have the right to inspect any documents or other evidence in this connection as may be decided.
- 21.4 All receipt forms, books, tickets and other such items shall be ordered and supplied to Departments by the Assistant Director (Resources), who shall be satisfied with the arrangements for their control.
- 21.5 All amounts received by an authorised officer of the Council shall be immediately acknowledged by the issue of an official receipt, ticket or similar voucher.

- 21.6 All income received by an officer on behalf of the Council shall without delay be paid to the Assistant Director (Resources), or, as directed, to the Council's banking account or transmitted directly to any other body or person entitled thereto. No deduction may be made from such income save to the extent that the Assistant Director (Resources) may specifically authorise. Each officer who so banks income shall enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque. On the reverse of each cheque, the officer shall enter the name of his/her Assistant Directorate, office or establishment, or otherwise identify the cashier. When a receipt is issued the receipt number should be indicated on the reverse of the cheque. Where the banking covers a range of income sources the officer making the banking must ensure a return analysing the income and agreeing to the amount of the banking is forwarded to the Assistant Director (Resources) at the time of the banking.
- 21.7 Personal cheques shall not be cashed out of money held on behalf of the Council.
- 21.8 Every transfer of official money from one member of staff to another shall be evidenced in the records of the Departments concerned by the signature of the receiving officer, or by an official receipt.
- 21.9 Each Director shall as soon as possible after 31 March, and not later than a date specified by the Assistant Director (Resources) in each year, notify the Assistant Director (Resources) of all outstanding income due relating to the previous year which has not previously been notified.
- 21.10 Not less frequently than once per year, each Director shall, in consultation with the Assistant Director (Resources), review scales of charges or fees relating to his Directorate in accordance with the budget timetable and budget strategy.

22. PRUDENTIAL FRAMEWORK

- 22.1 The Council is obliged to adhere to the requirements of the CIPFA Code on a Prudential Framework for Local Authority Capital Finance. The Assistant Director (Resources) is responsible for preparing the indicators stipulated by the Code and reporting them to Council for approval. The indicators are to be reviewed at least annually and on major amendments to the Capital Programme.
- 22.2 The Prudential Indicators are to be taken into account in managing the Council's finances, particularly its projections of future expenditure and resources.
- 22.3 The Council is required to approve and keep up to date a Treasury Management Policy Statement and agree an annual Strategy Statement to direct its treasury activities.
- 22.4 Capital financing decisions are to be made in accordance with the Council's Treasury Management Policy and Strategy and the Prudential Code.
- 22.5 The Council's performance against its prudential indicators should be monitored regularly by the Assistant Director (Resources) and reported to Council and Resources & Partnerships O&S Committee at least once during each year and at the end of each year.

23. INVESTMENTS, BORROWINGS, LEASING AND TRUST FUNDS

- 23.1 All investments and borrowing of money and leasing arrangements shall be made in the name of the Council.
- 23.2 All investment and borrowing transactions shall be carried out in accordance with the Council's approved Treasury Management Policy and Strategy Statements.

- 23.3 All securities the property of or in the name of the Council and the title deeds of all property in its ownership shall be kept in the custody of the Corporate Director (Monitoring Officer).
- 23.4 The Assistant Director (Resources) shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all leasings and borrowing of money by the Council.
- 23.5 All trust funds shall wherever possible be in the name of the Council.
- 23.6 All officers acting as trustees by virtue of their official position shall deposit all securities etc relating to the trust with the Assistant Director (Resources) unless the deed otherwise provides.
- 23.7 The Assistant Director (Resources) shall seek and accept tenders for leasing facilities for the acquisition of assets where this is an appropriate method of financing subject to consultation with the relevant Portfolio Holder(s) and Director(s).

24. LAND AND BUILDINGS

- 24.1 The Corporate Director (Monitoring Officer) shall maintain a terrier or register of all Land and Buildings (excluding Housing Revenue Account properties) owned by the Council and a register of leases recording the responsible Assistant Director, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
- 24.2 All contracts for the acquisition or disposal of land/buildings shall be signed or sealed and the Corporate Director (Monitoring Officer) shall arrange for the secure custody of all title deeds.
- 24.3 The Corporate Director (Monitoring Officer) shall be responsible for instituting routine inspection of all Council Land and Buildings (excluding Housing Revenue Account properties) and ensuring that schedules of maintenance are prepared and work instigated and supervised on behalf of the Council as advised.
- 24.4 The Corporate Director (Communities) shall maintain a terrier or register of all Housing Revenue Account properties. The terrier or register to include location, property type, rent payable and particulars of tenancies granted.
- 24.5 The Corporate Director (Communities) shall be responsible for instituting routine inspection of all Housing Revenue Account properties and ensuring that schedules of maintenance are prepared and work instigated and supervised on behalf of the Council as advised.

25. INVENTORIES

- 25.1 Inventories recording furniture, fittings and equipment, plant and machinery held by each Directorate shall be maintained by the Assistant Director concerned. The form of the inventories shall be settled by the appropriate Assistant Director after consultation with the Assistant Director (Resources). All items contained therein shall, as far as possible, be suitably marked as council property.
- 25.2 Each Assistant Director shall be responsible for maintaining an annual physical check of all items on the inventory, for taking action in relation to surpluses or deficiencies and revising the inventory accordingly. The Assistant Director (Resources) must be informed of any significant discrepancies discovered on checking inventories.

- 25.3 A copy of each inventory should be submitted to the Assistant Director (Resources) when requested.

Where assets are to be disposed of the relevant Assistant Director shall be required to keep comprehensive records of the disposal.

- 25.4 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Assistant Director concerned.

26. STOCKS AND STORES

- 26.1 Each Assistant Director shall be responsible for the care and custody of the stocks and stores in his/her Department and for the maintenance of appropriate records in a form approved by the Assistant Director (Resources).

- 26.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Assistant Director concerned.

- 26.3 Assistant Directors shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.

- 26.4 The Assistant Director (Resources) shall be entitled to receive from each Assistant Director such information as he/she requires in relation to stores for the accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless the Cabinet decides otherwise in a particular case. Where the aggregate value of surplus materials, stores or equipment etc to be disposed of does not exceed £5,000 in any one financial year, the appropriate Assistant Director, in conjunction with the Assistant Director (Resources), shall be authorised to make the appropriate arrangements for disposal.

27. AMOUNTS TO BE WRITTEN-OFF

- 27.1 The Assistant Director (Resources) is authorised to write-off debts which for individual accounts or individual amounts do not exceed £5,000.

- 27.2 The Assistant Director (Resources) is authorised to write-off stocks and stores up to £5,000 for any one item in any one financial year.

- 27.3 The Assistant Director (Resources), in consultation with the Portfolio Holder responsible for financial matters, be authorised to write-off irrecoverable business rate debts in excess of £5,000 in cases where further recovery action is impossible because the debtor is subject to bankruptcy, liquidation or an administration order.

- 27.4 The Assistant Director (Resources) shall be supplied with such information with regard to write-offs as is considered necessary.

- 27.5 The Corporate Director (Monitoring Officer) is authorised to write-off debts relating to penalty charge notices.

- 27.6 For debts which fall outside these stated categories below £35,000 Cabinet approval will be required. Above £35,000 Council approval will be required.

28. SECURITY

- 28.1 Each Assistant Director is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc, under his/her control.

- 28.2 Maximum limits for cash holdings shall be agreed with the Assistant Director (Resources) and shall not be exceeded without his/her express permission.

- 28.3 Persons responsible for keys to safes and similar containers shall make arrangements to ensure the safe custody of the keys at all times; the loss of any such keys must be reported to the Assistant Director (Resources) immediately.
- 28.4 Each Assistant Director shall maintain a register of key holders in a secure place.
- 28.5 The Assistant Director (Customer Focus) shall be responsible for maintaining proper security and privacy as respects information held in the computer installation.
- 28.6 The responsibility for all hardware, software, information held and ensuring that the standards as set by the Assistant Director (Customer Focus) within each Directorate rests with the appropriate Director.
- 28.7 The security of personal possessions in the work environment is the responsibility of the owner and the Council will accept no responsibility for the security of any items not necessary for the service of the Council.

29. INSURANCES

- 29.1 The Assistant Director (Resources) shall effect all insurance cover, where appropriate by competitive tendering, and negotiate all claims in consultation with appropriate Assistant Directors where necessary.
- 29.2 Assistant Directors shall notify the Assistant Director (Resources) immediately of all new risks, properties or vehicles which may require to be insured and of any alterations affecting existing insurances.
- 29.3 Assistant Directors shall forthwith notify the Assistant Director (Resources) in writing of any loss, liability or damage or any event likely to lead to any claim against the Council.
- 29.4 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 29.5 The Assistant Director (Resources) shall annually, or at such other period as is considered necessary, review the level of risk and external insurance in consultation with the appropriate Assistant Director.

30. FINANCIAL STATIONERY

- 30.1 All official receipt forms, cheques, tickets, stores requisition notes, order books and other documents representing money shall be ordered, controlled and issued by and be in the custody of the Assistant Director (Resources), who shall supply the requirements of all Directorates. A register shall be kept by him of all receipts and issues of such documents, and each issue shall be acknowledged by the signature of the officer to whom the issue is made, the quantity issued to be determined by ascertained needs. The officer responsible for the stationery shall ensure that it is stored in a secure place and that unauthorised access is prevented.

31. INDEMNITIES

- 31.1 Directors should consult with the Assistant Director (Resources) and Corporate Director (Monitoring Officer) regarding the terms of any indemnity which the Council is requested to give.

32. IRREGULARITIES

- 32.1 Whenever any matter arises which involves, or is thought to involve, financial irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of its functions the Director concerned shall immediately notify the Assistant Director (Resources) who shall take such steps as he/she considers necessary by way of investigation and report as detailed in the Anti-Fraud, Theft and Corruption Strategy. Directors should, meanwhile, take any appropriate action to prevent further loss and secure records and documents against removal or alteration.
- 32.2 The Assistant Director (Resources) should decide whether to involve the Police in matters of serious irregularities and inform the Leader or appropriate Chairman accordingly.
- 32.3 Full details of procedures for dealing with suspected irregularities are given in the Anti-Fraud, Theft and Corruption Strategy.

Definitions of principal irregularities are:

Fraud is 'the intentional distortion of financial statements or other records by persons internal or external to the Authority which is carried out to conceal the misappropriation of assets or otherwise for gain'.

Theft is 'dishonestly appropriating property belonging to another with the intention of permanently depriving them'.

Corruption is 'the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person'.

33. DEPARTURES TO FINANCIAL PROCEDURE RULES

- 33.1 In the event of it being impracticable to apply any of these rules in any particular case, the Assistant Director (Resources) is authorised to waive compliance, subject to reporting any major departures to the next following Cabinet.

CONTRACT PROCEDURE RULES

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Appendix 1 – Financial Limits & Thresholds

1. Purpose

- 1.1 The purpose of these Rules is to ensure that all Contracts, for the purchase of supplies (goods), services or works, (including consultancy and advisory services) are procured
- (i) In compliance with all relevant European and United Kingdom Legislation;
 - (ii) In compliance with the Authority's Constitution, including these Contract Procedure Rules, Council Procedure and other Rules of Procedure, Codes of Conduct, Scheme of Delegation; Forward Plan together with the Corporate Procurement Strategy and Code of Practice
 - (iii) In a transparent, impartial and proportionate manner that leads to genuine competition by suppliers;
 - (iv) To ensure Best Value for Money is obtained;
 - (v) To assist development of a Procurement Plan setting out the Council's current contracts and future contracts to be procured for the forthcoming 12 months.
- 1.2 These Rules apply equally to Tender exercises and Requests for Quotations

2. Requirements

- 2.1 All procurement exercises must be undertaken in a professional and ethical manner, to ensure the highest standards of integrity, probity and accountability are achieved.
- 2.2 Councillors and officers engaged in procurement exercises must abide by their respective Codes of Conduct detailed in the Council's Constitution and declare any personal and/or prejudicial interest.
- 2.3 Consultants and contractors appointed by the Council must abide by these Rules.
- 2.4 Prior to commencing any tender or request for quotation exercise, the officer undertaking the exercise shall calculate a written estimate of the total contract value including any extension option(s) where applicable, and place such written record on the Tender or Quotation file held by the Relevant Director and/or Assistant Directors.
- 2.5 Where the estimated total contract value is £25,000 or more, the Contracts and Procurement Manager must be consulted and his/her comments obtained. This requirement is to enable the Council to collect appropriate data, required by the European Union, Department of Communities and Local Government (DCLG), and to support the identification of strategic and/or collaborative sourcing opportunities
- 2.6 Whenever practicable at the beginning of each financial year the Council shall publish a Prior Information notice (PIN) in the Official Journal of the European Union (OJEU) listing the contracts for supplies or services above the relevant EU value thresholds that it expects to procure during that financial year. In relation to contracts for works, the Council shall publish a PIN as above when the works have been approved.
- 2.7 Tenders and Requests for Quotation shall wherever practicable be widely and appropriately advertised (in accordance with the table below) to ensure equality of opportunity for potential suppliers to compete if they so choose.

Value	Media
£2,500 - £25,000	SLDC Website and / or Approved e-tendering portal
£25,000 - £59,999	SLDC Website and / or Approved e-tendering portal consider advertising in Local Newspaper circulating in the area and/or Specialist Press
£60,000 but <EU Value Threshold	SLDC Website Approved e-tendering portal consider advertising in Local Newspaper circulating in the area and/or Specialist Press
> EU Value Threshold	As above plus Official Journal of the European Union (OJEU)

2.8 Tender Notices must describe

- (i) The nature of the proposed contract
- (ii) Relevant dates (commencement, termination and duration)
- (iii) Accepted method of submission and point of document return
- (iv) Return Deadline
- (v) Contact details
- (vi) Award Criteria
- (vii) Place of delivery
- (viii) A Statement that '*The Council does not bind itself to accept the lowest, or any tender, or*

The Council does not bind itself to accept the highest, or any tender (in circumstances where any payment is to be made to the Council)

2.9 The Corporate Director (Monitoring Officer) shall keep and maintain a register (the Contract Register) for contracts and other arrangements having a total value in excess of £25,000. The Register shall be reviewed at least annually by the Corporate Director (Monitoring Officer) and/or the Contracts & Procurement Manager.

2.10 Where contracts and/or arrangements are exempt from these contract procedure rules, full documentation of procurement procedures and any post tender negotiations shall be maintained, and the Corporate Director (Monitoring Officer) shall keep a register of all such departures.

Extension of an Invitation to Communities Directorate

2.11 Where the Rules provide for a tender or quotation to be invited for works or the provision of services, in addition to these requirements, the Corporate Director (Communities) shall be notified of the details of the invitation and given an opportunity to submit a tender or quotation. In the event that a tender or quotation from Customer Services Directorate is accepted, these Rules shall apply (with the exception of Rules 20 and 22), to the relationship between that Directorate and the Client Directorate/Group as if a formal contract was in existence. I.e. A definitive split must be in evidence between the client and contractor roles.

3. Compliance with Rules

3.1 Every contract made by the Council shall comply with

- (i) These Rules,
- (ii) EU Treaty and any relevant Procurement Directives of the EU being in force in the UK for the time being

- (iii) National legislation and guidance
- (iv) The Council's Procurement & Commissioning Strategy and Procurement Code and Toolkit; and
- (v) The requirement to identify and secure appropriate budget funding to the satisfaction of the Assistant Director (Resources)

3.2 The Council recognises the potential benefits to be gained by the use of 'E-Technologies including E-Procurement'. For the purposes of these Rules the term 'contract' refers to both paper/hard copy documents and process **and** their replication by electronic media

4. Consortia

4.1 Where the Council joins one or more bodies/contracting authorities in a consortium or partnership and the contract is being tendered and awarded by that consortium or partnership, the Council shall not be required to invite further tenders, provided that these Rules have been followed to the extent that they are not inconsistent with the procedure(s) adopted by that consortium or partnership for awarding contracts.

5. Exceptions and Waiving the Rules

5.1 Nothing in these Rules shall require written quotations or tenders to be invited if:

- 5.1.1 The total estimated value is less than £2,500.
 - 5.1.2 In the case of contracts for the supply of goods and materials
 - The goods or materials are proprietary articles of such a specialised nature that they can only be obtained from one particular supplier; or are sold only at a fixed price and no reasonably satisfactory alternative is available;
 - The prices of the goods or materials are wholly controlled by trade organisations or Government Order and no reasonably satisfactory alternative is available; or
 - For other reasons certified by the relevant Director there would be no genuine competition, such certificate being reported to the next meeting of the Cabinet, or relevant Committee of the Council.
 - 5.1.3 The contract is for the execution of work, the supply of goods, materials or services certified by the relevant Director as being required so urgently as not to permit the invitation of quotations or tenders, such certificate being reported to the next meeting of the Cabinet, or relevant Committee of the Council;
 - 5.1.4 The work to be executed or the goods, materials or service to be supplied consists of repairs to or the supply of parts of existing proprietary machinery or plant;
 - 5.1.5 A purchase is being or to be made at a public auction, provided that the person bidding is satisfied that the cost of the purchase is reasonable compared to the cost of alternative methods of purchase;
 - 5.1.6 The purchase is through suppliers from an existing list or Framework, which has been put together as a result of a lawfully tendered competition, or purchases through a consortium of Contracting Authorities in accordance with Rule 4 above.
 - 5.1.7 The contract is with professional persons for the provision of services where the personal skill of those persons is of primary importance; or
 - 5.1.8 The contract concerns the appointment of consultants pursuant to delegated authority.
- 5.2 The work to be executed, or the goods, materials or services to be supplied/delivered constitute an extension of an existing contract, such an extension to be reported to the next meeting of the Cabinet or relevant Committee of the Council subject to the provisions of Rule 21 - Extensions

Waiving the Rules

- 5.3 Any of these Rules may be waived by the Council, the Cabinet, a Committee or an officer acting under delegated powers where it is satisfied that to do so is justified in special circumstances (other than delay/tardiness by the Council itself) and those special circumstances are identified in the minute of the decision. In these circumstances the report of the Relevant Director to the Council, the Cabinet, Committee or Officer must set out the special circumstances involved and the advantages and/or disadvantages of the alternative options.

6. Financial Limits

- 6.1 All requests for quotations, tendering and contracting, other than detailed in Rule 5, shall be subject to the procedures detailed in the table - Appendix 1 – of these Rules
- 6.2 The Council acting as an 'Accountable Body' may be subject to lower financial thresholds than specified in Appendix 1 as stipulated by the funding body
- 6.3 The Council will regularly review and if appropriate revise the Financial thresholds listed in Appendix 1

7. Transfer of Undertakings Protection of Employees (TUPE)

- 7.1 In all cases where a request for Quotation or Invitation to Tender for services may result in a transfer of employees to or from the Council the Council will: -
- 7.1.1 Issue a statement on the application of the Acquired Rights Directive(s) and The Transfer of Undertakings Regulations 1981 and 2006;
- 7.1.2 Consult staff who may be impacted, and generally conduct the exercise in accordance with ODPM Circular 02/2003 -'Code of Practice on Workforce Matters in relation to Local Authority Service Contracts'

8. Non- Commercial Considerations, Equalities & Community Benefit

- 8.1 Only non-commercial considerations that have a direct impact on the goods, works or services being procured can be incorporated as part of any quotation or tender evaluation.
- 8.2 Inclusion of such criteria in specifications must only be undertaken in accordance with The Council's Corporate Procurement Strategy and Procurement Code and Toolkit.

9. Procedures

- 9.1 For the purposes of this rule, all estimates of contract values shall be in writing and prepared by the relevant Director, Head of Service or a competent member of his/her staff

Quotations

- 9.2 No contract for goods, services, or works having an estimated value not exceeding £59,999 in value shall be made unless: -
- 9.2.1 For contracts having an estimated value **between £2,500 and £25,000 not less than 3 written quotations** are obtained from competent contractors identified and selected by the relevant Assistant Director;
- 9.2.2 For contracts having an estimated value of **£25,000 but not exceeding £59,999 not less than 4 written quotations** are obtained from competent contractors identified and selected by the relevant Director or his representative.

Tenders (Below EU Threshold Values)

- 9.3 No contract having an estimated value in excess of **£59,999 but below EU Threshold values applicable at the time** shall be made unless either of the procedures below is undertaken: -
Ad Hoc Tenders
- 9.3.1 At least seven (7) days public notice has been given in accordance with rule 2.6, stating
- o The nature and purpose of the contract;
 - o Inviting tenders for its execution;
 - o Details of the award criterion; and
 - o The last date for when tenders will be accepted.

Standing Approved List

Section deleted.

Framework Agreement

- 9.3.2 In accordance with Rule 10
- Pre-Qualification
- 9.3.3 Where application has been invited by Public Notice in accordance with the Rules above, the invitation may require a pre-tender assessment (Pre-Qualification Questionnaire) to be undertaken and for the invitation to submit a tender to be limited to those persons who satisfactorily meet the requirements of that assessment.
- 9.3.4 Where this applies the public notice must clearly and unambiguously state this fact.
- 9.3.5 The relevant Director shall select not less than 4 persons (5 in the case of the EU restricted Tender Procedure) from the list who have satisfactorily met the pre-tender assessment to submit a tender, unless only three or two have satisfactorily met the pre-tender assessment in which case that number must be invited to submit a tender.
- 9.3.6 The Council shall only enter into a contract with a potential supplier if it is satisfied as to the suppliers
- o Eligibility that he/she is not disbarred from tendering
 - o Financial standing
 - o Technical capacity –including relevant quality management systems relevant to the performance of the contract under consideration
- 9.3.7 **Tenders above EU threshold values**
 All supplies, services or works having an estimated contract value in excess of the values stipulated in the EU Consolidated Procurement Directive and Public Contracts Regulations 2006 shall be undertaken strictly in accordance with the requirements of that legislation.
- 9.3.8 All public notices for such contracts must be in the prescribed form and appear in the Official Journal of the European Union (OJEU), electronically transmitted to their Luxembourg office wherever practicable.
- 9.3.9 Placement of additional local/national or other public notices **must only be made after the date of despatch to OJEU** and must contain **no more information than the OJEU version.**
- 9.3.10 The advice and assistance of the Contracts and Procurement Manager must be sought prior to the despatch of any OJEU Notice.

10. Framework Agreements

- 10.1 Where the Council identifies and adopts suitable Framework Agreement(s) that have been tendered and awarded by central or local government or other approved agency the Council may benefit from using those agreements without entering into a separate procurement, provided
- 10.1.1 There are one or more suitable suppliers who are party to the framework
- 10.1.2 Where more than one supplier is identified a competitive exercise is conducted between the suitable suppliers;

- 10.1.3 The duration of any call off contract that results is predetermined to take account of the nature and volatility of market for the goods, works or services to being procured; and
- 10.1.4 In any event not more than 4 years duration

11. Electronic Tendering (e-Tendering)

- 11.1 All officers undertaking Requests for Quotations (RFQs) and Invitations to Tender (ITTs), will conduct the exercise by electronic means (preparation, transmission and receipt) once the Council has fully adopted and implemented an approved e-tendering portal that: -
- Provides an in-depth audit trail detailing the transmission, submission, related correspondence etc;
 - Quotations and Tender submissions are retained in a secure electronic folder under the control of the Corporate Director (Monitoring Officer) and the relevant Strategic Director or their representatives and remains 'locked and closed' until after the deadline has passed for receipt of quotations and tender submissions.
- 11.2 During adoption and implementation of the approved e-tendering portal electronic tendering should be considered by all Officers undertaking Requests for Quotations (RFQs) and Invitations to Tender (ITTs) though the procurement exercise should not be conducted by this means without prior consultation with the Procurement & Contracts Manager.

12. Invitation to Tender

- 12.1 Any Invitation to Tender issued by the Council shall include details of the Council's requirements for that particular contract including: -
- 12.1.1 A description of the supplies, services or works being procured;
 - 12.1.2 The procurement timetable including tender return date and time. Such date must allow a reasonable period for potential suppliers to prepare and submit their tender;
 - 12.1.3 A specification and instructions on whether variants are permissible;
 - 12.1.4 The Council's terms and conditions of contract;
 - 12.1.5 A statement on the Council's anti Fraud and Corruption Policy including reference to the Whistle-blowing Policy (Confidential Reporting Code)
 - 12.1.6 The evaluation criteria and any weightings considered appropriate
 - 12.1.7 The pricing mechanism and instructions for completion;
 - 12.1.8 The form and content of any method statements etc to be submitted;
 - 12.1.9 A statement that the Council does not bind itself to accept the lowest or any tender;
 - 12.1.10 A statement that late tenders, incomplete tenders, tenders returned not using the means indicated, or where applicable, not returned in the envelope provided or bearing distinguishing marks that would identify the sender, or those containing an unauthorised alteration will be disqualified;
 - 12.1.11 Whether the Council is of the view that the Transfer of Undertakings (Protection of Employees) Regulations 2006 and 1981 may apply;
 - 12.1.12 A list of documents to be returned, and the rules for their submission;
 - 12.1.13 Any further information that will inform and assist those invited to tender to prepare and submit tenders;
 - 12.1.14 A Non-collusive tendering Certificate for completion and return by the tenderer; and
 - 12.1.15 For tenders in excess of £60,000 a copy of the Performance Bond or other guarantee/surety to be completed and returned by the tenderer.
- 12.2 Tenders invited in pursuance of Rule 9.3.1 and the 'Open EU Procedure' shall be returned electronically where the process has taken place via the e-tendering portal.

- 12.3 Where a paper-based exercise is followed Tenders invited in pursuance of Rule 9.3.1 and the 'Open EU Procedure' shall be returned impersonally addressed to the Corporate Director (Monitoring Officer)
- 12.4 In all other cases, where a paper-based exercise is the preferred procurement option they shall be addressed impersonally to the relevant Director.
- 12.5 Where a paper-based exercise is followed as opposed to use of the e-tendering portal, the tender return envelopes/labels shall be a plain colour. They shall bear the word 'Tender' followed by the tender subject, and clearly state the deadline for receipt of tenders in the top left hand corner.

13. Request For Quotation

- 13.1 Any Request for Quotation (RFQ) issued by the Council shall include such details of the Council's requirements as the relevant Director and/or Assistant Director deem necessary having regard to the requirements of Rule 12 above to enable a transparent award decision in accordance with Rule 19.
- 13.2 Where an electronic tendering portal has been approved, adopted and implemented all Requests for Quotations shall be invited electronically and returned by the same means.
- 13.3 All Requests for Quotations invited in writing shall be addressed impersonally to the relevant Director.
- 13.4 Where a paper-based exercise is followed RFQ return envelopes shall be a plain colour, bear the word 'Quotation' followed by the subject matter and the deadline for the receipt of Quotations in the top left hand corner.

14. Transparency – Treatment of Queries during Procurement Exercise

- 14.1 Any question points of clarification raised by a potential supplier shall be answered in writing. The same information must also be individually communicated in writing to all other potential tenderers to ensure transparency and equality of treatment.

15. Receipt and Custody

- 15.1 Electronic tenders and tender envelopes returned must only be opened after expiry of the closing date in accordance with the provisions of Clause 16 below. Any opening of tenders, (electronic or hard copy), prior to the tender return deadline will render the tender exercise invalid
- 15.2 Where the preferred method of the approved e-tendering portal is followed all tender responses shall be returned via the portal where they will be sealed until after the deadline for return has passed when only an appointed verifier can release them.
- 15.3 Where a paper-based exercise is followed tender envelopes on their return shall be date stamped on the outside with the date of their return by Reception/post room staff who will initial them and insert the time of their return. Envelopes will then be placed in the locked Tender Box where they will remain unopened until after the deadline for return has passed.
- 15.4 Where the preferred method of the approved e-tendering portal is followed all quotations shall be returned via the portal where they will remain locked until after the final deadline for receipt of all quotations when only an appointed verifier can release them.
- 15.5 Where a paper-based exercise is followed, quotation envelopes on their return shall be date stamped, the time of their return inserted and initialled by the staff who first receives them. They will be forwarded to the relevant Director who will store them in a secure locked place where they will remain unopened until after the final deadline for receipt of all quotations.

Paragraph removed

16. Opening of Tenders & Quotations

- 16.1 Tenders and Quotations shall be opened at a single time.
- 16.2 All Tenders having an estimated value in excess of £60,000 shall be opened by a minimum of 3 persons as described in clause 16.3, and in all other cases by a minimum of two people as more fully described below or where the preferred method of the approved e-tendering portal is followed all quotations shall be returned via the portal where they will remain locked until after the final deadline for receipt of tenders when only an appointed verifier can release them.
- 16.3 Tenders having an estimated contract value in excess of £60,000 shall only be opened by, or in the presence of the relevant Portfolio holder or his nominated member representative, the Corporate Director (Monitoring Officer) and the relevant director or their designated representatives or in the case of using the e-tendering portal an appointed verifier can release them.
- 16.4 Tenders received by the tender deadline under Rule 9.3.1(Ad-Hoc) or the subject of the EU 'Open Procedure' shall all be opened at one time and ONLY by, or in the presence of, the Corporate Director (Monitoring Officer) and the relevant Director or their designated representatives or in the case of using the e-tendering portal an appointed verifier can release them.
- 16.5 The relevant Director and a designated member of his/her staff or two designated members of his/her staff shall open tenders and written quotations received under any other procedure or in the case of using the e-tendering portal an appointed verifier can release them.
- 16.6 Where a paper-based exercise has been followed the Form of Tender/Quotation; Non-collusive certificates, form of bond and any priced documents submitted by the potential supplier shall be date stamped and those persons present shall insert their initials within the stamp.
- 16.7 A Tender Opening Register bearing a unique reference number and the title of the tender/quotation of all submissions received shall be completed, recording the tender/quotation sums submitted. All those persons present at the opening shall sign the register. The original signed document shall be forwarded to and retained by the Corporate Director (Monitoring Officer). The relevant Director shall each maintain a copy in a register of tenders/quotations received. A further copy shall be forwarded (by the officer conducting the tender/quotation exercise) to the Head of Corporate Legal Services as a precursor to entering the Contract onto the Councils Statutory Register of Contracts. In the case of using an e-tendering portal the Tender Opening Register will not be required.
- 16.8 Any Tender/Quotation received after the appointed time for receipt of tenders/quotations for a particular contract shall be disqualified and shall not be opened save to ascertain the name of the tenderer/potential supplier to whom it shall be returned immediately.
- 16.9 Where this is carried out as a paper-based activity the Tender and Quotation return envelopes, or photocopies thereof indicating the date and time of receipt shall be retained as part of the tender file.

17. Alterations (Tenders and Quotations)

- 17.1 Where during the tender evaluation process, examination of the most favourable tender or quotation (as set out in Rule 19) reveals errors or discrepancies, which affect the tender/quotation figure the following process shall be followed: -

- 17.1.1 If the errors or discrepancies are of an **arithmetic nature** that results in the **tender figure being reduced** from that submitted, the tenderer etc will be informed of the errors or discrepancies involved and that the **Council intends to treat the tender figure as reduced** to reflect the true arithmetic value of the tender/quotation;
- 17.1.2 If the errors or discrepancies are of an **arithmetic nature** that results in the **tender figure being increased** from that submitted, the tenderer etc will be informed of the errors or discrepancies involved and afforded the opportunity to confirm the tender/quotation figure at the original submitted price or to withdraw the tender/quotation offer;
- 17.1.3 In all other circumstances, the tenderer etc. is to be given details of the errors or discrepancies and afforded the opportunity to confirm the tender/quotation figure or withdraw the offer.
- 17.1.4 If a tenderer etc withdraws an offer as a result of 17.1.2 or 17.1.3 above the next most favourable tender shall be examined and treated in the same manner.
- 17.2 Where procurement is conducted pursuant to the Regulations through either an open or restricted procedure no post tender negotiations are permitted.
- 17.3 The Council may seek clarification from potential suppliers in respect of their offer where appropriate. However the same opportunity must be afforded to all potential suppliers to ensure a transparent, non-discriminatory process that affords equality of opportunity.

18. Acceptance (Tenders & Quotations)

- 18.1 The most favourable tender or quotation may only be accepted where there is adequate provision in the Revenues estimates approved by the Council or an approved Capital Estimate.
- 18.2 Where the most favourable tender received is unacceptable, exceeds the budget provision, despite any adjustments that may be permitted under the Invitation to Tender and these Rules a report on all tenders for that particular contract, and the options available shall be made to the Cabinet or relevant Council Committee for consideration and decision.
- 18.3 Where the most favourable quotation received is unacceptable, exceeds the budget provision, despite any adjustments that may be permitted under the Request for Quotation and these Rules, a report on all quotations and the options available shall be prepared by the Assistant Director for consideration and decision by the relevant Director.
- 18.4 Where a payment is proposed to be made to the Council, and the most favourable tender/quotation is unacceptable, or it is proposed to accept other than the most favourable tender/quotation a report shall be made on all tenders or quotation as described in Rule 18.2 and 18.3 respectively.
- 18.5 At the conclusion of the tender exercise, having an estimated value above EU threshold values, and prior to any award being made, there shall be a minimum 10-day standstill period during which unsuccessful suppliers shall be debriefed on the intended outcome, appraised of the evaluation results (including scores – and those of competitors with names removed). If formal objections to the intended award are raised the Corporate Director (Monitoring Officer) and the Contracts & Procurement Manager shall be consulted.

18.6 For below EU threshold procurement exercises suppliers shall be debriefed as to the outcome of the exercise

19. Award Criteria

19.1 The basis of tender acceptance and award must be made clear in the tender documentation. Either

- a) Best Value for Money/Most Economically Advantageous Tender, or
- b) Lowest Price

As more fully described hereunder

19.2 Contracts shall primarily all be awarded on the basis of 'Best Value for Money' by a robust assessment of cost and quality.

19.3 For contracts having a value in excess of £25,000, or identified as likely to have significant environmental impacts(s) the evaluation of cost and quality shall include an assessment of 'whole life costs'

19.4 For tenders and contracts having an estimated value above EU threshold value the award criterion shall be 'the most economically advantageous in Terms of ...'. There shall follow a list of the factors identified in decreasing order of importance and where practicable the relative weightings of each.

19.5 Unless there are exceptional reasons, the weighting given to price shall be between 60% and 85%. A lower figure than 60% will require the written approval of the Assistant Director (Resources)

19.6 An award on the basis of lowest price should be reserved for sectors where it is possible to precisely specify the goods or supplies to be procured or the items are otherwise identical. For example basic gas and electricity supply prices but not where an element of the supply is to be from renewable or carbon neutral processes)

20. Contracts to be in Writing

20.1 All contracts having an estimated total value of £25,000 and above, and any other case where the Corporate Director (Monitoring Officer) so decides shall be in writing.

20.2 Every such contract entered into on behalf of the Council shall be in a form approved by the said Executive Director and **shall be signed by at least two officers of the Council or made under the common seal of the Council attested by at least one officer in accordance with the Council's Constitution.**

20.3 Every such contract shall include

20.3.1 The supplies, services or works to be furnished/delivered, had or done [including appropriate technical specification(s);

20.3.2 The price to be paid with a statement of any discounts or other deductions;

20.3.3 The time or times within which the contract is to be performed/undertaken;

20.3.4 Valid copies of the minimum appropriate insurance to be held by the contractor at the commencement of the contract and on each subsequent anniversary;

20.3.5 Clauses(s) for the way in which any arbitration is to proceed under the contract;

20.3.6 A clause prohibiting the contractor from transferring, assigning (directly or indirectly) to any person whatsoever, any portion of the contract without the prior written permission of the Council, or from subletting any portion of the contract without such permission other than may be customary in the trade concerned;

- 20.3.7 In every contract for the execution of works or the supply of goods and materials and in every contract where the estimated value exceeds £60,000 (except where the contract is entered into under partnering arrangements there shall be a provision for liquidated damages. The amount of such provision shall be determined in consultation with the Assistant Director (Resources) and the computation recoded and filed with the contract documents;
- 20.3.8 A clause stating the retention of any appropriate amount determined following consultation with the Corporate Director (Monitoring Officer) that will be withheld until clearance of the Final Account.
- 20.3.9 That all goods, materials and workmanship must be at least to the standard specified having regard to the relevant European, British or equivalent body, and must otherwise be fit for purpose;
- 20.3.10 A clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give any person any gift, consideration or any kind of inducement or reward for doing or forbearing to do or to have done any action in relation to obtaining or execution of the contract with the Council;
- 20.3.11 A clause empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation if the contractor or any person employed by him/her or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- 20.3.12 A clause prohibiting the Contractor from transferring or assigning, directly or indirectly, any portion of the contract to any person or organisation without the express written consent of the Council.
- 20.3.13 A clause that the contractor, his staff, agents and any sub-contractors are required to comply with the Council's Anti Fraud and Corruption procedures and the Whistle-blowing Policy (Confidential Reporting Code) for reporting any such events. A copy of the Whistle-blowing policy currently applicable shall be included in the schedule of documents under clauses 20.1 and 20.2 above.
- 20.3.14 A clause that the contractor will comply with the provisions of: -
- o The Sex Discrimination Act 1975, the Race Relations Act 1976 and Race Relations (Amendment) Act 2000, the Disability Discrimination Act 1995 and any amendments or re-enactment of those Acts and any Codes of Practice issued under those Acts;
 - o All obligations of the Council under the Human Rights legislations;
 - o All restrictions and requirements of the Council under Data Protection legislations;
 - o All restrictions and requirements that may be imposed on the Council under the Freedom of Information Act; and
 - o The Health and Safety at Work etc Act 1974 and any other legislation made thereunder or relevant to the health and safety of employees.
- Sub Contractors
- 20.4 Where any sub-contractor or supplier is to be nominated to a main contractor/supplier for the execution of a contract with the Council, these Contract Procedure Rules shall apply as if the Council was entering into a direct contract with the sub-contractor or supplier.

21. Contract Extension

- 21.1 A contract for supplies, services or works shall only be extended where the contract terms and conditions expressly provide for an option for extension.

- 21.2 Any such extension shall only be considered where the contract has been successful in demonstrating: -
- Performance targets identified in the original contract were met and exceeded;
 - Demonstrating Continuous Improvement or innovative service delivery processes; AND
 - Is able to demonstrate that such extension will deliver Best Value for Money in accordance with Rule 19.
- 21.3 Any such extension shall be subject to: -
- Adequate budget provision; and
 - The extension being priced at the original contract rates subject to any adjustment mechanism set out in the contract;
- 21.4 Any proposed contract extension shall be the subject of an Executive Report for consideration and decision.

22. Performance Bonds

- 22.1 The Council shall require and take sufficient security for the due performance of all contracts exceeding £60,000. Except, as set out in Rule 21.2 the amount of security shall be the retention of 10% of the contract sum during the life of the contract, such retention to be released on issue of the certificate of practical completion of the contract.
- 22.2 In any particular contract or class of contract the Corporate Director (Monitoring Officer) may decide that the Council's interest in the proper performance of the contract can be appropriately protected by specifying and taking a different form of security

23. Standards

- 23.1 Where an appropriate International Standard, European Standard, British Standard Specification or British Standard Code of Practice issued by the British Standards Institutions is current at the date of tender/request for quotation, the specification and contract shall require that all goods, materials used or supplied and all workmanship shall be in accordance with that standard or of a higher standard. Where any such standard is quoted the phrase 'or equivalent' must be inserted.

24. Termination/Failure to Execute Contract

- 24.1 In every contract for the execution of work, supply of goods, materials or services having an estimated value of £25,000 and above a clause shall be inserted to secure that, should the contractor fail to deliver the goods, materials or execute the service or works or any part or portion thereof within the time or times specified in the contract, the Council, may without prejudice to any other remedy for breach of contract, either wholly or in part, or to the extent of such default, and to provide for the execution of the work or service by other means, or to purchase other goods or materials, as the case may be make good
- Such default; or
 - In the event of the contracts being wholly determined, the unexecuted work or service or the goods or materials to be delivered

The clause shall further secure that the amount by which the cost of providing for the execution of the work or service by other means, or the purchasing of other goods or materials, exceeds the amount which would have been payable to the contractor had he executed the contract, or portion thereof, within the time or times specified therein, shall be payable by the contractor.

25. Engagement of Consultants

- 25.1 It shall be a condition of the appointment and engagement of the services of any consultant, not being an officer of the Council, who is to be responsible to the Council for the supervision of a contract, or design of any scheme etc on behalf of the Council that: -
- 25.1.1 The appointment will be undertaken in accordance with these Rules;
- 25.1.2 The consultant will be prohibited from bidding for the work, service etc and any subsequent stage unless this was the specific purpose of their appointment;
- 25.1.3 That in supervising any contract on behalf of the Council the Consultant shall comply with these Rules as though he/she was a Director of the Council, subject to the modification that the procedure to be followed in inviting and opening tenders shall be approved in advance by the relevant Director;
- 25.1.4 That at any time during the period of carrying out the contract procedure during his/her appointment, the Consultant shall produce to the Assistant Director (Resources) or his authorised representative, on request, all the records maintained by him/her in relation to the contract; and
- 25.1.5 On completion of the appointment/contract he/she shall without delay transmit all records in relation to any contract to the relevant Director.

26. Partnerships

- 26.1 Whenever the Council enters into a formal partnership the Council will ensure Governance arrangements are agreed in writing and include tendering responsibilities and arrangements.
- 26.2 Where the Council acts as Lead Authority in the partnership these Contract Procedure Rules shall whenever practicable be followed.
- 26.3 Before entering into contracts, written agreements shall be made with funding partners regarding the level of and conditions attached to any funding.
- 26.4 Where the Council is not the lead partner, the tendering procedure rules agreed by the partnership shall be followed.

27. Accountable Body

- 27.1 Tendering arrangements must conform with this Council's and any appointed partner(s) Contract Procedure Rules, and be capable of providing evidence of this to the Council, its agents any inspection body e.g. Audit Commission.

N.B. Failure to follow the funding body's tendering rule is likely to result in funds being clawed back, leading to a potential budget deficit to be financed by the Council

28. Retention of Records /Documents

- 28.1 All contractual documents associated with Requests for Quotations and Tenders **from successful and unsuccessful suppliers must be retained** in accordance with the clauses below. Documents to be retained include: -
- 28.1.1 Copies of Public Notices
- 28.1.2 Quotations returned
- 28.1.3 Requisition for Supplies/goods
- 28.1.4 Copy orders
- 28.1.5 Delivery Notes
- 28.1.6 Invoices, credit notes etc
- 28.1.7 Price Advices
- 28.1.8 Contract Variations

- 28.1.9 Write off Approvals
 28.1.10 All tender/quotation documents returned by suppliers
 28.1.11 Any post tender interviews and clarifications including written notes of any interviews.
 28.1.12 All other such information relevant to the procurement exercise undertaken e.g. Award Decision minutes etc.

28.2 For contracts below £60,000 in total estimated value – 3 years or the lifetime of the contract

28.3 For contracts £60,000 and above – six years after the expiry of the contract

28.4

	Below £60,000	£60,000 and above
Successful Tenders & Quotations	3 years	6 years after contract expiry
Unsuccessful Tenders & Quotations	3 years	6 years after contract expiry

28.5 A complete set of the original contract and tender documents must also be retained, including contract terms and conditions, specification, pricing schedule, evaluation models, correspondence and award decision and letter as either electronic or hard copies.

29. Freedom of Information

29.1 The Council shall fulfil its obligations under the Freedom of Information Act in respect of any application made under the Act in relation to the contracts it has entered into and the manner in which the contract was procured.

30. Statistics

30.1 The Contracts and Procurement Manager or such other officer nominated by the Monitoring Officer shall be responsible for collecting, collating and submitting the annual statistical return on procurement activity subject to EU Rules required by the Department of Communities and Local Government.

30.2 Directors and Assistant Directors shall upon request of the nominated officer provide the details and any information necessary to complete these returns with the minimum of delay.

31. Adoption, Review and Amendment of Contract Procedure Rules

31.1 These Contract Procedure Rules shall be reviewed and updated on a regular basis not less than bi-annually. These Rules and Amendments to them shall be agreed and approved by the full Council.

32. Glossary

Annual Procurement Plan A plan identifying the major projects and contracts that are expected to be procured during the financial year. Where possible the APP should also identify the lead officer and an outline timetable.

Best Value for Money The optimum combination of quality and cost taking into account 'whole life costs' for procurements valued at £25,000 or above.

Contract Period	The period over which a contract is delivered. The period determined must comply with European and National legislation, allow for continuous improvement, enable appropriate exit strategies, and enable the contract to be packaged to encourage delivery in the most cost effective manner
Contracts Register	The register held by the Council containing of all written contracts entered into by the Council above a financial threshold value of £25,000
Council	In these Rules, the expression 'the council' shall be deemed to include reference to the Cabinet, a Committee, or Sub-Committee, a Portfolio Holder or an Officer acting in accordance with delegated authority on behalf of the Council as detailed elsewhere in the Council's Constitution.
EU Procurement Directives	The Legislation setting out the defined mandatory procurement procedures that must be followed when procuring supplies, services or works above the pre-determined threshold values in force for the time being.
Framework Agreement	Contracts awarded following a compliant tender exercise that provides for the 'call-off' of supplies, services or works against a supplier. The Framework provides a non-binding offer without obligation; a binding contract coming into effect once the Council initiates a 'call-off'
ITT	Invitation to Tender
OJEU	Official Journal of the European Union. The advertising medium for tenders above EU procurement threshold values
Performance Bond	Applicable to contracts over £60,000 in value where there are potentially high levels of risk. The Council seeks security to mitigate such risk, and this is normally in the form of a parent company guarantee or a Performance Bond.
Procurement	The mechanism and processes by which the Council acquires the supplies (goods), services and works necessary to achieve delivery of its objectives. It will include all associated performance measurement, monitoring and other controls necessary to complete such delivery.
Procurement/E-procurement	Use of electronic systems to undertake procurement activity and may include use of– Procurement Cards, E Solutions
Procurement Cards	Approved purchasing cards generally used as a mechanism for ordering and invoicing low value goods and services. Purchasing Cards are not credit cards.

E-Procurement / e-tendering	An electronic procurement process using proprietary software or media to enable the tender/quotation process to be undertaken electronically. It provides all the controls applicable to manual tendering as required by these rules.
Regulations	The UK regulations implementing the EU public procurement directives.
RFQ	Request for Quotation
Risk Management	Risks associated with procurement exercises shall be identified, assessed and managed
Supplier	Any person, firm, organisation or body providing or potentially providing supplies (goods) services or works to the Council.
Whole Life Costs	The costs associated with a procurement form the initial definition of need, to the actual procurement of the supplies, services or works, their delivery and operation through to the end of the useful life and/or disposal.

Appendix 1 – Financial Thresholds for the time being in force.

Estimated Value	Invitation Method	Who issues/seeks the Invitation	Who may accept	Form & method of Acceptance
Up to £2,500	Minimum of 2 quotations from competent contractors	Authorised Officer	Authorised Officer Administrative Decision to relevant Director	Written acceptance and purchase order Including 'Electronic Purchase Order'
£2,500 to £25,000	Minimum of 3 written & sealed quotations from competent contractors	Relevant Assistant Director	Relevant Assistant Director – Administrative Decision with copy to Contracts & Purchasing Manager	Written acceptance and purchase order Including 'Electronic Purchase Order'
£25,000 to £59,999	Minimum of 4 written and sealed quotations from competent contractor	Relevant Director	Relevant Director Delegated Director's Executive Decision	Written acceptance and agreement under Council seal after expiry of any call in.
£60,000 up to EU Thresholds	Formal Invitation to Tender In accordance with procedures in Rule 9	Relevant Director – return to Corporate Director (Monitoring Officer)	Relevant Director Delegated Director's Executive Decision in consultation with the relevant Portfolio holder	Written acceptance and agreement under Council seal for the supplies, services or works after expiry of any call in. Terms & Conditions to include consideration of Liquidated Damages and Performance retention/bond

Estimated Value	Invitation Method	Who issues/seeks the Invitation	Who may accept	Form & method of Acceptance
Above EU thresholds as stated in the Corporate Procurement Code and Toolkit	Formal Invitation to Tender in accordance with Consolidated EU Procurement Directive	Corporate Director (Monitoring Officer)	Portfolio Holder recommendation to the Cabinet	<p>Written acceptance and agreement under Council seal for the supplies, services or works after expiry of any call in.</p> <p>Terms & Conditions to include consideration of Liquidated Damages and Performance retention/bond</p>

EXTERNAL ARRANGEMENTS

Partnerships

Why is this important?

- 1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private communities, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

General

- 3 The main reasons for entering into a partnership are:
 - a) The desire to find new ways to share risk
 - b) The ability to access new resources
 - c) To provide new and better ways of delivering services
 - d) To forge new relationships
- 4 A partner is defined as either:
 - a) An organisation [private or public] undertaking, part funding or participating as a beneficiary in a project; or
 - b) A body whose nature or status give it a right or obligation to support the project.
- 5 Partners participate in projects by:
 - a) Acting as a project deliverer or sponsor, solely or in concert with others
 - b) Acting as a project funder or part funder
 - c) Being the beneficiary group of the activity undertaken in a project.
- 6 Partners have common responsibilities:
 - a) To be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
 - b) To act in good faith at all times and in the best interests of the partnership's aims and objectives
 - c) To be open about a conflict of interests that might arise
 - d) To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
 - e) To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
 - f) To act wherever possible as ambassadors for the project.

Key Controls

- 7 The key controls for Council partners are:
- a) If appropriate, to be aware of their responsibilities under the Council's Financial Procedure Rules and the Contract Procedure Rules
 - b) To ensure that risk management processes are in place to identify and assess all known risks
 - c) To ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
 - d) To agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
 - e) To communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibilities of the Assistant Director (Resources)

- 8 To advise on effective controls that will ensure that resources are not wasted.
- 9 To advise on the key elements of funding a project. They include:
- a) A scheme appraisal for financial viability in both the current and future years
 - b) Risk appraisal and management
 - c) Resourcing, including taxation issues
 - d) Audit, security and control requirements
 - e) Carry-forward arrangements.
- 10 To ensure that the accounting arrangements are satisfactory.

Responsibilities of Assistant Directors

- 11 To maintain through the Democratic and Member Services Manager a register of all contracts entered into with external bodies in accordance with the procedures specified by the Assistant Director (Resources).
- 12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Assistant Director (Resources).
- 13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
- 14 To ensure that all agreements and arrangements are properly documented and that they provide clarity as to the Council's role in the partnership, including where appropriate whether the Council is acting as Agent, Principal or Joint Principal and the basis on which these roles are undertaken.
- 15 To provide appropriate information to the Assistant Director (Resources) to enable a note to be entered into the Council's Statement of Accounts concerning material items.

External Funding

Why is this important?

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

Key Controls

- 17 The key controls for external funding are:
- a) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Accountable Body are clearly understood
 - b) To ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council
 - c) To ensure that any match-finding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements
 - d) To ensure that the consequences for the Council, or for any partners for whom the Council may be acting as Agent, of exceeding the funding or expenditure requirements are clearly set out and understood.

Responsibilities of the Assistant Director (Resources)

- 18 To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 19 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 20 To ensure that audit requirements are met.

Responsibilities of the Assistant Directors

- 21 To ensure that all claims for funds are made by the due date.
- 22 To ensure that the project progresses in accordance with the agreed timetable and that all expenditure is properly incurred and recorded.

Work for Third Parties

Why is this important?

- 23 Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is *intra vires*.

Key Controls

- 24 The key controls for working with third parties are:
- a) To ensure that proposals are costed properly in accordance with guidance provided by the Assistant Director (Resources)
 - b) To ensure that contracts are drawn up using guidance provided by the Assistant Director (Resources) and that the formal approvals process is adhere to
 - c) To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Assistant Director (Resources)

- 25 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Assistant Directors

- 26 To ensure that the approval of the Cabinet or appropriate officer [if delegated] is obtained before any negotiations are concluded to work for third parties.
- 27 To maintain with the Democratic and Member Services Manager a register of all contracts entered into with third parties in accordance with procedures specified by the Assistant Director (Resources).
- 28 To ensure that appropriate insurance arrangements are made.
- 29 To ensure that the Council is not put at risk from any bad debt.
- 30 to ensure that no contract is subsidised by the Council.
- 31 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 32 To ensure that the Business Unit has the appropriate expertise to undertake the contract.
- 33 To ensure that such contracts do not impact adversely upon the services provided for the Council.
- 34 To ensure that all contracts are properly documented.
- 35 To provide appropriate information to the Assistant Director (Resources) to enable a note to be entered into the Statement of Accounts.

OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

(a) Declarations

- i. The Council will include a statement in applications for employment requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- ii. No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Director or an officer nominated by him/ her.

(b) Seeking support for appointment.

- i. Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii. Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- iii. Nothing in paragraphs (i) or (ii) above will preclude a Councillor or officer from giving a written reference for a candidate.

2. Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer within the meaning of the Local Authorities (Standing Orders) Regulations 1993 and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - i. the duties of the officer concerned (job description); and
 - ii. any qualifications or qualities to be sought in the person to be appointed (person specification);
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3.

- (a) Where a post has been advertised as provided in standing order 2(b), the authority shall –
 - 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.

- (b) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 1(b).

4.

4.1 In this Part –

“the 1989 Act ”means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“executive” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“member of staff” means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

- 4.2 Subject to paragraph 4. 3 and 4.7 the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him/her.

- 4.3 Paragraph 4.2 shall not apply to the appointment or dismissal of, or disciplinary action against –

- (a) the officer designated as the head of the authority's paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4.4

- (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.
- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 4.3, at least one member of the executive must be a member of that committee or sub-committee. The Human Resources Committee has power to establish the committee or sub-committee with delegated authority to discharge the functions in paragraph (2).

4.5

- (1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph(a), (b), (c) or (d) of paragraph 4.3 must not be made by the appointor until –
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the executive of the authority of –
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either –
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or
 - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

4.6

- (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a),(b),(c) or (d) of paragraph 4.3 must not be given by the dismissor until –
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the executive of the authority of –
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

- (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either –
- (i) the executive leader has, within the period specified in the notice under subparagraph (b)(iii), notified the dismissor that neither he/she nor any other member of the executive has any objection to the dismissal;
 - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the executive leader; or
 - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
- 4.7 Nothing in paragraph 4. 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

5

- (1) In paragraph 5(2) “chief finance officer”, “council manager”, “disciplinary action”, head of the authority’s service” and “monitoring officer”, have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and “designated independent person” has the same meaning as in regulation 7 of those Regulations.
- (2) No disciplinary action in respect of the head of the authority’s paid service (unless he/she is also a council manager of the authority), its monitoring officer or its chief finance officer, except action described in paragraph 5(3), may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- (3) The action mentioned in paragraph 5(2) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

6 Matters of discipline and capability in respect of officers below Chief Officer shall be dealt with by the Chief Executive or Directors as appropriate under the National Joint Council for Local Government Services.

7 Councillors will not be involved in discipline (including dismissal), capability or redundancy matters, except to the extent specified in any nationally or locally agreed or adopted procedures. In the case of employees below chief officer level, this will usually mean that involvement is limited to acting as a witness in investigations or participating as a member of an appeals panel.

