

PART 3 RULES OF PROCEDURE

Havant Borough Council CONSTITUTION

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**Havant Borough Council
CONSTITUTION**

SECTION A: COUNCIL AND COMMITTEE STANDING ORDERS

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PART 2

Section A – Council and Committee Standing Orders

COVID-19 impact

As of 4 April 2020, the Council is operating in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 SI 2020/392 (**the Coronavirus Regulations 2020**). This enables the Council to hold remote meetings (including by video and telephone conferencing) until 7 May 2021.

During this period, and in line with Government guidance, the Council is likely to continue to host most, if not all, of its meetings remotely.

If at any time these rules differ from the law in force then the law must be followed as it will override any conflicting provision in these rules.

This Constitution and these Council and Committee Standing Orders will be kept under review during this period and updated accordingly. For further guidance, please contact the Monitoring Officer.

SO 1. Interpretation and Chairman's Ruling

- 1.1 These Standing Orders apply to meetings of the **Full Council** and, where appropriate, to meetings of committees and sub committees. These Standing Orders do not apply to meetings of the **Cabinet** – for which see the [Cabinet Standing Orders](#).
- 1.2 References in these Standing Orders to the Mayor of the Council, **Leader** of the Council or Chairman, include the appointed deputy or any other Councillor acting in their absence.
- 1.3 References in these Standing Orders to the Mayor of the Council shall include the Chairman of any meeting where appropriate.
- 1.4 These Standing Orders should be read in conjunction with other parts of the Council's Constitution.
- 1.5 ***These Standing Orders are subject to any statute or other enactment whether passed before or after these Standing Orders came into effect.
- 1.6 The ruling of the Mayor of the Council on the application and interpretation of these Standing Orders is final.

SO 2. Suspension and Amendment of Standing Orders

- 2.1 ***With the exception of the Standing Orders marked by an asterisk (***), any Standing Order may be suspended at a meeting of the **Full Council**, a committee or sub-committee either by a motion included on the agenda or by a motion put to the meeting without notice and passed by a majority of those present and voting. A motion to

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suspend any Standing Orders will not be moved without notice unless at least one half of the whole number of Councillors are present.

- 2.2 Standing Orders may be changed by **Full Council** either at the Annual Meeting or following recommendation by the relevant Committee or by a motion or notice made at a meeting of the **Full Council**.

SO 3. Mayor of the Council and Deputy Mayor of the Council

- 3.1 ***The Mayor of the Council and the Deputy Mayor of the Council will be appointed at the Annual Meeting of **Full Council**.
- 3.2 ***If the Office of Mayor of the Council becomes vacant during a Civic Year it will be filled at the next Full Council meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.
- 3.3 If the office of Deputy Mayor of the Council becomes vacant during a civic year it will be filled at the next Full Council meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.

*****These standing Orders may not be suspended**

- 3.4 The Mayor of the Council will chair meetings of the **Full Council**. In the Mayor of the Council's absence the Deputy Mayor of the Council will chair the meeting. In the absence of both the Mayor of the Council and Deputy Mayor of the Council, the Full Council will appoint another Councillor to chair the meeting.

SO 4. Political Groups and Leaders

- 4.1 A political group will be treated as constituted when the **Chief Executive** has received a notice in writing signed by two or more **Councillors** stating:
- a) that the Councillors who have signed it wish to be treated as a political group;
 - b) the name of the group; and
 - c) the name of one member of the group who has signed the notice and who is to act as its leader.
- 4.2 The notice may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader of the group (This authorised member is referred to as "the representative").
- 4.3 The leader of the group may be changed by a further notice in writing to the Chief Executive signed by a majority of the members of the group.
- 4.4 The name of the group and of "the representative" (see also Standing Order 4.2) may be changed by a further notice in writing to the Chief Executive signed by the leader of the group or a majority of the members of the group.
- 4.5 ***A Councillor is to be treated as a member of a political group if s/he has:

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- a) signed a notice in accordance with Standing Order 4.1; or
- b) given the Chief Executive a notice in writing, signed by her/him and by the leader (or representative) of the group or by a majority of members of the group, stating that s/he wishes to join the group.

4.6 ***A person is to be treated as having ceased to be a member of a political group when:

- a) s/he has ceased to be a member of the Authority;
- b) s/he has notified the Chief Executive in writing that s/he no longer wishes to be treated as a member of the group;
- c) s/he joins another political group; or
- d) the Chief Executive receives a notice in writing signed by a majority of members of the group stating that they no longer wish her/him to be treated as a member of it.

***These Standing Orders may not be suspended

- 4.7 ***No person shall be treated as a member of more than one political group at any given time.
- 4.8 The Chief Executive will keep and maintain a record of the current membership of each political group.
- 4.9 The **Leader** of the Council will be elected at the Annual Meeting of the **Full Council** and subsequently in accordance with Standing Order 7.1.
- 4.10 The Leader of the next largest Political Group or combination of Groups (as chosen by the members of the group/s) will be known as the Leader of the Opposition.

SO 5. Establishment of Committees and Sub-Committees

- 5.1 Subject to Standing Orders 5.2 to 5.7 below, the Council may establish such committees as it considers necessary to carry out the work of the Council and may refer to those committees such matters as are considered appropriate.
- 5.2 The Council shall establish a [Licensing Committee](#) with not less than 10 and not more than 15 members.
- 5.3 The Council shall establish a [Planning Committee](#).
- 5.4 The Council shall establish an [Audit Committee](#).
- 5.5 The Council shall establish an [Overview & Scrutiny Committee](#).
- 5.6 The Council shall establish a [Standards Committee](#).
- 5.7 The Council shall establish a [Joint Human Resources Committee](#).

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- 5.8 The Council shall appoint a Climate Champion.
- 5.9 Committees may establish standing sub-committees, to carry out the work of the committee and may refer to those sub-committees such matters as are considered appropriate. Committees may also establish ad hoc sub-committees to consider any specific matter referred to them.
- 5.10 ***Except in relation to those decisions which by statute must only be taken by the **Full Council**, the Council may delegate powers to committees or sub-committees. Where a matter has been delegated to a committee, the committee may further delegate the matter to a sub-committee unless the Council otherwise direct.
- 5.11 ***Subject to Standing Order 9, where a matter is delegated the decisions of the committee or sub-committee do not require approval by the **Full Council** (or committee) unless the delegation has been previously withdrawn in relation to the particular item.

***These Standing Orders may not be suspended

SO 6. Membership of Committees, Sub-Committees and Panels and Joint Authorities and Joint Committees

- 6.1 ***In relation to committees the Annual Meeting of the **Full Council** will:
- a) subject to Standing Order 5 above, determine the number of **Councillors** to serve on them;
 - b) allocate seats on them to the political groups in accordance with the principles of political balance where required; and
 - c) appoint named Councillors to them giving effect to the wishes (where expressed) of each political group.
- 6.2 ***Appointments to all sub-committees will be made by their parent committees in accordance with:
- a) the principles of **political balance** as necessary (as to the allocation of numbers of seats); and
 - b) the wishes of the political groups (as to individual appointments).
- 6.3 Those serving on sub-committees are not required to be members of the parent committee unless required by law or standing orders.
- 6.4 Where the Council is entitled to seats on a joint authority or on a joint committee with another local authority or local authorities, appointments to such seats will be made by **Full Council**.
- 6.4 ***Where the Council is entitled to three or more seats on a joint authority or joint committee ("relevant joint authority/joint committee"), the Council in making appointments will:

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- a) allocate seats on them to the political groups in accordance with the principles of **political balance**; and
- b) appoint members to them giving effect to the wishes (where expressed) of the relevant political group.

6.5 ***The principles of **political balance** are defined in this Constitution.

6.6 ***Where a political group wishes to change one of its appointed members on a committee or sub-committee, the Council or parent committee shall give effect to that group's wishes.

6.7 ***Where there is a change in the **political balance** of the Council, the allocation of seats on committees and sub-committees will be reviewed and changes made as soon as practicable:

- a) to reflect the new political balance; and

***These Standing Orders may not be suspended

- b) the wishes of the political groups.

6.8 Non-voting co-opted members may be appointed by:

- a) the Council, to serve on its committees; and
- b) committees to serve on their sub-committees.

6.9 As well as allocating seats on committees, the **Full Council** may allocate seats in the same manner for reserve members.

6.10 For each committee, the **Full Council** may appoint up to the same number of reserve members in respect of each political group as that group holds seats on that committee.

6.11 Reserve members will have all the powers and duties of an ordinary member of the committee but will not be able to exercise any special powers exercisable by the person they are substituting.

6.12 Reserve members may attend meetings only in the capacity set out below:

- a) to take the place of the ordinary **Councillors** for whom they are designated reserve;
- b) where the ordinary Councillor will be absent for the whole of the meeting; and
- c) after notifying Democratic Services on the day of the meeting of the intended substitution.

SO 7. The Leader

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- 7.1 The **Leader** will be a **Councillor** elected for a one year term to the position of Leader by simple majority of the **Full Council**. In the event that only one nomination is put forward, a vote will still be taken, in accordance with Part 2 Section D [Executive Functions](#).

SO 8. Chairmen and Vice-Chairmen

- 8.1 The Annual Meeting of **Full Council** will appoint chairmen and (where required) vice-chairmen of all committees, panels and boards.
- 8.2 Chairmen and (where required) vice-chairmen of sub-committees will be appointed by the parent committee.
- 8.3 The Full Council may at any time remove a chairman or vice-chairman of a committee.
- 8.4 Where there is a vacancy for chairman, the vice-chairman will act as chairman until the Full Council fills the vacancy.
- 8.5 Where there are vacancies for both chairman and vice-chairman, the committee or sub-committee will appoint one of its members to be temporary chairman until the vacancy is filled by the Full Council.
- 8.6 Written notice of the resignation of a chairman or vice-chairman will be effective on receipt by the **Chief Executive**.
- 8.7 If the chairman and vice-chairman are disqualified from acting, are absent, or decline to act as chairman, the meeting will appoint another member to chair the meeting. If that Councillor has to leave, another Councillor should be appointed.
- 8.8 A joint committee should appoint a member of the committee to chair the meeting.

SO 9. Decisions Taken Under Delegated Powers

- 9.1 Decisions taken by a relevant committee and sub-committee exercising delegated powers will become valid decisions of the authority with immediate effect, subject to the provisions of the [Access to Information Standing Orders](#) and [Overview & Scrutiny Standing Orders](#).

SO 10. Convening Meetings

- 10.1 Subject to Standing Order 10.2, the **Chief Executive** is responsible for determining the schedule of and convening all committee meetings.
- 10.2 Dates and times of ordinary meetings of the **Full Council**, will be agreed annually by the Full Council.
- 10.3 The Annual Meeting of the Full Council will take place on the second Thursday in May unless otherwise agreed by the Full Council.
- 10.4 ***A meeting of the Full Council will take place each year in order to calculate the budget requirement and set the council tax. This is known as the **Budget Council meeting**.

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- 10.5 ***Those listed below may request the Chief Executive to call extraordinary meetings of the Full Council:
- a) the Full Council by resolution;
 - b) the Mayor of the Council;
 - c) the Monitoring Officer; or
 - d) any five members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she refused to call a meeting or has failed to do so within seven days of the presentation of a requisition.
- 10.6 Meetings of committees and sub-committees will be convened by the **Chief Executive** in consultation with the committee's chairman.

SO 11. Cancelling Meetings

- 11.1 The **Chief Executive** may cancel or postpone any meeting, in consultation with the chairman (or the Mayor of the Council in the case of **Full Council** meetings), prior to the issue of the agenda or subsequently if there is no business to be transacted.

SO 12. Withdrawal of Items from Agenda

- 12.1 The **Chief Executive** may, in consultation with the **Monitoring Officer** and the committee Chairman (or the Mayor of the Council in the case of **Full Council** meetings) withdraw an item from the agenda for legal reasons.

SO 13. Standing Order of Business

- 13.1 Subject to Standing Orders 13.3; 13.4; and 14.8, the Agenda and order of business for meetings will be determined by the **Monitoring Officer** in consultation with the appropriate Chairman and chief officers. Items may be withdrawn from an agenda with the consent of the meeting.
- 13.2 The order of business may be altered at the meeting.
- 13.3 Business in detail at the first part of the Annual Meeting of the **Full Council** will consist of:
- a) elect a person to preside if the Mayor of the Council is not present;
 - b) special business introduced by the outgoing Mayor of the Council;
 - c) the election of the in-coming Mayor of the Council and of the Deputy Mayor of the Council; and
 - d) to deal with administration matters concerned with the Mayor of the Council's charity/charities.
- 13.4 The business in detail at the second part of the Annual Meeting will be:

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- a) elect a person to preside if both the Mayor of the Council and Deputy Mayor of the Council are absent;
- b) approval of the minutes of the last meeting as a correct record;
- c) receive any announcement from the Mayor of the Council and Chief Executive;
- d) receive any declarations of interests from Councillors in any matter being considered by the meeting;
- e) election of the Leader of the Council;
- f) receive nominations and appoint Councillors to serve on all relevant committees and to appoint all Chairman and Vice-Chairman as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are **executive functions** as set out in this Constitution;
- g) appointment of representatives to outside bodies;
- h) reports or minutes of any Committee, including matters referred to Council any Committee;
- i) annual reports of any Committee;
- j) minutes of other committees;
- k) approval of the delegation of the Council's **non-executive functions** in the Officer Scheme of Delegation set out in **Part 2** of this Constitution;
- l) notices of Motion submitted under Standing Order 14.1 (to be dealt with in their order of receipt by the **Monitoring Officer**); and
- m) any other business specified in the summons to the meeting.

13.5 The business at all **Full Council** meetings will be conducted as follows:

- a) if the Mayor of the Council and Deputy Mayor of the Council are absent, to appoint a person to chair the meeting;
- b) any business required by statute to come before anything else;
- c) disclosure of interests by Councillors in any matter being considered by the meeting;
- d) approval of the minutes of the last meeting as a correct record;

(The Mayor of the Council will move that the minutes be approved and, if so approved, will sign them as a correct record. There will be no discussion on the minutes except as to their accuracy);

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- e) to receive questions from, and provide answers to the public, provided notice of the question is given in writing or electronically to the Democratic Services Team Leader, not less than four working days before the meeting, excluding the day of the meeting;
- f) any business remaining from previous **Full Council** meetings;
- g) report of the **Cabinet** and any questions under Standing Order 23;
- h) reports or minutes of any Committee, including matters referred to **Full Council** by any Committee;
- i) minutes of other committees and any questions under Standing Order 23;
- j) notices of Motion submitted under Standing Order 14.1 (to be dealt with in their order of receipt by the **Chief Executive**); and
- k) any other business specified in the summons to the meeting.

SO 14. Notices of Motion to Full Council

- 14.1 Except for the motions listed in Standing Order 19.1, written notice of every motion must be received by the Democratic Services Team Leader no later than 12 noon six working days before the meeting.
- 14.2 Motions must be signed by a minimum of two Councillors.
- 14.3 The proposer of the motion will be taken as being the first signature on the Notice of Motion, with a seconder noted, unless otherwise indicated on the notice.
- 14.4 The motion may be withdrawn from the agenda if the proposer and/or seconder is not present at the time that it is due to be considered.
- 14.5 The **Monitoring Officer** will keep any motion received, together with a record of the time and date of receipt, in a register available for inspection.
- 14.6 Motions must either be about matters which affect the Council or the interests of its residents, provided that no such motion may seek to take a decision in respect of a matter which is the responsibility of the Cabinet or other statutory body (other than to make a recommendation).
- 14.7 Following consultation with the Monitoring Officer, the Mayor of the Council may:
 - a) exclude from the Council agenda any motion which he/she considers to be out of order; or
 - b) amend any motion subject to the agreement of the proposer;
 - c) rule out of order any motion that is vexatious, derogatory, defamatory, frivolous or offensive;

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- d) rule out of order any motion that concerns a Council employment or staffing matter or sensitive personal information about a Councillor.

14.8 Motions will be listed on the Council agenda in the order received.

14.9 The proposer may withdraw a motion at any time prior to its consideration. Such a withdrawal must be put in writing to the Monitoring Officer.

14.10 When the proposer of a motion is unable to attend the Council meeting he/she may write to the Mayor of the Council authorising another Councillor who signed the motion to move it. If no such authority has been given, the motion falls.

14.11 Motions containing proposals which would:

- a) increase capital and/or, revenue expenditure; and/or
- b) reduce the income of any committee

must first be referred to the Cabinet by the Monitoring Officer prior to consideration by Full Council.

14.12 Prior to consideration of a motion, the Mayor of the Council may invite the meeting to decide whether it should be referred to the Cabinet or an appropriate committee(s) for a report.

14.13 The Monitoring Officer may rule out of order any motion that:

- a) is unrelated to functions of the Committee; or
- b) has been previously considered in the last 6 months.

SO 15. Quorum

15.1 The minimum number of voting Councillors necessary for business to be dealt with at each meeting (the "Quorum") is as follows:

Full Council	10
Planning Committee	3
Licensing Committee	4
Audit and Finance Committee	3
Overview & Scrutiny Committee	5
Standards Committee	3
Joint Human Resources Committee	6
Sub-Committees	3
All other committees	3

15.2 There must be a **quorum** within 15 minutes of the scheduled start time of a meeting, otherwise it cannot take place.

15.3 If, during the course of a meeting, the number of Councillors present falls below the quorum the meeting cannot continue and any outstanding business will be carried forward to the next meeting.

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SO 16. Minutes of Meetings

- 16.1 The **Monitoring Officer** will be responsible for the minutes of every meeting.
- 16.2 ***The minutes will be submitted for approval and signature as a correct record at the following meeting, unless that meeting is an extraordinary meeting in which case they may be submitted to the next ordinary meeting.
- 16.3 ***The names of Councillors present at a meeting or at part of a meeting will be recorded in the minutes.

SO 17. Committee Minutes/Reports Submitted to Full Council

- 17.1 When moving approval of committee minutes, the Chairman of the Committee may:
- a) correct any factual inaccuracy; and/or,
 - b) following an explanation, seek the consent of Full Council to take back any item for reconsideration by the committee.
- Any discussion will be at the Chairman's discretion.
- 17.2 ***If the Chairman of the Full Council declares a pecuniary interest in part of a committee's minutes, he/she should move them with the exception of that part.
- 17.3 A Chairman of a Committee may move part of a committee's minutes, he/she may move them with the exception of any item.
- 17.4 Any excepted items must be moved, after the other proceedings have been dealt with, by another member of the committee who was present at that meeting.

SO 18. Amendments to be Moved at Full Council

- 18.1 Subject to Standing Orders 18.2, 18.3, 18.4, 18.5 and 18.6 amendments to be moved at **Full Council** must be in writing and be received by the **Monitoring Officer** at least two hours before the meeting.
- 18.2 Amendments to items of urgent business circulated on the day of the meeting must be in writing and received by the Monitoring Officer within two hours of the item being circulated to Councillors.
- 18.3 When the **Cabinet** makes recommendations to the Full Council in relation to calculating the budget requirement and setting the Council tax, any amendments to those recommendations which affect those calculations or the level of Council tax must be submitted in writing and received by the Monitoring Officer by 4pm on the seventh day after the meeting of the Cabinet. Any such amendment, together with the recommendations of the Cabinet, will be referred to the Overview & Scrutiny Committee which will report to the Full Council meeting at which the Full Council calculates the budget and sets the Council Tax (the **Budget Council meeting**).
- 18.4 Nothing in Standing Order 18.3 will prevent:

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- a) **Councillors** moving amendments at the Budget Council meeting in accordance with Standing Order 18.1; or
- b) the Cabinet reconvening and revising their recommendations to the Budget Council meeting.

Where such amendments or revised recommendations arise out of the proceedings of the Overview & Scrutiny Committee, nor will anything in Standing Order 18.3 require a further meeting of the Overview & Scrutiny Committee in such circumstances.

- 18.5 Amendments to the **Full Council** concerning the Constitution (other than amendments proposed by the Monitoring Officer pursuant to **Part 2** of this Constitution) must be submitted in writing and received by the Monitoring Officer not later than 12 noon on the ninth day preceding the Council meeting (e.g. where the Council meeting is held on a Wednesday, the Monday in the week preceding the meeting) unless that day is not a working day in which case the amendment must be received by noon on the first working day thereafter.
- 18.6 Where the Monitoring Officer has submitted proposals to change the Constitution pursuant to **Part 2** of this Constitution, nothing in Standing Order 18.5 shall prevent Councillors from:
- a) disapproving the proposed changes; or
 - b) moving amendments to the proposed changes at Full Council in accordance with Standing Order 18.1.

SO 19. Motions Without Notice at Full Council

- 19.1 The following motions may be moved without notice. There will be no discussion:
- a) to appoint a **Councillor** to chair the meeting;
 - b) to approve or correct the minutes of the previous meeting;
 - c) to change the order of business on the agenda;
 - d) to combine debates on items on the agenda;
 - e) to withdraw an item from the agenda;
 - f) to move committee minutes;
 - g) to withdraw or amend any motion or amendment (by the mover);
 - h) to not hear a **Councillor** further;
 - i) to require a Councillor to leave the meeting;
 - j) to extend the time limit on speeches;

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- k) to exclude the public/press during consideration of confidential business;
- l) to suspend particular standing orders (see Standing Order 2.1);
- m) to go to the next business. If seconded, the vote will then be taken. If carried, the item under discussion will be treated as withdrawn;
- n) to put the question immediately to a vote. If seconded, the vote will then be taken. If carried, the mover of the original motion shall have a right of reply;
- o) to adjourn the debate. If seconded, the vote will then be taken, and if carried, there are no rights of reply. On resuming the debate, the Councillor who moved the original motion will have the right to speak first; and
- p) to adjourn the meeting. If seconded and before taking the vote, the Mayor of the Council will deal with any unopposed business (i.e. against which no amendment has been notified in accordance with Standing Order 18). If the motion to adjourn is carried, there will be no right of reply allowed.

(NOTE: During the course of a debate, motions (l) to (p) may only be moved by Councillors who have not already spoken in the debate).

- 19.2 If a motion under that Standing Order 19.1 is not carried, it cannot be moved again on the same item unless the Mayor of the Council decides the circumstances have changed significantly.

SO 20. Submission of Motions and Amendments

- 20.1 Motions and amendments must relate to items included on the agenda or accepted by the meeting as urgent business.
- 20.2 An amendment cannot be considered if it is inconsistent with an amendment previously adopted or repeats an amendment previously rejected.
- 20.3 The mover of a motion may, with the consent of the mover of an amendment, incorporate an amendment into the motion. If this happens, the mover of the amendment will have the same speaking rights as if the amendment had been debated separately.
- 20.4 Motions and amendments cannot be debated until they have been moved and seconded.
- 20.5 Subject to Standing Order 19.1(d) only one amendment may be moved at a time. No further amendments can be moved until the previous amendment has been dealt with.
- 20.6 Each amendment must be voted on separately.
- 20.7 If an amendment is carried, the amended motion becomes the substantive motion to which further amendments may be moved.
- 20.8 If an amendment is lost, other amendments may be moved to the original motion.

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- 20.9 The mover may withdraw an amendment at any time in which case no debate will be allowed.
- 20.10 After an amendment has been carried, the Mayor of the Council will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

SO 21. Amendments to Motions on Notice

- 21.1 An amendment to a motion must be relevant to the motion and will either be:
- a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - b) to leave out words;
 - c) to leave out words and insert or add others; or
 - d) to insert or add words
- provided the effect of b) to d) is not to negate the motion.

SO 22. Questions on Motions on Notice or Reports

- 22.1 After a motion on notice is proposed and seconded, the Chairman may at their absolute discretion invite Councillors to ask questions of the proposer of a notice on motion or the proposer of a recommendation in a report.
- 22.2 Where the report is of a technical nature and the Chairman or **Monitoring Officer** has received notice of the intention to ask a question the Chairman may permit an officer to assist the proposer in answering any question.
- 22.3 No questions may be asked in debate.

SO 23. Motions Moved During Debate

- 23.1 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 next business;
 - d) that the question now be put;
 - e) to adjourn a debate,
 - f) to adjourn a meeting;

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- g) to exclude the public and press in accordance with the [Access to Information Standing Orders](#); and
- h) to not hear a **Councillor** further

SO 24. Briefing Notes

- 24.1 On receipt of a motion on notice the Chairman may request an officer briefing note be made available to all Councillors setting out the risks, financial and legal implications of the motion.

SO 25. Speeches at Full Council

- 25.1 Speeches on motions and amendments will be in the following order:
- a) mover then seconder of a motion. No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded;
 - b) mover then seconder of any amendment;
 - c) any other **Councillor** including those who have reserved the right to speak; and
 - d) right of reply of mover of the original motion.
- 25.2 The right of reply is to enable points made in the debate to be answered. New matters must not be introduced.
- 25.3 A **Councillor** may only speak once on a motion or an amendment except:
- a) when exercising a right of reply;
 - b) when raising a point of order. (This is a request for the Mayor of the Council to rule on an alleged irregularity in either the Constitution or conduct of the meeting). In these circumstances:
 - i) a point of order must be raised as soon as it arises;
 - ii) the Councillor must refer to both the standing order in question and how it has been broken;
 - iii) a ruling must be given by the Mayor of the Council before the debate continues; and
 - iv) there will be no discussion on the ruling.
 - c) when giving a personal explanation (i.e. when a Councillor believes that a later speaker has misunderstood or misquoted him/her). In these circumstances:

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- i) the Councillor must ask the permission of the Mayor of the Council to interrupt the speaker; and
 - ii) there will be no discussion on the Mayor of the Council's decision.
- d) when exercising a reserved right to speak.
- 25.4 The right to speak later in the debate must be reserved when seconding a motion or amendment.
- 25.5 This right is subject to the **Councillor** being called upon by the Mayor of the Council to speak.
- 25.6 A **Councillor** may only speak about the matter under debate except when raising a point of order or giving a personal explanation.
- 25.7 Speeches must be no longer than five minutes although they may be extended by three minutes if the meeting agrees. The meeting may also change these time limits. This does not apply to speeches by the Councillor of the Cabinet for Finance and the finance spokesperson of the opposition group(s) at the **Budget Setting meeting** of the **Full Council**.
- 25.8 **Councillors** should stand (if able) to address the meeting through the Mayor of the Council unless the Chairman has decided that that item should be taken in committee mode.
- 25.9 **Councillors** should use the microphone where one is provided.

SO 26. Voting

- 26.1 **Councillors** will vote by show of hands, or by ballot, at the discretion of the Mayor of the Council. Where there is a vote by show of hands, all Councillors wishing to vote “for” the motion or amendment should vote before the votes “against” are taken, including the Mayor of the Council using his/her first (but not casting) vote.
- 26.2 At **Full Council**:
 - a) two Councillors may demand before the vote is taken that the names of those voting be recorded in the minutes; and
 - b) Councillors may not vote unless they are in the meeting for the full duration of the item.
- 26.3 A **Councillor** may demand that his/her vote be recorded in the minutes, where they have requested it immediately after the vote has been taken.
- 26.4 Subject to the provisions of any enactment and Standing Order 26.7, all matters will be decided by a majority of Councillors present and voting.
- 26.5 If there are more than two people nominated for any one position to be filled and there is not a clear majority in favour of one person, then the name of the person with the

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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.

- 26.6 Where there is an equality of votes, the Mayor of the Council may exercise a second or casting vote.
- 26.7 A decision to promote or oppose a local or personal Bill in Parliament under Section 239 of the Local Government Act 1972 or to [apply for or] oppose an order under the Transport and Works Act 1992 will require to be passed by a majority of the whole number of the Council (i.e. 22 affirmative votes are required).
- 26.8 Immediately after a vote is taken at a **Budget Council meeting** of the **Full Council** there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting, whether held in public or private.

SO 27. Questions at Full Council

- 27.1 A **Councillor** may submit a question to the **Leader** of the Council or a **Cabinet member** in respect of Cabinet **portfolio** reports of the **Cabinet** submitted to **Full Council**.
- 27.2 Subject to Standing Order 27.4, a Councillor may ask the Leader of the Council, a Cabinet member, or the chairman of a committee, a question on any matter in relation to which the Council has powers or duties, or which affects the interests of the District or its residents.
- 27.3 Subject to Standing Order 27.4, a member of the 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 affects the District, and which falls within the terms of reference of that committee or sub-committee.
- 27.4 A Councillor may only ask a question under Standing Orders 27.2 or 27.3 if either:
- a) they have submitted their question to the Democratic Services Team Leader no later than 12 noon three working days before the meeting; or
 - b) where the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Democratic Services Team Leader no less than two hours prior to the start of the meeting.
- 27.5 Questions from members of the public will only be permitted where they have been received by the Democratic Services Team Leader no later than 12 noon three working days before the meeting.
- 27.6 An answer may take the form of:
- a) a direct oral answer;
 - b) where the desired information is contained in a publication of the Council or other published work, a reference to that publication; or

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- c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

27.7 A **Councillor** asking a question under Standing Order 27.2 or 27.3 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

27.8 Time for a questions by Councillors and members of the public shall be three minutes.

27.9 The submission of a question under Standing Order 27.2 or 27.3 shall not restrict the right of a Councillor to propose a motion or amendment upon the minutes.

27.10 The **Monitoring Officer** may rule out of order any question that:

- a) is vexatious, derogatory, defamatory, frivolous or offensive;
- b) concerns a Council employment or staffing matter or sensitive personal information about a Councillor;
- c) is unrelated to functions of the Committee; or
- d) has been previously considered in the last 6 months.

SO 28. Address from the Public

28.1 An address made by a member of the public may only be presented if a summary of the text has been received by the Democratic Services Team Leader no later than 12 noon three working days before the meeting. The speech shall reflect the summary provided.

SO 29. Previous Decisions and Motions (Six Months' Rule)

29.1 Decisions of the Council made within the last six months may not be changed, unless this Standing Order is suspended (see Standing Order 2.1).

29.2 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 this Standing Order is suspended.

SO 30. Conduct at Meetings

30.1 If the Chairman of the Committee calls the meeting to order **Councillors** shall be silent.

30.2 If a Councillor behaves improperly or offensively or deliberately obstructs business, the Chairman of the Committee may direct the Councillor to be silent.

30.3 If the Councillor continues such behaviour the Chairman of the Committee may direct either that the Councillor leaves the meeting or that the meeting be adjourned for a specified period.

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- 30.4 If a member of the public interrupts proceedings, the Chairman of the Committee will warn the person concerned. If the interruption continues, the Chairman may order his/her removal from the meeting.
- 30.5 If there is a disturbance which interrupts proceedings, or makes business impossible, the Chairman may call for the room to be cleared of those making the disturbance, and may adjourn the meeting for as long as necessary.
- 30.6 No person shall distribute or display advertisements or literature promoting the activities of any political party at meetings of Council.
- 30.7 If a meeting is adjourned and a Councillor is able to attend the adjourned meeting but not the first meeting they shall take no part in any debate or vote on matter they have not been present from the start.
- 30.8 Councillors are in the privileged position of representing their residents and are expected where possible to reflect that privilege in their behaviour and dress at Full Council.

SO 31. Duration of Council Meetings

- 31.1 Any meeting of the **Full Council** or committee or sub-committee which has sat continuously for three hours will be adjourned unless the majority of Councillors present by vote, decide to continue to sit for a further period not exceeding one hour.

SO 32. Reporting of Meetings by the Public and Press

- 32.1 Any member of the public or press attending a public meeting of the Council may record the proceedings and report them to others. Further information is contained in the [Access to Information Standing Orders](#).

SO 33. Council Standing Orders – Interpretation

- 33.1 The ruling of the Chairman of the Committee meeting on the proper interpretation of Council Standing Orders or on any proceedings of the Council is final and not open to challenge at the meeting.

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SECTION B: ACCESS TO INFORMATION STANDING ORDERS

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Section B – Access to Information Standing Orders

SO 34. Scope

- 34.1 These rules cover all meetings of the **Full Council** and its committees, sub-committees, advisory panels, the **Cabinet** (together called meetings) and (where specified) **executive decisions** made by **Cabinet members** and **key decisions** made by officers.
- 34.2 These rules also cover **Councillors'** rights of access to information.

SO 35. Additional Rights to Information

- 35.1 These Standing Orders do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

SO 36. Rights to Attend Meetings

- 36.1 Members of the public may attend all meetings subject only to the exceptions in these Standing Orders.

SO 37. Notices of Meetings

- 37.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting on its website and at its office.
- 37.2 Councillors entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the Annual Meeting of the **Full Council**, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

SO 38. Public Access to Agenda and Reports before the Meeting

- 38.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened. If an item is added to the agenda later, the revised agenda will be open to inspection and published on the Council's web site from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Democratic Services Team Leader shall make each such report available to the public as soon as the report is completed and sent to Councillors.
- 38.2 An item may be added to an agenda after it has been published provided that the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency and the urgency reasons are recorded in the minutes.
- 38.3 Details of late items and associated report will be made available to Councillors and the public as soon as this is made available for inspection and published on the Council's web site.

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38.4 This Standing Order does not require the publication of exempt or confidential information.

SO 39. Supply of Copies

39.1 The Council will supply copies to any person of:

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

39.2 Copies of the digital agendas of **Cabinet** meetings will be circulated to all Councillors.

39.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

SO 40. Public Access to Minutes etc After the Meeting

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

- a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in Standing Order 42);
- 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.

SO 41. Public Access to Background Papers

41.1 List of background papers

41.1.1 The report author 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 Standing Order 38) and in respect of Cabinet reports, the advice of a political advisor.

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41.2 Public inspection of background papers

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

SO 42. Exclusion of Access by the Press and Public to Meetings

42.1 Confidential information - requirement to exclude the press and public

The press and 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.

42.2 Exempt information - discretion to exclude press and public

The press and 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, provided:

- a) the meeting resolves so to exclude the press and public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- b) that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 42.4 below), the description of the exempt information giving rise to the exclusion of the public; and
- c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information,

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.

42.3 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 reason of a Court Standing Order or any enactment.

42.4 Meaning of exempt information

Exempt information means information falling within the following 7 descriptions (subject to any qualifications):

	Description	Qualification
1.	Information relating to any individual.	Information within paragraph 1 is exempt information if and so long, as in all the

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		circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2.	Information which is likely to reveal the identity of an individual.	Information within paragraph 2 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.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information within paragraph 3 is not exempt information if it is required to be registered under-</p> <ul style="list-style-type: none"> (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011. <p>Subject to the above, information within paragraph 3 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.</p>
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.	Information within paragraph 4 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.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information within paragraph 5 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.
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.	Information within paragraph 6 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.
7.	Information relating to any	Information within paragraph 7 is exempt

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	action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	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.
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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.

SO 43. Exclusion of Access by the Public to Reports

- 43.1 If the **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 Standing Order 42, 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.

SO44. Key Decisions

- 44.1 Certain executive decisions will be **key decisions**. Key decisions are defined in the [Glossary](#).

SO 45. Application of Standing Orders to the Executive

- 45.1 The **Executive** has decided that all of its meetings and its committees are to be held in public whether or not a key decision is to be made and the preceding Standing Orders 29 - 41 therefore apply.
- 45.2 In addition, if a **key decision** is to be made Standing Orders 46 – 57 also apply.
- 45.3 If the **Cabinet** or its committees meet to discuss a **key decision** that is due to be taken collectively and:
- a) an officer (other than a political adviser) is present at the discussion; and
 - b) the discussion is within 28 days of the date by which, according to the Forward Plan, the decision is to be made,

then Standing Orders 46 - 57 must be complied with unless Standing Order 48 (General Exception), or Standing Order 49 (Special Urgency) apply.

SO 46. The Forward Plan of Key Decisions

Period of Forward Plan

- 46.1 Forward plans will be prepared by the **Leader** to cover a minimum period of one calendar month (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan.

Content of Forward Plan

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- 46.2 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 **Cabinet member**, a committee of the Cabinet, officers or under joint arrangements in the course of the discharge of an **executive function** during the period covered by the plan. The Forward Plan must be published at least 28 clear days before the start of the period covered and made available to the Overview & Scrutiny Committee. 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;
 - g) a list of the documents submitted to the decision taker for consideration in relation to the matter; and
 - h) where the decision is to be taken in private the reasons for this and

the process for making representations in accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 46.3 Exempt and confidential information (as defined in Standing Order 42) and the advice of political advisers will not be included in a forward plan but the Forward Plan should contain particulars of the matter.

SO 47. Procedure Before Taking Key Decisions

- 47.1 Subject to Standing Order 48 (General Exception) and/or Standing Order 49 (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;
 - 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 Standing Order 37; and

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- d) where a decision is to be taken at a meeting of the Cabinet or its Committees, and the Cabinet believes that the matter will be considered in private, at least 28 clear days' notice has been given in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

SO 48. General Exception

- 48.1 If a matter which is likely to be a **key decision** has not been included in the Forward Plan, then subject to Standing Order 49 (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;
 - b) the Proper Officer has informed the Chairman of a relevant Overview & 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 paragraphs b and c).
- 48.2 Subject to Standing Order 42, where such a decision is taken collectively, it must be taken in public.

SO 49. Special Urgency

- 49.1 If by virtue of the date by which a decision must be taken Standing Order 48 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview & Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent.
- 49.2 If there is no Chairman of a relevant Overview & Scrutiny Committee, or if the Chairman of the relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Vice Chairman will suffice.
- 49.3 As soon as reasonably practicable after agreement has been given the decision maker must make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice on the website.

Private Meetings

- 49.4 Where the date by which a meeting must be held makes compliance with Rule 50 impracticable, the meeting may only be held where the decision-making body has obtained agreement from the Chairman of a relevant Overview & Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.

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- 49.5 If there is no Chairman of a relevant Overview & Scrutiny Committee, or if the Chairman of each relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Vice Chairman will suffice.
- 49.6 As soon as reasonably practicable after the decision-making body has obtained agreement under Standing Order 46.3 or 46.4 to hold a private meeting the Democratic Services Manager shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the designated office and on the website.

SO 50. Procedure Prior To Private Meetings

- 50.1 Subject to Standing Order 49, a **private meeting** may not take place unless:
- a) At least 28 clear days before the scheduled meeting a notice (the Forward Plan) has been made available for inspection by the public at the designated office and on the website;
 - b) At least 5 clear days before the scheduled meeting a further notice has been made available for inspection by the public at the designated office and on the website which shall include any representations made as to why any item specified in the notice given under paragraph a) above should be open to the public together with the Council's response.
- 50.2 Private meetings are defined in the [Glossary](#).

SO 51. Reports to Council

When the Overview & Scrutiny Committee can require a report

- 51.1 Where an **executive decision** has been made and was not treated as a **key decision** and the Overview & Scrutiny Committee thinks that it should have been treated as a **key decision** the Overview & Scrutiny Committee may require the **Cabinet** to submit a report to the Council within such reasonable time as the Overview & Scrutiny Committee specifies. The power to require a report rests with the Overview & Scrutiny Committee but is also delegated to the **Chief Executive** who shall require such a report on behalf of the Overview & Scrutiny Committee when so requested by the Chairman of the Overview & Scrutiny Committee or any 5 Councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview & Scrutiny Committee.

The Cabinet's report to Full Council

- 51.2 The **Cabinet** will prepare a report for submission to the next available meeting of the **Full Council**. However, if the next meeting of the Full Council is within 7 days of receipt of the resolution of the Overview & Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Full 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.

Quarterly reports on special urgency decisions

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- 51.3 In any event the Leader will submit quarterly reports to the **Full Council** on the **executive decisions** taken in the circumstances set out in Standing Order 49 (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.

SO 52. Record of Decisions

- 52.1 After an **executive decision** is taken the Proper 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 reasonably practicable and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The minutes of the meeting will be regarded as the record of these decisions.

SO 53. Reporting of Meetings by the Press and Public

- 53.1 Any member of the press or public attending a public meeting of the Council may now record the proceedings and report them to others. 'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A person attending the meeting may use any appropriate communication method, including the Internet, to publish or share the recorded material. This would include the use of social media.
- 53.2 Any person wishing to record a public meeting is not required to give the local authority prior notice although they are encouraged to do so in order that reasonable facilities can be provided.
- 53.3 No one is entitled to record or report the proceedings of a meeting if the meeting has moved into private session to consider confidential or exempt business. In such circumstances, the public and press would, as now, be required to leave the meeting and to deactivate and/or remove any recording or communications equipment.
- 53.4 Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.
- 53.5 Any person recording or reporting a meeting may not film any member of the public who remains in the public gallery.
- 53.6 Anyone wishing to record or report on meetings should be warned at the outset that the law of defamation will apply, as well as the law relating to public order offences. They should also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The Chairman or person presiding at the meeting would be expected to give this advice with the support of officers.

SO 54. Decisions by Individual Cabinet Members or Officers

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- 54.1 Where an individual **Cabinet member** or officer receives a report which he/she intends to take into account in making any **key decision**, the requirements of Standing Orders 46 – 57 shall apply.
- 54.2 As soon as reasonably practicable after any **executive decision** has been made by an individual **Cabinet member** 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 Standing Orders 40 and 41 (inspection of documents after meetings) will also apply to the making of key decisions by officers. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

SO 55. Overview & Scrutiny Committee Access to Documents

- 55.1 Members of the Overview & Scrutiny Committee are entitled to receive documents or any part of a document that contains exempt or confidential information where that information is relevant to an action or decision they are scrutinising or intend to scrutinise.

SO 56. Additional Rights of Access for Councillors

- 56.1 Members of a committee or decision-making body of the Council or of the **executive** are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.

SO 57. Rights of Councillors – “Need to Know”

- 57.1 In addition, Councillors will be entitled to access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the **Cabinet** (even though they are not a member of those bodies) where they can demonstrate a “need to know” in order to perform their duties as Councillors.
- 57.2 Subject to Standing Order 57.3 below, the circumstances where a “need to know” may be treated as arising will include:
- a) Where the matter relates to a sub-committee of a committee of which the Councillor is a member;
 - b) Where the matter relates to a committee of the **Cabinet** where the Councillor is a **Cabinet member**;
 - c) Where the matter is within the remit of the Audit or Overview & Scrutiny Committee of which the Councillor is a member;
 - d) Where the **Full Council** is required to approve the decisions or recommendations of committees, sub-committees or the Cabinet;
 - e) Where the matter has been delegated to a committee or sub-committee, but significantly affects the reputation of the whole Council;
 - f) Where the matter relates specifically to a Councillor’s own ward; and

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- g) In relation to exempt material within a report on a decision that has been called in for consideration by Overview and Scrutiny Committee and a Councillor has signed a call-in notice and that Councillor has indicated that they wish to address the Overview and Scrutiny Committee as part of the call-in process..

- 57.3 There will not be a “need to know” if a Councillor is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.
- 57.4 A Councillor wishing to see confidential or exempt Council, committee, sub-committee or Cabinet documents or to attend the confidential part of a meeting should make written application to the **Monitoring Officer**, setting out the reasons and information in support of their claim to have a “need to know”, and why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform his/her duties.
- 57.5 The determination as to whether or not a “need to know” has been demonstrated will be based on officer advice and will include legal advice.
- 57.6 Once a determination has been made, this will be communicated to the Councillor who has made the claim.

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SECTION C: BUDGET AND POLICY FRAMEWORK STANDING ORDERS

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PART 3

Section C – Budget and Policy Framework Standing Orders

SO 58. The Framework for Executive Decisions

- 58.1 The **Full Council** will be responsible for the adoption of the [budget and policy framework](#). Once a budget or a policy framework is in place, it will be the responsibility of the **Cabinet** to implement it.

SO 59. Process for developing the framework

- 59.1 The process by which the [budget and policy framework](#) shall be developed is:
- a) the **Cabinet** will publicise through the Forward Plan and other methods a timetable for making proposals to the **Full 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;
 - b) all Councillors, including the Chairmen of the Audit Committee and Overview & Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 4 weeks, unless the requirements of any statutory timetable/deadline make this impracticable; and
 - c) the Audit Committee and Overview & Scrutiny Committee have responsibility for fixing their own work programme, and will need to take into account the Forward Plan in doing so. As part of its consideration of the proposals it is open to the Audit Committee and Overview & Scrutiny Committee to consult, investigate, research or report in detail with policy recommendations. Once the Audit Committee and Overview & Scrutiny Committee have made recommendations, the draft proposals will be considered by the Council for decision at the earliest opportunity.

SO 60. Procedure for Conflict Resolution - Plans and Strategies

- 60.1 This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out in **Part 2** of this Constitution and to any plan/strategy for the control of the Council's borrowing and capital expenditure. Paragraphs 60.2 to 60.5 below have been incorporated into these Codes as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
- 60.2 Where the **Cabinet** has submitted a draft plan or strategy to the **Full Council** for its consideration and, following consideration of that draft plan or strategy, the **Full Council** has any objections to it, the **Full Council** must take the action set out in paragraph 60.3.
- 60.3 Subject to 60.6 below, before the **Full Council**:
- a) amends the draft plan or strategy;

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- b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- c) adopts (with or without modification) the plan or strategy,

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

60.4 Where the **Full Council** gives instructions in accordance with paragraph 60.3, it must specify a period of at least five working days beginning on the day after the date on which the **Leader** of the Council receives the instructions on behalf of the **Cabinet** within which the Leader of the Council may:

- a) submit a revision of the draft plan or strategy as amended by the **Cabinet** (the “revised draft plan or strategy”) with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the **Full Council** for the Full Council’s consideration; or
- b) inform the **Full Council** of any disagreement that the **Cabinet** has with any of the Full Council’s objections and the Cabinet’s reasons for any such disagreement.

60.5 When the period specified by the **Full Council**, referred to in paragraph 60.4 has expired, the Full Council must, when:

- a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- c) adopting (with or without modification) the plan or strategy;

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the **Cabinet’s** reasons for those amendments, any disagreement that the Cabinet has with any of the Full Council’s objections and the Cabinet’s reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

60.6 Where an amendment to a draft plan or strategy has been submitted under Council Standing Order 18.1, the **Leader** may indicate on behalf of the **Cabinet** that s/he accepts the amendment. In these circumstances, the amendment will be regarded as incorporated in the draft strategy before **Full Council** and not (for the purposes of Standing Order 60.2 to 60.5 above) as an objection to it.

SO 61. Procedure for Conflict Resolution - Revenue Budget

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- 61.1 This procedure applies to estimates and calculations relating to the revenue budget and Council Tax. Paragraphs 61.2 to 61.5 below have been incorporated into these Standing Orders as required by the Local Authorities (Standing Orders) (England) Regulations 2001. Those paragraphs do not apply to estimates and calculations submitted by the **Cabinet** to the **Full Council** where the estimates and calculations were drawn up by the Cabinet on or after 8th February in any financial year.
- 61.2 Where, in any financial year, the **Cabinet** submits to the **Full Council** for its consideration in relation to the following financial year:
- a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992;
 - b) estimates of other amounts to be used for the purposes of such a calculation; or
 - c) estimates of such a calculation,
- and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph 61.3.
- 61.3 Before the **Full Council** makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 61.2a), it must inform the **Leader** of any objections which it has to the **Cabinet's** estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Full Council's requirements.
- 61.4 Where the **Full Council** gives instructions in accordance with paragraph 61.3, it must specify a period of at least five working days beginning on the day after the date on which the **Leader** receives the instructions on behalf of the **Cabinet** within which the Cabinet leader may:
- a) submit a revision of the estimates or amounts as amended by the **Cabinet** ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the **Full Council** for the Full Council's consideration; or
 - b) inform the **Full Council** of any disagreement that the **Cabinet** has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- 61.5 When the period specified by the **Full Council**, referred to in paragraph 61.4 has expired, the Full Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 61.2a) take into account:
- a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;

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- b) the **Cabinet's** reasons for those amendments;
- c) any disagreements that the Cabinet has with any of the Full Council's objections, and
- d) the Cabinet's reasons for that disagreement,

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

- 61.6 Where estimates and calculations are drawn up by the **Cabinet** on or after 8th February in any financial year and are submitted to the **Full Council** for their consideration, the procedure in paragraphs 61.2 to 61.5 will not apply. In these circumstances the estimates and calculations will be submitted to the Overview & Scrutiny Committee, together with amendments submitted in accordance with Council Standing Order 18.3. Where the Overview & Scrutiny Committee has any objection to the estimates and calculations, it will report such objections to the Full Council, the **Leader** and the appropriate **Cabinet member**. The Leader and/or the appropriate Cabinet member will report to the Full Council whether they agree or disagree with any objection of the Overview & Scrutiny Committee.

SO 62. Decisions Outside the Budget or Policy Framework

- 62.1 Subject to the provisions of Standing Orders 63 to 65, the **Cabinet**, committees of the Cabinet, individual **Cabinet members** and officers 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 Full Council.
- 62.2 If the **Cabinet**, committees of the Cabinet, individual **Cabinet members** and officers want to make such a decision, they shall take advice from the **Monitoring Officer** and/or the **Chief Finance Officer** as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing [budget and policy framework](#), then the decision must be referred by that body or person to the **Full Council** for decision.

SO 63. Urgent Decisions Outside the Policy Framework

- 63.1 The **Cabinet**, a committee of the Cabinet, an individual **Cabinet member** or an officer may take a decision which is contrary to the Council's policy framework if the decision is a matter of urgency. However, the decision may only be taken if:
- a) Either the **Chief Executive**, the **Chief Finance Officer** or the **Monitoring Officer** advise in writing that the legal or financial position of the Council or the interests of the Council and/or the residents of the District would be prejudiced if the matter were not determined before the next scheduled **Full Council** meeting, and

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- b) The Chairman of the Overview & Scrutiny Committee (or in their absence the Mayor of the Council or, in the absence of both, the Deputy Mayor of the Council) agrees that the decision is a matter of urgency.

- 63.2 The advice of the **Chief Executive, Chief Finance Officer or Monitoring Officer** and the consent of the Chairman of the Overview & Scrutiny Committee (or, if relevant, the Mayor of the Council or Deputy Mayor of the Council) to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 63.3 Following the decision, the decision taker will provide a full report to the next available **Full Council** meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

SO 64. Virement and In-Year Changes to the Budget

- 64.1 Steps taken by the **Cabinet**, a committee of the Cabinet, an individual **Cabinet member** or an officer to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to paragraphs 64.2 to 64.4 below.

- 64.2 Such bodies or individuals shall be entitled to vire across budget headings as follows:

- a) Capital

- i) a **Chief Officer** may vire capital up to £25,000 across budget headings (or, up to £100,000 with the approval of the **Chief Finance Officer**, in consultation with the Cabinet member for Finance);
- ii) the **Cabinet** may vire capital up to £100,000 across budget headings or up to £250,000 from a revenue budget heading (including unallocated contingency) to capital with the approval of the **Chief Finance Officer**; and
- iii) any individual or cumulative capital **virement** above £250,000 shall require the approval of **Full Council**.

- b) Revenue

- i) a Chief Officer may vire revenue up to £50,000 across budget headings with the approval of the **Chief Finance Officer**;
- ii) the Cabinet may vire revenue up to £100,000 across budget headings with the approval of the **Chief Finance Officer**; and
- ii) any individual or cumulative revenue **virement** above £100,000 shall require the approval of **Full Council**.

- 64.2 The **Cabinet** may:

- a) increase capital or revenue expenditure in-year by use of reserves (in addition to the use of reserves planned in the budget calculations), provided that such use of reserves do not exceed £1,000,000 in aggregate in a financial year and provided that the **Chief Finance Officer** has certified in writing that such use of

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reserves would not cause the Council's overall reserves to fall below a prudent level. Any such use of reserves shall be reported to the next meeting of Full Council; and

- b) increase the capital budget provided that additional expenditure can be funded through:
 - i) additional external resources;
 - ii) additional capital receipts; and
 - iii) additional credit approvals.

64.4 The **Chief Executive** may exercise any of the powers of the **Cabinet** under 64.2 and 64.3, in consultation with the **Leader**, the **Cabinet member** for Finance and the **Chief Finance Officer** where the legal or financial position of the Council or the interests of the residents of District would be prejudiced if the matter were not determined before the next scheduled Cabinet meeting. The Chief Executive will report any such decision to the Chairman of Overview & Scrutiny and the next meeting of the Cabinet.

SO 65. In-year Changes to Policy Framework

65.1 The responsibility for agreeing the policy framework lies with the **Full Council**, and decisions by the **Cabinet**, a committee of the Cabinet, an individual **Cabinet member** or an officer 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 which are necessary to ensure compliance with the law, ministerial direction or government guidance, or where the existing policy document is silent on the matter under consideration.

SO 66. Call-in of Decisions Outside the Budget or Policy Framework

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

66.2 In respect of functions which are the responsibility of the **Cabinet**, the **Monitoring Officer's** report and/or **Chief Finance Officer's** report shall be to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated or not, the Cabinet must consider the report of the relevant officer and decide what action to take in respect of the report. Where the advice concluded that there was a departure from the Budget or Policy Framework, the Cabinet must report to **Full Council** on the action it intends taking. Where there was no such departure, the Cabinet must report to the Overview & Scrutiny Committee on any action to be taken.

66.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the **Monitoring Officer** and/or the **Chief Finance Officer** is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview & Scrutiny Committee may refer the matter to **Full Council**. In such cases, no further action will be taken in respect of the decision or its implementation until Full Council has met and considered the matter. At the

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meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Full Council may either:

- a) endorse a decision or proposal of the Cabinet 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 Full Council be minuted and circulated to all Councillors in the normal way;
- b) amend the Council's [Financial Procedure Rules](#) or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Full Council be minuted and circulated to all Councillors in the normal way; or
- c) where the Full Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Finance Officer.

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SECTION D: CABINET (EXECUTIVE) STANDING ORDERS

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SO 67. How the Executive Operates _____

SO 68. The Conduct of Cabinet Meetings _____

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PART 3

Section D – Cabinet (Executive) Standing Orders

SO 67. How the Executive Operates

67.1 Who May Make Executive Decisions

The **Leader** may discharge any **executive functions** of the Council or he/she may provide for any executive functions to be discharged by:

- a) the **Cabinet** as a whole;
- b) a committee of the Cabinet;
- c) an individual **Cabinet member**;
- d) an officer of the authority;
- e) an area committee;
- f) joint arrangements; or
- g) another local authority.

67.2 Appointments and Delegation by the Leader

- a) at the Annual Meeting of the **Full Council**, the **Leader** will present the names of the Councillors appointed to the **Cabinet** by the Leader (including the Cabinet member who is appointed as the Deputy Leader) and their **portfolios**.
- b) either at the Annual Meeting of the **Full Council** or as soon as practicable thereafter, the **Leader** will present to the **Monitoring Officer** a written record of:
 - i) the detailed remits of the **portfolios** of the **Cabinet members**;
 - ii) any delegations made by the **Leader** in respect of the discharge of the Council's **executive functions**. The document presented by the Leader to the **Monitoring Officer** will contain the following information about the discharge of the Council's **executive functions** in relation to the coming year:
 - (A) the extent of authority of the **Cabinet** as a whole;
 - (B) the extent of any authority delegated to individual **Cabinet members**, including details of any limitation on their authority;

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- (C) the terms of reference and constitution of such committees of the **Cabinet** as the **Leader** appoints and the names of **Cabinet members** appointed to them;
- (D) the nature and extent of any delegation of **executive functions** to any other authority or any joint arrangements and the names of those **Cabinet members** appointed to any joint committee for the coming year; and
- (E) the nature and extent of any delegation of **executive functions** to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

67.3 Sub-delegation of Cabinet Functions

- a) where the **Leader** delegates an **executive function** to the **Cabinet** then unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the Cabinet or to a Council officer;
- b) where the **Leader** delegates an **executive function** to a committee of the **Cabinet** or an individual **Cabinet member** then unless the Leader directs otherwise, a committee of the Cabinet or an individual member of the Cabinet may delegate further to a Council officer;
- c) even where **executive functions** have been delegated under a) or b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation; and
- d) where the **Leader** seeks to withdraw a delegation from a committee of the **Cabinet**, notice will be deemed to be service on that committee of the Cabinet when the Leader has served it on its Chairman.

67.4 The Scheme of Delegation and Executive Functions

The **Leader** may amend the Officer Scheme of Delegation set out in **Part 2** of this Constitution insofar as it relates to **executive functions** at any time during the year in accordance with the procedure set out below:

- a) Where the **Leader** wishes to delegate the discharge of an **executive function** that has not been previously delegated, the Leader must give written notice of the new delegation to both the person or body to whom the executive function is to be delegated and the **Monitoring Officer**.

The delegation of the executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

- b) Where the **Leader** wishes to transfer the discharge of an **executive function** that has been previously delegated the Leader must give written notice to the person or body from whom the exercise of the function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the **Monitoring Officer**.

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The transfer of the delegation of the executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

- c) Where the **Leader** wishes to withdraw the delegation of an **executive function** that has been delegated and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the **Monitoring Officer**.

The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

- 67.5 The **Monitoring Officer** will ensure that the Constitution is updated accordingly where the delegation is to extend beyond six months and will report the new delegation to **Full Council** at the earliest opportunity.

67.6 Place and Time of Cabinet Meetings

The **Cabinet** will meet in accordance with the agreed published [Calendar of Meetings](#). Arrangements for an additional extraordinary meeting required in light of circumstances will be agreed by the **Leader** with the Democratic Services Team Leader. The Cabinet shall meet in the Council Chamber at Council Offices, Penns Place or another location to be agreed by the Leader with the Democratic Services Team Leader.

67.7 Public or Private Meetings of the Cabinet

The **Cabinet** will meet in public, subject to the consideration of exempt or confidential information as provided for in the [Access to Information Standing Orders](#).

67.8 Quorum

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

67.9 How are Decisions to be Taken by the Executive

The **Executive** will take decisions in accordance with the [Access to Information Standing Orders](#).

SO 68. The Conduct of Cabinet Meetings

68.1 Chairman of Meeting

If the **Leader** is present, he/she will chair the meeting. In his/her absence, the Deputy Leader will chair the meeting. In the absence of both, another **Cabinet member** appointed to do so by those Cabinet members present will chair the meeting.

68.2 Attendance Rights

All **Cabinet members** shall be entitled to attend meetings of the **Cabinet** unless the Cabinet determine otherwise. Attendance by other Councillors or the public shall be in

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accordance with the [Access to Information Standing Orders](#), by invitation, or as set out in Standing Order 68.3 below.

The **Chief Executive**, the **Chief Finance Officer** and the **Monitoring Officer**, and their nominees, are entitled to attend any meeting of the Cabinet where a decision is to be made.

68.3 Speaking Rights

68.3.1 The Chairman and spokesperson(s) of the Council's Overview & Scrutiny Committee shall be entitled, at any formal public meeting of the **Cabinet**, to speak on any matter on the agenda for that meeting.

68.3.2 Other **Councillors** not previously described above may also speak at such meetings with the permission of the **Leader** or person presiding in his/her absence.

68.3.3 At every formal public meeting of the **Cabinet** there shall be a period of 20 minutes for questions to be put to **Cabinet members** by **Councillors**. Notice of these questions is not required in advance of the meeting. The following rules shall apply:

- a) questions must relate to the powers, duties or responsibilities of the Cabinet.
- b) questions put to Cabinet members must relate to their **portfolio** responsibilities.
- c) the **Leader** will determine how Cabinet question time should be allocated where there are a number of Councillors wishing to ask questions.
- d) questions will be brief, clear and focussed.
- e) questions which the Leader deems to be:
 - i) inappropriate, frivolous, derogatory or vexatious; or
 - ii) related to a Council employment or staffing matter or defamatory.

will not be allowed.

68.3.4 Questions will not be allowed which repeat, or which are substantially the same as questions asked at a meeting of **Full Council** or **Cabinet** within the preceding 6 months.

68.3.5 Where any question might be disallowed under the agreed provisions, the **Leader**, as chairman of the **Cabinet**, will have absolute discretion to determine whether to do so.

68.3.6 Questions will be asked and answered without discussion. In replying, the **Cabinet member** responding will use their reasonable endeavours to address the matters raised in the question. The Cabinet member responding may reasonably decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer.

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- 68.3.7 Following each answer, the **Leader** may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.
- 68.3.8 Where a question relates to a matter which appears on the agenda of the **Cabinet** meeting in question, the **Leader** may allow the question to be asked at the beginning of consideration of that item.
- 68.3.9 The **Cabinet** may invite any person to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the **Monitoring Officer** so as to ensure that the Council's obligations under the Local Government Acts in respect of Access to Information and Data Protection are observed.

68.4 Business to be Conducted

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

- a) consideration of the minutes of the last meeting;
- b) declarations of interest, if any;
- c) matters referred to the **Cabinet** (whether by the Overview & Scrutiny Committee or by the **Full Council**) for reconsideration by the Cabinet in accordance with the provisions contained in the [Overview & Scrutiny Standing Orders](#) or the [Budget and Policy Framework Standing Orders](#);
- d) consideration of any reports from the Overview & Scrutiny Committee;
- e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not; and

68.5 Integrity of Decision Making

In taking decisions, the **Cabinet** must satisfy itself that it has before it adequate and appropriate advice and the Cabinet shall take that advice into consideration in determining the matter. The advice shall be from the relevant service, the **Monitoring Officer** and the **Chief Finance Officer** who shall, where appropriate, be present at any meeting where a decision is being taken. Where there is any doubt about the legal basis for the decision, the procedure to be followed or the probity of the matter then advice must be obtained from the **Monitoring Officer** and the **Chief Finance Officer**.

68.6 Consultation

All reports to the **Cabinet** from any **Cabinet member** or an officer on proposals relating to the [Budget and Policy Framework](#) must contain details of the nature and extent of consultation with stakeholders (if any) and the Overview & Scrutiny Committee, and the outcome of that consultation.

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68.7 Rights to Place Items on the Cabinet Agenda

- a) 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 **Chief Executive** will comply with the Leader's requests in this respect.
- b) Any **Cabinet member** may require the **Chief Executive** 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 Chief Executive will comply.
- c) There will be a standing item on the agenda of each meeting of the **Cabinet** for matters referred by the **Full Council** or the Overview & Scrutiny Committee for reconsideration and for reports of Overview & Scrutiny Committee.
- d) The **Monitoring Officer** and/or the **Chief Finance Officer** may include an item for consideration on the agenda of a **Cabinet** meeting and may require the **Chief Executive** to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the **Head of Paid Service**, Chief Finance 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 a 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.
- e) The Agenda may be supported by additional papers prepared by officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information. Full agendas for meetings of the **Cabinet** will be made available, electronically, in advance of the respective meeting, to all Councillors and in accordance with the Council's [current policy](#) and the [Access to Information Standing Orders](#).

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PART 3

Section E - Overview & Scrutiny Standing Orders

SO 69. Establishment and Membership

The Council will establish the Overview & Scrutiny Committee set out in **Part 2** of this Constitution.

SO 70. Terms of Reference

The general and specific role of the Overview & Scrutiny Committee will be as set out in **Part 2** of this Constitution.

SO 71. Meetings of the Overview & Scrutiny Committee

There shall be at least four ordinary meetings of the Overview & Scrutiny Committee every civic year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary Overview & Scrutiny Committee meeting shall be called by the **Chief Executive** at the request of the Chairman of the Overview & Scrutiny Committee, by any four members of the Committee or the **Monitoring Officer**. Where the Chief Executive declines to call an extraordinary meeting they shall give reasons for doing so.

SO 72. Quorum

The quorum for the Overview & Scrutiny Committee shall be in accordance with SO 15.

SO 73. Work Programme

- 73.1 The Overview & Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account the wishes of members on the Committee who are not members of the largest political group on the **Full Council**.
- 73.2 The Overview & Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the **Full Council** and the **Cabinet** to review particular areas of Council activity. Where it does, the Overview & Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Full Council. The Full Council and/or the Cabinet shall consider the report of the Overview & Scrutiny Committee at the next available meeting.

SO 74. Agenda for the Overview & Scrutiny Committee

- 74.1 Any member of the Overview & Scrutiny Committee shall be entitled to require, in writing, that an item be included on the agenda, provided that the item is within the remit of the Committee in question; the item will then appear on the agenda for the next meeting. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

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- 74.2 Similarly, the **Leader** of the Council or a **Cabinet member** with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of an Overview & Scrutiny Committee, relating to their area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 74.3 Subject to the [Council and Committee Standing Orders](#), any other Councillor may give notice in writing to the **Monitoring Officer**, requesting an item to appear on an agenda of an Overview & Scrutiny Committee. The item shall be included after consulting the Chairman of the Committee.
- 74.4 On receipt of a notice under Standing Order 74.1, 74.2 or 74.3, the matter will be included on the agenda for, and discussed at, a meeting of the Committee. Notices under Standing Order 74.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.
- 74.5 In considering whether or not to exercise any of its powers in relation to the matter referred under Standing Order 74.3 the Committee may have regard to any representations made by the Councillor as to why it would be appropriate to exercise any of its powers. If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Councillor of the decision and the reasons for it.
- 74.6 Where the Overview & Scrutiny Committee exercises its power to make a report or recommendation to the **Full Council** or the **Cabinet** on any matter referred to it by a Councillor under Standing Order 74.3 the Committee must provide the Councillor with a copy of the report or recommendation (subject to Standing Order 78).

Policy Review and Budget Development

- 74.7 The Overview & Scrutiny Committee has a key role in budget development. The [Budget and Policy Framework Standing Orders](#) contains details of the process by which the Overview & Scrutiny Committee may perform that role.
- 74.8 In relation to the development of the Council's approach to other matters not forming part of its [Budget and Policy Framework](#), the Overview & Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 74.9 Overview & Scrutiny Committees may hold enquiries in relation to policy review and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

SO 75. Reports and Recommendations of the Overview & Scrutiny Committee

- 75.1 This order applies where the Overview & Scrutiny Committee makes a report or recommendation to the **Full Council** or the **Cabinet**, except in relation to a crime and disorder matter.
- 75.2 The Overview & Scrutiny Committee may publish the report or recommendations.

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- 75.3 The Overview & Scrutiny Committee must by notice in writing require the Full Council or Cabinet:
- a) to consider the report or recommendation;
 - b) to respond to the committee indicating what (if any) action the Full Council or Cabinet proposes to take;
 - c) if the Committee has published the report or recommendation to publish the response;
 - d) if the Committee provided a copy of the report or recommendation to a member under Standing Order 74.6, to provide the member with the response; and
 - e) to do all of the above within two months of receiving the report or recommendations or (if later) the notice.
- 75.4 It is the duty of the **Full Council** or **Cabinet** to which a notice is given under Standing Order 75.3 to comply with the requirements specified in the notice.

SO 76. Reports and Recommendations – Partner Authorities

- 76.1 This order applies where the Overview & Scrutiny Committee makes a report or recommendation to the **Full Council** or the **Cabinet**, and the report or any of the recommendations relates to a local improvement target which relates to a relevant partner authority.
- 76.2 The Overview & Scrutiny Committee may by notice in writing to the relevant partner authority (accompanied by the report/recommendations) require that authority to have regard to the report or recommendation in question in exercising their functions.
- 76.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

SO 77. Publication of reports, Recommendations and Responses

- 77.1 Where a report or recommendation of the Overview & Scrutiny Committee or response of the **Full Council** or the **Cabinet** is published pursuant to Standing Order 75.2 or 75.3c), and is provided to a Councillor or partner authority under Standing Orders 74.6 or 76, any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of the [Access to Information Standing Orders](#).

SO 78. Rights of the Overview & Scrutiny Committee Members to Documents

- 78.1 In addition to their rights as Councillors, members of Overview & Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the [Access to Information Procedure Standing Orders](#) in **Part 3** Section F of this Constitution.

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- 78.2 Nothing in this paragraph prevents more detailed liaison between the **Cabinet** and the Overview & Scrutiny Committee as appropriate depending on the particular matter under consideration.

SO 79 Rights of Cabinet Members

- 79.1 Subject to the provisions of the [Access to Information Standing Orders](#) and without prejudice to the rights of **Cabinet members**, Cabinet members may attend meetings of the Overview & Scrutiny Committee including parts of the meeting where exempt items are being discussed and shall be entitled to receive the agenda for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the Committee.

SO 80. Councillors and Officers Giving Account

- 80.1 The Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any **executive function**. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any **Cabinet member**, the **Chief Executive** and/or any **chief officer** to attend before it to explain in relation to matters within their remit:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy; and/or
- c) their performance,

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

- 80.2 Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then Overview & Scrutiny Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.

SO 81. Attendance by Others

- 81.1 The Overview & Scrutiny Committee may invite people other than those people referred to in Standing Order 80 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 may invite such people to attend.

SO 82. Call-in

- 82.1 When a decision is made by the **Cabinet**, an individual **Cabinet member** or a committee of the Cabinet, or a **key decision** is made by an officer with delegated authority from the **Executive**, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Council Offices, Penns Place normally within two days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

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- 82.2 The record of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, as from 4.00pm on the fifth day after the day on which the decision was published, unless within this time it is called in for scrutiny ("the call-in period").
- 82.3 Subject to 82.5 below, a decision may be called-in for scrutiny by the Overview & Scrutiny Committee if the Chairman of the Overview & Scrutiny Committee or any five **Councillors** submit a notice in writing to the **Chief Executive** within the call-in period giving reasons why the decision should be scrutinised.
- 82.4 The **Chief Executive** shall then notify the decision-taker of the call-in. Any item which is called-in will be placed on the agenda for the next meeting of the Overview & Scrutiny Committee. The relevant **chief officer** and/or **Cabinet member** shall have the right to attend the meeting to explain the reasons for the decision and to respond to comments made at the meeting.
- 82.5 A decision may not be called-in if the Committee has already made recommendations to the decision-taker and those recommendations have been accepted by the decision-taker either in whole or without significant addition or modification.
- 82.6 Where a decision has been called-in by five Councillors and none of those Councillors attend, the Committee may, at its discretion, determine not to scrutinise the decision.
- 82.7 If, having considered the decision, (which consideration must be completed before the next scheduled meeting of the **Cabinet**) the Overview & 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**. Matters should normally only be referred to **Full Council** if Overview & Scrutiny Committee consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.
- 82.8 If the decision is referred back to the decision maker they shall then reconsider the decision. The decision maker may amend the decision or not, before adopting a final decision which will come into force immediately.
- 82.9 If following an objection to the decision, the Overview & Scrutiny Committee does not either refer the matter back to the decision making person or body or refer the matter to Full Council or determines under 82.6 above not to scrutinise the matter, the decision shall take effect on the date of the Scrutiny meeting.
- 82.10 If the matter was referred to **Full Council** and the Full Council does not object to the 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 Full Council does object, it has no power to make decisions in respect of **executive functions** unless the decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the **Full Council** will refer any decision to which it objects back to the decision making person or body, together with the Full 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.
- 82.11 If the **Full Council** does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Full Council meeting.

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SO 83. Call-in and Urgency

- 83.1 The call-in procedure set out above shall not apply where the decision being taken by the **Executive** is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the legal or financial position of the Council or the interests of the residents of the borough of Havant. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body (having considered the advice of the **Chief Executive** and/or the **Monitoring Officer** and/or the **Chief Finance Officer**), the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview & Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.
- 83.2 In the absence of the Chairman of the Overview & Scrutiny Committee, the Mayor of the Council's consent shall be required. In the absence of both, the **Chief Executive** 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 **Full Council**, together with the reasons for urgency.
- 83.4 The operation of the provisions relating to call-in and urgency shall be monitored annually by the **Chief Executive**, and a report submitted to **Full Council** with proposals for review if necessary.
- 83.5 Where a decision is exempted from call-in, it will become effective immediately or (if later) as soon as the agreement of the Chairman of the Overview & Scrutiny Committee (or the Mayor of the Council or the **Chief Executive**, if appropriate) has been obtained.

SO 84. Procedure at Overview & Scrutiny Committee Meetings

- 84.1 The Overview & Scrutiny Committee shall consider the following business:
- a) minutes of the last meeting;
 - b) declarations of interest (including whipping declarations);
 - c) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - d) responses of the Cabinet to reports of the Overview & Scrutiny Committee; and
 - e) the business otherwise set out on the agenda for the meeting.
- 84.2 Where the Overview & 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:
- a) 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;

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- b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

84.3 Following any investigation or review, the Committee shall prepare a report, for submission to the **Cabinet** and/or **Full Council** as appropriate and shall make its report and findings public.

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SECTION F: OFFICER EMPLOYMENT STANDING ORDERS

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PART 3

Section F – Officer Employment Standing Orders

SO 85. Recruitment and Appointment

Declarations

- 85.1 Any candidate for any designation or appointment with the Council who knows that he/she is related to a Councillor or employee of the Council shall, when making an application, disclose, in writing, that relationship to the Head of Organisational Development. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 85.2 Every Councillor and employee of the Council shall disclose to the Head of Organisational Development any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Council.

Seeking support for appointment

- 85.3 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.
- 85.4 Persons shall be deemed to be related to a candidate or officer if they are a spouse, civil partner, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, step-parent stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons. This list is indicative, and a judgement will be made based on the closeness of the relationship.
- 85.5 In the case of a dispute under Standing Order 82.4 above about the status of a relationship in relation to an appointment, the Head of Organisational Development will rule and such ruling will be applied.
- 85.6 The Head of Organisational Development will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.
- 85.7 No candidate so related to a Councillor or senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

SO 86. Recruitment of Head of Paid Services and Chief Officers

- 86.1 Where the Council proposes to appoint the **Head of Paid Service** or a **chief officer** (other than on an acting basis) and it is not proposed that the appointment be made

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exclusively from among their existing officers, the [Joint Human Resources Committee](#) will establish a committee (or sub-committee) to act as the appointment panel.

86.2 The appointment panel will:

- a) draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed;
- 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.

86.3 The appointment panel will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list.

86.4 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.

86.5 Where the Council proposes to appoint the **Head of the Paid Service** or a **chief officer** (other than on an acting basis) exclusively from amongst their existing officers the Joint Human Resources Committee will establish a committee (or sub-committee)] which will make arrangements in connection with the appointment.

SO 87. Appointment of Head of Paid Service

87.1 Where the Council proposes to appoint to the **Head of the Paid Service**, the Joint Human Resources Committee will oversee the arrangements for filling the vacancy. For this purpose, the Committee shall include at least one **Cabinet member**.

87.2 The **Full Council** will approve the appointment of the **Head of Paid Service** following the recommendation of the Joint Human Resources Committee, and the Full Council must approve the appointment before an offer of appointment is made.

87.3 Where the **Full Council** does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

SO 88. Dismissal of Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer)

88.1 Dismissal of the Designated **Statutory Officers** of the Council (the **Head of Paid Service**, the **Monitoring Officer** and the **Chief Finance Officer (S.151 Officer)** (the 'DSOs') will be dealt with in accordance with the [Council's agreed policy](#). The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and the Model Disciplinary Procedure and Guidance as set out in the JNC Conditions of Service Handbook have been followed in this regard.

88.2 The dismissal of a DSO must be approved by the **Full Council**, following the recommendation of such dismissal by the Joint Human Resources Committee. The Committee when making such a recommendation must include at least one member of

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the Cabinet. The **Full Council** must approve the dismissal before notice of dismissal is given.

SO 89. Appointment and Dismissal of Chief Officers

- 89.1 The appointment of a **chief officer** will be determined by the Joint Human Resources Committee. When making the appointment, the Committee must include at least one **Cabinet member**.
- 89.2 Subject to Standing Order 88.2, the dismissal of a **chief officer** is the responsibility of the Joint Human Resources Committee. The Committee when dismissing a chief officer must include at least one **Cabinet member**.

SO 90. Other Officers

- 90.1 The function of appointment and dismissal of, and taking disciplinary action against any officer other than the **Head of Paid Service** or a **chief officer** is the responsibility of the Head of Paid Service (Chief Executive) or his/her nominee, and, (save in respect of deputy chief officers as defined in Section 2(8) of the Local Government and Housing Act 1989), may not be discharged by Councillors. This is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001.
- 90.2 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.
- 90.3 Nothing in Standing Order 90.2 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by an officer against any decision relating to the dismissal of, or taking disciplinary action against that officer.

SO 91. Consultation with Cabinet Members

- 91.1 No offer of an appointment or notice of dismissal in relation to the **Head of Paid Service**, a **chief officer** or a **deputy chief officer** (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall be given by the appointor or dismissor until:
- (a) the appointor or dismissor has notified the Head of Organisational Development of the name of the person to be appointed or dismissed and any other particulars relevant to the appointment or dismissal;
 - (b) the Head of Organisational Development has notified each member of the Cabinet of:
 - (i) the name of the person to be appointed or dismissed;
 - (ii) any other particulars relevant to the appointment or dismissal which the appointor or dismissor has notified to the Head of Organisational Development; and

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- (iii) the period within which any objection to the making of the offer is to be made by the **Leader** on behalf of the **Cabinet** to the Head of Organisational Development and
- (c) either:
 - (i) the **Leader** has, within the period specified in the notice under paragraph (b)(iii) above notified the Committee that neither s/he nor any other member of the **Cabinet** has any objection to the appointment or dismissal;
 - (ii) the Head of Organisational Development has notified the appointor or dismissor that no objection was received within that period from the **Leader**; or
 - (iii) the appointor or dismissor is satisfied that any objection received from the **Leader** within that period is not material or is not well-founded.

SO 92. Disciplinary Action - Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer)

- 92.1 A Designated **Statutory Officer** of the Council (the **Head of Paid Service**, the **Monitoring Officer** and the **Chief Finance Officer (S.151 Officer)** (a 'DSOs') may not be dismissed by the Council unless the procedure set out in this Standing Order 92 are complied with.
- 92.2 The Council must invite relevant independent persons to be considered for appointment to an Independent Persons Panel, with a view to appointing at least two such persons to the Panel.
- 92.3 In Standing Order 92.2 "relevant independent persons" means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 92.4 Subject to Standing Order 92.5, the Council must appoint to the Independent Persons Panel such relevant independent persons who have accepted an invitation issued in accordance with Standing Order 92.2 in accordance with the following priority order:
 - (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
 - (b) any other relevant independent person who has been appointed by the Council;
 - (c) a relevant independent person who has been appointed by another authority or authorities
- 92.5 The Council is not required to appoint more than two relevant independent persons in accordance with Standing Order 92.4 but may do so.

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- 92.6 The Council must appoint any Independent Persons Panel at least 20 working days before the relevant meeting.
- 92.7 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the **Full Council** must take into account, in particular:
- (a) any advice, views or recommendations of the Independent Persons Panel
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
- 92.8 Any remuneration allowances or fees paid by the Council to an independent person appointed to the Independent Persons Panel must not exceed the level of remuneration, allowance or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.

SO 93. Disciplinary Action - Head of Paid Service and Chief Officers

- 93.1 Subject to Standing Order 92 above, the Joint Human Resources Committee has delegated authority to take disciplinary action against the **Head of Paid Service** and **chief officers**, and to dismiss chief officers on disciplinary grounds
- (a) Any proposal to dismiss the **Head of Paid Service**, the **Monitoring Officer** or the **Chief Finance Officer** must be approved by **Full Council**.
 - (b) Where the Joint Human Resources Committee meets to consider the taking of disciplinary action against the **Head of Paid Service** or a **chief officer**, the Committee must include at least one member of the Cabinet.
 - (c) The Investigation and Disciplinary Committee for the purposes of the JNC Conditions of Service shall be drawn from the Joint Human Resources Committee. That Committee must include at least one member of the Cabinet.
 - (d) In accordance with the Model Disciplinary Procedure in the JNC Handbook for Chief Executives, Investigation and Disciplinary Committee meetings shall be convened by the **Monitoring Officer** (in consultation with the Chair of the Joint Human Resources Committee) and the Monitoring Officer shall, in consultation with the Chair of the Joint Human Resources Committee, filter out and deal with allegations that are clearly unfounded, trivial or can best be dealt with under some other procedure. Where allegations involve the **Monitoring Officer**, this role shall be fulfilled by the Chief Executive.

SO 94. No Directions to be Given to Persons Making Appointments or Taking Disciplinary Action

- 94.1 Save as specifically provided for elsewhere in these Standing Orders, neither the **Full Council** nor the **Cabinet** or its Committees or Overview and Scrutiny meeting or an individual Councillor, nor any other person shall directly or indirectly:

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- (a) give directions to any person taking any step in relation to an appointment to a post in the paid service of the Council as to the identity of the person to be appointed;
- (b) give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or
- (c) otherwise interfere with the making of such an appointment or the taking of disciplinary action.

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SECTION G: FINANCIAL PROCEDURE RULES

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PART 3

Section G – Financial Procedure Rules

Part A Introduction

- 1.1 Financial procedures provide the framework for managing the Council's financial affairs. They apply to every Councillor and officer of the Council and anyone acting on its behalf. Robust systems and procedures are essential to an effective framework of accountability and control.
- 1.2 These procedures identify the financial responsibilities of **Full Council**, **Cabinet** and **Councillors**, the **Chief Executive** as **Head of Paid Service**, the **Monitoring Officer**, the **Chief Finance Officer**, the Executive Directors, Heads of Service and other employees.
- 1.3 All Councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.4 The **Chief Finance Officer** is responsible for maintaining a continuous review of the financial procedures and submitting any additions or changes necessary to **Full Council** for approval.
- 1.5 The **Head of Paid Service** and Executive Directors are responsible for ensuring that all officers in their service areas are aware of the existence and content of these Financial Procedure Rules and other internal regulatory documents and that they comply with them.
- 1.6 Failure of officers to comply with these procedures may constitute misconduct or gross misconduct, depending on the circumstances of the case in question, and may result in disciplinary action being taken in accordance with the Council's Disciplinary Procedure.
- 1.7 All Council employees must seek to achieve value of money and shall give appropriate consideration to:
 - (a) Economy - acquiring resources of appropriate quality for the minimum cost;
 - (b) Efficiency – ensuring that the maximum output is obtained from the resources devoted to an activity;
 - (c) Effectiveness – ensuring that the output from any activity is achieving the desired result or target set; and
 - (d) Council Strategy – How each activity contributes to corporate objectives and how performance can be compared objectively and by the more subjective views of the local community.
- 1.8 The **Chief Finance Officer** has overall responsibility to ensure the proper administration of the Council's financial affairs, as the responsible financial officer under section 151 of the Local Government Act 1972. The **Chief Finance Officer** may delegate responsibilities to the Deputy **S151 Officer** where appropriate.
- 1.9 The procedures apply across both Havant Borough Council and East Hampshire District Council facilitating joint management and shared services.

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PART 3 SECTION G: RESPONSIBILITIES FOR FINANCIAL MANAGEMENT

Part B Responsibilities for Financial Management

Introduction

G.1 Financial management covers all financial accountabilities in relation to the running of the Council. The overall roles and responsibilities for the **Cabinet, Full Council, Audit Committee** and statutory officers are outlined in **Part 2** of the Constitution.

Financial Responsibilities of the Full Council

G.2 **Full Council** is responsible for:

- (a) Approving the Council's expenditure plans, including Medium Term Financial Strategy, Revenue Budget, Capital, Council Tax and Reserves annually;
- (b) Approving the Council's **Treasury Management** Strategy and Investment Strategy annually including the Prudential Indicators;
- (c) Approving the Council's **non-executive** Fees & Charges annually;
- (d) Movement of budget (virement) between services over £250,000 capital and £100,000 revenue under Standing Order 64; and
- (e) Ensuring financial accountability through ownership of these Financial Regulations.

Financial Responsibilities of the Cabinet

G.3 The **Cabinet** is responsible for:

- (a) Proposing the policy framework and budget to **Full Council**;
- (b) Authorising release of capital funds on the basis of detailed project plans;
- (c) Approving the Council's **executive** Fees & Charges annually;
- (d) Movement of budget (virement) between services between £100,000 (revenue and capital) and £250,000 (revenue to capital) under Standing Order 64;
- (e) Agreeing expenditure outside of the budget framework up to the sum of £2M in any one financial year; or when additional expenditure can be funded through:
 - (i) Additional external resources;
 - (ii) Additional capital resources; or
 - (iii) Additional credit approvals.
- (f) Receiving forecast reports and an outturn report;

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- (g) Approving the use of underspends post year end;
- (h) Approving the use of the General Fund balance; and
- (i) Approving delegations, including financial frameworks, for partnerships.

Financial Responsibilities of the Audit Committee and the Overview & Scrutiny Committee

G.4 The Audit Committee is responsible for:

- (a) Monitoring and annually reviewing corporate governance arrangements;
- (b) Receiving risk management updates;
- (c) Acting as audit committee; and
- (d) Approving the Annual Statement of Accounts.

Financial Responsibilities of the Overview & Scrutiny Committee

G.5 The Overview & Scrutiny Committee is responsible for:

- (a) Scrutinising **Cabinet** decisions, including financial implications, before or after they have been implemented and for holding the **Cabinet** to account.
- (b) Assisting with the formulation of the Council's budget in accordance with the [Budget and Policy Framework Standing Orders](#)

Financial Responsibilities of the Statutory Officers

Head of Paid Service (Chief Executive)

G.6 The core financial responsibilities of the **Head of the Paid Service** are:

- (a) Overall management of the number and grade of officers required for providing Council services, ensuring that staffing levels are adequately budgeted;
- (b) Ensuring that Council budgets provide enough resources to meet the aims and objectives of the Corporate Strategy and Business Plans; and
- (c) Together with the Executive Board, to input into financial planning processes, review quarterly budget monitoring and outturn reports; and to make recommendations to Cabinet/Council on budget/outturn issues.

Monitoring Officer

G.7 The **Monitoring Officer** (together with the **Chief Finance Officer**) is responsible for advising the **Cabinet** or **Full Council** about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

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- (a) Initiating a new service or significant changes to the standard of a service, particularly one which commits expenditure in future years in excess of the service budget;
- (b) Incurring budget transfers above **virement** limits; and
- (c) Cumulatively causing the total expenditure financed from Council Tax, grants and corporately held reserves in the current financial year to increase significantly.

Chief Finance Officer

G.8 The **Chief Finance Officer** has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties include:

- (a) Section 151 of the Local Government Act 1972;
- (b) The Local Government Finance Act 1988;
- (c) The Local Government and Housing Act 1989; and
- (d) The Accounts and Audit Regulations 2015.

G.9 The **Chief Finance Officer** is responsible for:

- (a) Ensuring lawfulness and financial prudence of decision making. After consulting with the **Head of Paid Service** and the **Monitoring Officer**, the Chief Finance Officer will report to **Full Council**, or to the **Cabinet** in relation to an **executive function** if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully or if 'the books don't balance' (section 114 Local Government Finance Act 1988);
- (b) The administration of the financial affairs of the Council;
- (c) Contributing to the corporate management of the Council, in particular through the provision of professional financial advice;
- (d) Promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;
- (e) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all **Councillors** and will support and advise Councillors and officers in their respective roles;
- (f) Providing financial information to the media, Councillors, the public and the community;

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- (g) Authorising exceptional payments for which budget provision has not been made, if the Council is legally obliged to make such payments;
- (h) The selection of accounting policies, procedures and records for the Council and ensuring that they are applied consistently; and
- (i) Ensuring that the annual **Statement of Accounts** is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC). The **Chief Finance Officer** shall present the Statement of Accounts for approval within the statutory timeframes outlined in the Accounts and Audit Regulations 2015.

Financial Responsibilities of the Executive Board

G.10 The Executive Board consists of the **Head of Paid Service** and **Executive Directors**. The financial responsibilities of the Executive Board are:

- (a) To ensure that the **Cabinet** and **Full Council** are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Chief Finance Officer**;
- (b) To review the budget performance every quarter, make changes and recommend changes to Cabinet; and
- (c) To input into the financial planning processes; to review quarterly budget monitoring and outturn reports; and to make recommendations to Cabinet/Council on budget/outturn issues.

G.11 The **Head of Paid Service** and **Executive Directors** will consult with the **Chief Finance Officer** and seek approval on any matter liable to materially affect the Council's finances, before any commitments are incurred.

G.12 All reports to the **Cabinet**, committees and the **Full Council** shall identify financial implications in a format agreed with the **Chief Finance Officer**.

G.13 In exceptional circumstances, the **Head of Paid Service** or an **Executive Director**, in consultation with the **Chief Finance Officer**, may incur expenditure which is essential to meet any immediate need created by an emergency or a situation related to Section 138 of the Local Government Act 1972, such as during a pandemic. This is subject to the action being reported as soon as practical to the **Executive Board** and the **Cabinet member** with relevant portfolio responsibility, and if the expenditure exceeds £50,000, to **Cabinet**.

PART 3 SECTION G: FINANCIAL PLANNING

Part C Financial Planning

G.14 **Full Council** is responsible for agreeing the Council's budget, which will be proposed by the **Cabinet**. In terms of financial planning, the key elements are:

- (d) The Council's Corporate Strategy;
- (e) The Medium Term Financial Strategy (via a recommendation from **Cabinet**);

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- (f) The Revenue Budget and Capital Programme;
- (g) Investment Strategy; and
- (h) The **Treasury Management** Strategy.

Policy framework

- G.15** The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting Council Tax discounts policy, setting the Council Tax charges and decisions relating to the control of the Council's borrowing requirements, Prudential Indicators, the control of its capital and reserves expenditure and setting of **virement** procedures.
- G.16** **Full Council** is also responsible for approving procedures for agreeing variations to the approved budget and policy framework.
- G.17** The **Cabinet** is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits (and permitted **virement**) set by the **Full Council**.

Budgeting

- G.18** The form of presentation of capital and revenue estimates shall be determined by the **Chief Finance Officer**. Budget estimates shall be prepared by the Heads of Service, in consultation with the **Head of Paid Service** and **Executive Directors** and returned to the Chief Finance Officer who shall co-ordinate budget presentation. The draft revenue budget shall include allocation to different services and projects, proposed taxation levels and contingency funds.
- G.19** It is the responsibility of the Heads of Service to control revenue and capital income and expenditure within their services and to monitor performance, taking account of financial information provided by the **Chief Finance Officer**. They must allocate an accountable budget holder for each service budget, and report to the Chief Finance Officer on variances within their own areas and how any additional expenditure can be met. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems at the earliest opportunity.
- G.20** It is the responsibility of the **Chief Finance Officer** to determine and agree the annual Council Tax and Business Rates Tax Bases for the purposes of budget setting.

Revenue Budget preparation

- G.21** The **Chief Finance Officer** is responsible for ensuring that a balanced revenue budget is prepared on an annual basis and that a financial strategy is prepared covering at least three years for consideration by the **Cabinet**, before recommendation to Full Council.
- G.22** It is the responsibility of the Heads of Service to ensure that budget estimates are submitted to the Chief Finance Officer in line with guidance he/she has issued.
- G.23** The **Chief Finance Officer** is responsible for ensuring that there is adequate consultation and challenge to the budget process.

Revenue budget monitoring and control

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- G.24** Once approved by the **Full Council** the revenue budget gives authority for expenditure to be incurred for the amounts shown in the budget. The **Chief Finance Officer** is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must co-ordinate the monitoring and control of expenditure and income against budget allocations carried out by the Heads of Service, reporting to the **Executive Board** and to **Cabinet** on the overall position as necessary.

Resource allocation

- G.25** The **Chief Finance Officer** is responsible for developing and maintaining a resource allocation process, through the annual review of the financial strategy, that ensures due consideration of **Full Council's** policy framework.

Resource Reallocation – Budget Virements

- G.26** **Virement** shall not be allowable unless the budget provision to be transferred can be transferred as a result of a genuine overall saving to the Council. Where it appears that expenditure against a revenue budget heading will be exceeded, income will be less than forecast or additional expenditure is desirable to meet the objectives of the budget, the limits in relation to virements are laid out in SO 64 of the Constitution.

Budget Carry Forwards, Brought Forwards and Budget Variations

- G.27** Carry forward to the following financial year of planned under or over-spending will be allowed by the **Chief Finance Officer** in consultation with the **Cabinet member** with portfolio responsibility for finance. The Chief Finance Officer will report such carry-forwards in Budget Monitoring and Outturn reports. The Chief Finance Officer is responsible for implementing processes for the submission of bring forward and carry-forward applications. The amount of a carry-forward may be varied subsequently with the agreement of the Chief Finance Officer.
- G.28** Brought Forward Budgets refer to the use of future year budgets in the current financial year, particularly capital budgets. The **Chief Finance Officer** is responsible for collating and agreeing bids to bring forward budgets, and will report such bring forwards in Budget Monitoring and Outturn reports.
- G.29** The **Chief Finance Officer** is responsible for agreeing variations between budgeted and actual income and expenditure, the use of underspends to fund other expenditure and reporting them in Budget Monitoring and Outturn Reports.

Preparation of the Capital Programme

- G.30** The **Chief Finance Officer** is responsible for ensuring that a capital programme is prepared for consideration by the **Cabinet** before submission to **Full Council**. New Capital projects should be identified by Heads of Service to the Chief Finance Officer, as part of the Budget Planning Process, for inclusion in the Capital Programme.
- G.31** Capital schemes may only be committed after:
- (a) An assessment in the agreed standard format including an estimate of the associated revenue expenditure and income has been approved by the Cabinet; and
 - (b) Appropriate finance has been made available.

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Control of Capital Schemes

- G.32** Where it appears that any scheme in the capital programme will be overspent by a sum of £50,000 or more a report shall be made to the **Cabinet**. The **Chief Finance Officer** will advise the Cabinet whether or how requests for additional capital finance can be achieved within the overall capital programme. The Chief Finance Officer is authorised to approve **virements** within the capital programme as outlined in SO 64..

Guidelines

- G.33** Guidelines on capital budget preparation are to be issued by the **Chief Finance Officer**. The guidelines will take account of:
- (a) Legal requirements;
 - (b) Links with the Business Planning process;
 - (c) The Council's Corporate Strategy;
 - (d) Available resources;
 - (e) Spending pressures;
 - (f) Relevant government guidelines;
 - (g) Other internal policy documents; and
 - (h) Issues that cut across various areas (where relevant).

Maintenance of reserves

- G.34** It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or Full Council on prudent levels of reserves for the Council.
- G.35** It is the responsibility of Heads of Service as Budget holders to submit expenditure plans for specific reserves to the Chief Finance Officer for consideration by Cabinet. It is the responsibility of Cabinet to agree to the creation of specific reserves, the closure of specific reserves, virement between reserves and the delegations in place to release funds from reserves prior to the release of funds from those reserves.

PART 3 SECTION D: RISK MANAGEMENT AND CONTROL OF RESOURCES

Part D. Risk Management and Control of Resources Introduction

- G.36** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council including the proactive participation of all those associated with planning and delivering services.

Risk management

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- G.37** The Audit Committee is responsible for reviewing the effectiveness of risk management. The **Chief Finance Officer** is responsible for promoting good risk management practice, advising upon and ensuring that proper insurance exists where appropriate.
- G.38** The **Head of Paid Service** and are **Executive Directors** responsible for corporate risk management having regard to advice from the **Chief Finance Officer** and other specialist officers (e.g. Health and Safety). The key controls for risk management are:
- (a) Procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council and for all significant projects;
 - (b) A monitoring process is in place to regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
 - (c) Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
 - (d) Risks are quantified in financial terms and provision is made for losses that might result from the risks that remain;
 - (e) Procedures are in place to investigate claims within required timescales;
 - (f) Acceptable levels of risk are determined and insured against where appropriate; and
 - (g) The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

Insurances

- G.39** The **Chief Finance Officer** shall effect all insurance cover deemed necessary and negotiate all claims in consultation with other officers where necessary.
- G.40** Heads of Service shall give prompt notification to the **Chief Finance Officer** of all new risks, properties or vehicles or other assets which may require to be insured and of all alterations which may affect existing insurances.
- G.41** Heads of Service shall notify the **Chief Finance Officer** in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police where appropriate. In cases of urgency the **Head of Paid Service** and **Executive Directors** will report orally pending submission of a written report. The Chief Finance Officer shall, appropriately, keep the Head of Paid Service informed.
- G.42** The **Chief Finance Officer** shall periodically review all insurances in consultation with the Heads of Service, Head of Paid Service and **Executive Directors** as appropriate.
- G.43** The **Chief Finance Officer** shall review the internal funding for insurance risks on a regular basis and report to the **Cabinet** as required.

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- G.44** The **Head of Paid Service** and **Executive Directors** shall consult the **Chief Finance Officer** and the **Monitoring Officer** regarding the terms of any indemnity which the Council is requested to give.
- G.45** The **Head of Paid Service** or **Executive Director** concerned shall notify the **Chief Finance Officer** in such form as he/she may require of any case known to him/her where steps are necessary to prevent or mitigate loss or damage of property not belonging to the Council but in their control.

Internal Control

- G.46** Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- G.47** The **Chief Finance Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- G.48** It is the responsibility of the Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness (best value) and for achieving their financial performance targets.
- G.49** It is the responsibility of the **Chief Finance Officer** to ensure that a review of the adequacy of Corporate Governance arrangements is carried out at least annually, in accordance with the Accounts and Audit Regulations 2015.

Audit requirements

- G.50** The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit of its accounting records and of its system of internal control. The standards for proper practices in relation to internal audit are laid down in the Public Sector Internal Audit Standards.
- G.51** Responsibility for maintaining an adequate and effective system of internal audit is delegated to the **Chief Finance Officer**. Heads of Service must ensure that agreed actions regarding audit recommendations are carried out in a timely and efficient manner.
- G.52** The **Chief Finance Officer** is required to present the annual Audit Plan, for approval, to the **Audit Committee** and, at least three times in each year, report on progress against the plan and give details of management responses to audit recommendations.
- G.53** The Internal Auditor, **Chief Finance Officer** or his/her authorised representatives, and relevant external bodies, such as HM Revenues & Customs, shall have authority where necessary in the performance of their duties to:
- (h) Enter any Council premises or land in the occupation of the Council;
 - (i) Have access to all records, documents and correspondence relating to any financial and other transaction of the Council;

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- (j) Require and receive oral or written explanations from any employee as he/she thinks necessary concerning any matter under examination; and
- (k) Require any employee of the Council to produce cash, stores or any other Council property under his/her control.

G.54 The **Chief Finance Officer** is responsible for ensuring that the selection of External Auditors is carried out in line with statutory guidance. The basic duties of the external auditor are governed by part 5 of the Local Audit and Accountability Act 2014. The role of the Council's external auditor is to examine the Council's Statement of Accounts to ensure they are a true and fair representation of the Council's financial position. The External Auditor also is responsible for reviewing certain grant claims and performing value for money reviews.

Preventing fraud and corruption

G.55 The **Chief Finance Officer** is responsible for the development, promotion and maintenance of an anti-fraud and anti-corruption policy. The **Head of Paid Service, Executive Directors** and Heads of Service are responsible for reporting to the Chief Finance Officer all suspected irregularities and to instigate the appropriate disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

G.55 Whenever any matter arises which involves, or is thought by any officer or Councillor to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity as to finance, property or advantages in the exercise of the functions of the Council, the officer or Councillor concerned shall forthwith notify the **Chief Finance Officer** who shall, in consultation with the **Monitoring Officer**, take such steps as are considered necessary.

Assets Security

G.56 Heads of Service must ensure that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

G.57 The **Head of Paid Service** and **Executive Directors** are responsible for ensuring that proper arrangements exist for the security and care at all times of all buildings, stocks, stores, furniture, equipment, cash etc., under their control and shall consult the **Chief Finance Officer** in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

G.58 Maximum limits for cash holdings shall be agreed with the **Chief Finance Officer** and shall not be exceeded without his/her express permission.

G.59 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times except where this is wholly impracticable when the keyholder must always ensure the absolute safety of the keys; the loss of any such keys must be reported to the **Chief Finance Officer** immediately after the loss is discovered.

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- G.60** The **Head of Paid Service** and **Executive Directors** shall be responsible for maintaining proper security and privacy of information contained in all financial records under their control, in accordance with the principles of the Data Protection Act. The Head of Paid Service and Executive Directors shall have regard to any advice given by the officer appointed as Data Protection Officer or Information Risk Officer.
- G.61** The **Head of Paid Service** and **Executive Directors** shall have regard to the Council's I.S./I.T. Security Policy and ensure that only licensed software is used in systems under their control, seeking advice from the internal specialists as necessary. In addition, appropriate measures must be taken to ensure that the Council's Rules and Regulations with regard to the use of the Council's Intranet, and communication by e-mail, are observed at all times.
- G.62** Council property, for example printing, telephones and photo-copiers, computers, laptops and tablets shall not be used for private purposes.

Stocks and Stores

- G.63** Stock and store records are to be kept in a form approved by the **Chief Finance Officer**. An independent stock take of all stocks shall be arranged by the Head of Service concerned, who shall periodically certify the stores in hand and give a written explanation of differences. Only the **Chief Finance Officer** or his/her authorised representative shall agree write-offs of deficiencies in stock.

Intellectual Property

- G.64** Heads of Service must protect intellectual property rights of any value. A register shall be maintained by the Head of Finance.

Physical Assets

- G.65** A register of Council land holdings shall be maintained by the Head of Finance & Assets of all land and property owned by the Council, recording the purpose for which it is held, the location, extent and plan reference, purchase details, particulars of nature or interest, rents payable and tenancies/other interests granted.
- G.66** The **Monitoring Officer** shall have the custody of all title deeds of property belonging to or mortgaged to the Council.
- G.67** Heads of Service shall supply the **Chief Finance Officer** with such information as he/she requires to maintain an Asset Register recording all Council owned land, buildings and assets initially costing (or currently valued at) greater than £15,000 ¹for the purposes of Capital Accounting.
- G.68** Inventories shall be maintained by all service units of furniture, fittings and equipment, vehicles, plant and machinery, in a form and to such extent as prescribed by the **Chief Finance Officer**. Inventories shall include for each item the date of purchase and the purchase price.
- G.69** Heads of Service shall nominate inventory holders, and be responsible for ensuring the inventories are checked at least annually and on a change of inventory holders.

¹ Should this be £10,000?

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- G.70** 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 purpose without the approval of the **Head of Paid Service** and **Executive Director** concerned.
- G.71** Disposals of land and property assets for best consideration may be undertaken by the Head of Finance & Assets provided that the assets have been declared by **Cabinet** to be surplus to requirements, or they are included within a planned disposal programme approved by **Cabinet**, or the disposal is agreed by the **Cabinet member** with relevant portfolio responsibility.
- G.72** Plant, equipment and vehicle asset disposals may be agreed by the relevant **Executive Director**, in consultation with the **Chief Finance Officer**. Further information on disposal methods can be obtained from the Chief Finance Officer.
- G.73** Best consideration must be achieved in the disposal of all fixed assets. Where items are to be scrapped at nil consideration they must be disposed of directly to a County Council Waste Disposal facility, or through a commercial company approved by the **Chief Finance Officer**.
- G.74** Land and property assets to be disposed of shall normally be offered for sale on the open market, other than where only one buyer for the asset is likely to exist, or where a higher price is likely to be achieved by negotiating direct with the buyer with a special interest (i.e. a special purchaser), or where **Cabinet** approved the disposal to a specific buyer. Any decision taken to dispose of land or property shall be informed by professional valuation and marketing advice provided by appropriately qualified and experienced officers or external consultants. The method of disposal, and the level and form of marketing, shall be appropriate to the nature of the asset to be disposed of and to the market in which the disposal is to take place. It shall be designed to achieve the best consideration reasonably obtainable, unless Cabinet has expressly approved the disposal of the asset to a specified buyer at less than best consideration (with approval of the Secretary of State as necessary).
- G.75** Surplus IT or other equipment, if appropriate, may be disposed of to bona fide non-profit distributing organisations based within the Council's area free of charge. Further information on disposal methods is available from the **Chief Finance Officer**.

Treasury management

- G.76** The Council has adopted the CIPFA Treasury Management in the Public Services Code of Practice ("the Code").
- G.77** The Council will create and maintain a **Treasury Management** Strategy, stating the policies, objectives and approach to risk management of its treasury management activities. Suitable treasury management practices (TMPs) will set out how the organisation will achieve those policies and objectives, prescribing how it will manage and control those activities.
- G.78** The content of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.

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- G.79** The **Treasury Management** Strategy will determine the reporting structure for Treasury Management Activities. Quarterly performance information on Treasury Management activities will be included in budgetary control reports to all Councillors.
- G.80** The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices, and for the execution and administration of treasury management decisions to the **Chief Finance Officer**, who will act in accordance with the organisation's policy statement and TMPs and, CIPFA's Standard of Professional Practice on Treasury Management.
- G.81** Under the Local Government Act 2003 the Council is required to "have regard to" the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's plans are affordable, prudent and sustainable. All day to day decisions on borrowing, investment or financing shall be delegated to the **Chief Finance Officer**, who is required to act in accordance with the Prudential Indicators set by the Council.
- G.82** For the avoidance of doubt there is no financial limit on the amounts of money that can be borrowed, lent, held, invested or otherwise dealt with by the **Chief Finance Officer** in pursuance of any Council adopted plan or strategy.
- G.83** All investments of money under its control shall be made in the name of the Council except where Fund Managers are employed to act on behalf of the Council; bearer securities shall be excepted from this regulation.
- G.84** All securities which are the property of, or in the name of, the Council shall be held in the custody of the **Monitoring Officer** or **Chief Finance Officer**, except where Fund Managers are employed to act on behalf of the Council.
- G.85** All borrowings shall be undertaken in the name of the Council.
- G.86** Any trust funds shall wherever possible be in the name of the Council.
- G.87** All officers acting as trustees by virtue of their official position shall deposit all securities etc. relating to the trust with the **Monitoring Officer** unless the trust provides otherwise.

Banking arrangements

- G.88** All arrangements with the Council's bankers shall be made by the **Chief Finance Officer** and he or she shall be authorised to operate such banking accounts, as he or she may consider necessary.
- G.89** All cheques and electronic transfers, shall be authorised only on the authority of the **Chief Finance Officer** or officers nominated by him or her.
- G.90** Cheques on the Council's Account, shall bear the facsimile signature of the **Chief Finance Officer**, or be signed by the Chief Finance Officer or other Officer authorised by him/her and in accordance with the Bank Mandate.

Staffing

- G.91** The **Head of Paid Service** is responsible for the overall management of staff and ensuring that there are proper evaluation, pay negotiations, and other agreed systems for determining the remuneration of a post.

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G.92 The **Head of Paid Service, Executive Directors** and Heads of Service are responsible for controlling total staff numbers by:

- (a) Advising the **Cabinet** on the budget necessary in any given year to cover estimated staffing levels;
- (b) Managing staffing establishments and budgets in the most advantageous manner to achieve the policies agreed by the **Cabinet** and the **Full Council**;
- (c) Ensuring at all times, that spending committed by contracts of employment is, and will be, within approved budgets, published forward projections and confirmed external funding – thus not increasing future year commitments. The **Chief Finance Officer** and Head of Organisational Development shall be consulted on all proposed changes;
- (d) Changes affecting officers on **chief officer** terms and conditions cannot be made outside of the parameters in the approved Pay Policy Statement without approval of **Full Council**; and
- (e) Reviewing staffing levels periodically. Where this results in one off costs exceeding £50,000, a business case should be provided to **Cabinet/Committee** for consideration.

Part E. Financial Systems and Procedures

G.93 The **Chief Finance Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. However, the **Head of Paid Service** and **Executive Directors** are responsible for the proper operation of financial processes in their own service areas.

G.94 Any amendments to agreed financial procedures by the **Head of Paid Service** and **Executive Directors** to meet their own specific service needs must be agreed with the **Chief Finance Officer**.

G.95 The **Head of Paid Service** and **Executive Directors** should ensure that their staff receive relevant financial training that has been approved by the **Chief Finance Officer**.

G.96 The following principles shall be observed in the allocation of accounting duties:

- (a) Wherever possible there should be adequate segregation of duties so that employees with the duty of checking transactions are not themselves engaged in any of those transactions;
- (b) The duty of providing information, calculating, checking and recording sums due to or from the Council shall wherever possible be separated from the duty of collecting and disbursing them;
- (c) Wherever possible accounting transactions and control functions (such as reviews and reconciliations) should be evidenced, providing a full audit trail; and
- (d) Employees shall not certify claims for reimbursement of expenses or other payments to themselves.

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Income and expenditure

Collection of income

- G.97** The collection of all money due to the Council shall be in accordance with arrangements approved by the **Chief Finance Officer**. Unless otherwise agreed by the Chief Finance Officer no money received by Council employees in the course of their duties shall be paid into any other bank account other than the Council's bank account.
- G.98** The **Head of Paid Service** or appropriate **Executive Director** shall be responsible, in accordance with the current policies of the Council, for the review of prices for services.
- G.99** The Heads of Service shall ensure that accounts are rendered promptly in connection with income due in respect of work done, goods supplied, services rendered or other amounts payable to the Council. They shall also ensure that any service area computer systems recording income are reconciled monthly to the cash received in the Council's main financial system, and that this is taken into account when purchasing such computer systems.
- G.100** The **Chief Finance Officer** shall be notified promptly of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.
- G.101** Arrangements for the control of all receipt forms, receipt books, tickets and other such items shall be approved by the **Chief Finance Officer**.
- G.102** Each employee who banks money shall comply with any instructions prescribed by the **Chief Finance Officer**. All money received on behalf of the Council shall be made to the Council's cashier, approved cash receptacles, or to the Council's bank account without delay and always within three working days of collection. Payments received in full and final settlement shall only be accepted if they are sufficient to fully clear the appropriate debt.
- G.103** Personal cheques shall not be cashed out of the money held on behalf of the Council.
- G.104** The **Chief Finance Officer** shall be the only officer authorised to write off uncollectable debts over £5,000, after taking the advice of the Head of Service and Debt Recovery Teams as appropriate. Debts under £5,000 may be written off by the **Chief Finance Officer** and Head of Customer Services. Cumulative debts over £50,000 may be written off by the **Chief Finance Officer** after consultation with the **Cabinet member** with portfolio responsibility for Finance.

Expenditure

Orders

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- G.105** Official orders shall be in a form determined by the **Chief Finance Officer**. They are to be authorised only by officers agreed by the Head of Paid Service or appropriate **Executive Director** who shall be responsible for official orders issued from his/her Service areas. The appointment of signatories or requisitioners and approvers in the electronic systems requires the approval of the Chief Finance Officer. Signatories must ensure that goods and services are appropriate and needed, that there is adequate budget provision, that contract standing orders have been complied with and that value for money principles have been followed prior to signing or authorising invoices.
- G.106** Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of services by public utilities, for periodical payments such as rent or rates, for petty cash payments, for contracts in writing signed in accordance with Contract Standing Orders.
- G.107** Each order shall conform with the directions of the Council, Standing Orders related to contracts and any policies or directions of the Council related to purchasing. The Council's computerised commitment accounting system shall be used unless otherwise agreed by the **Chief Finance Officer** and outstanding orders shall be checked by service units periodically, and at least annually, to ensure management accounting information is accurate.
- G.108** Where an official order is not issued, a contracts register or other record shall be kept by the Finance Business Partners to monitor payments and prevent duplicate payments. Budget holders will consult with Finance Business Partners prior to committing expenditure without official order.

Payment of Accounts

- G.109** The **Chief Finance Officer** shall promptly pay all accounts properly due and payable by the Council in accordance with the Prompt Payment Code (30 days) and Regulations. The Chief Finance Officer may withhold payment until the resolution of any dispute relating to an invoice.
- G.110** The Head of Service responsible for an order is responsible for the processes for requisitioning, order and approval for payment in his/her service area in accordance with procedures approved by the **Chief Finance Officer** which shall include electronic receipting and approval processes.
- G.111** When required to approve an account for payment either electronically or in writing, the checking officer shall ensure that:
- (a) The works, goods or services to which the account relates have been received, carried out, examined and approved;
 - (b) The prices, extensions, calculations, trade discounts, other allowances, credits and tax have been compared to the order and are correct;
 - (c) The relevant expenditure has been properly incurred;
 - (d) The relevant expenditure is within the relevant budget provision as properly varied under these regulations; or is otherwise in pursuance of a Council instruction; or in case of agency or contract work, by the County Council or another principal authority; or is specifically required by law;
 - (e) Appropriate entries have been made in inventories and stores records as required;
 - (f) The account has not been previously passed for payment and is a proper liability of the Council;

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(g) The account (including any Value Added Tax) has been correctly coded.

G.112 The **Chief Finance Officer** shall examine invoices received to the extent that he/she considers necessary for carrying out statutory duties.

G.113 Budget Holders will notify the **Chief Finance Officer** of the value and detail of all expenditure and income relating to goods or services provided by 31 March but not yet settled, to ensure these are accounted for on an accrued basis.

G.114 Use of Council corporate purchase cards, including fuel cards and credit cards, shall be in accordance with instructions issued by the **Chief Finance Officer** and a signed undertaking. Only the Chief Finance Officer shall have authority to obtain corporate purchase cards.

Imprest Accounts

G.115 The **Chief Finance Officer** shall authorise such **imprest accounts** as he/she considers appropriate for such officers of the Council as may need them for the purpose of petty cash payments and other expenses.

G.116 Income received on behalf of the Council may not be paid into an **imprest account** but must be banked, or paid to the Council.

G.117 Petty cash payments shall be limited to minor items of expenditure and to such other items as the **Chief Finance Officer** may approve and shall be supported by receipted vouchers and proper VAT receipts where appropriate. In no case shall the amount of an individual payment exceed £50. Petty cash payments may not be used for travel and subsistence payments, nor used to bypass the normal purchase ordering process.

G.118 An officer responsible for an **imprest account** shall, if so requested, give to the Chief Finance Officer a statement of the account as at a given date.

G.119 On leaving the employment of the Council or otherwise ceasing to be entitled to hold an **imprest account** the officer concerned shall account to the **Chief Finance Officer** for the amount advanced to him/her.

G.120 The **Chief Finance Officer** may authorise change floats as required and these shall be subject to the imprest account regulations.

Payments to Employees and Councillors

G.121 The **Chief Finance Officer** is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Councillors.

G.122 All Line Managers shall notify the Human Resources Team and the HR team shall notify payroll promptly within the time limits and in the form prescribed, of all matters affecting the payment of such emoluments, and in particular:

- (a) Appointments, resignations, dismissals, suspensions, secondments and transfers;
- (b) Absences from duty for sickness or other reasons, apart from approved leave;
- (c) Changes in remuneration, other than normal increments and pay awards and agreements of general application; and
- (d) Information necessary to maintain records of service for superannuation, income tax, national insurances and the like.

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All notifications must be signed/authorised by the appropriate manager or nominated officer.

- G.123** Appointments of all employees shall be made in accordance with the regulations of the Council and the established grades and rates of pay.
- G.124** All time records or other pay documents shall be in a form prescribed by the **Chief Finance Officer** and shall be certified by authorised officers. The names of officers authorised to sign such records shall be sent to Finance together with specimen signatures and shall be amended on the occasion of any change.
- G.125** Heads of Service shall, at least annually, certify the staffing budget for their services as part of the budget setting process.
- G.126** All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified, to the **Chief Finance Officer** in a form approved by him/her. The names of officers authorised to sign such records shall be sent to the Chief Finance Officer, together with specimen signatures and shall be amended on the occasion of any change.
- G.127** The certification of expense claims 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 correctly calculated in line with the Council's Terms & Conditions.
- G.128** Payments to Councillors, including co-opted members of the Council who are entitled to claim travelling or other allowances will be made by the **Chief Finance Officer** upon receipt of the prescribed form duly completed. The Chief Finance Officer shall be empowered to require periodically from Councillors claiming financial loss allowance a certified statement as to their income. Payments will be made in accordance with the scheme as directed by **Full Council**, following a review of the scheme by an appointed Independent Remuneration Panel.

Taxation

- G.129** The **Chief Finance Officer** is responsible for advising the **Executive Board** and Councillors, in the light of guidance issued by appropriate bodies and relevant legislation, on significant taxation issues that affect the Council.
- G.130** The **Chief Finance Officer** is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date.
- G.131** The **Head of Paid Service** and **Executive Directors** are responsible for ensuring that transactions within their responsibility comply with the law relating to general taxation and V.A.T. The **Chief Finance Officer** will provide guidance and advice on the administration of V.A.T.
- G.132** All matters of both principle and practice, including any significant errors or discrepancies, shall be immediately referred to the Chief Finance Officer.
- G.133** Contacts with HM Revenue and Customs concerning matters of V.A.T must be through the Chief Finance Officer.

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Trading accounts/business units

G.134 It is the responsibility of the **Chief Finance Officer** to advise on the establishment and operation of trading accounts and business units.

Ex-Gratia payments

G.135 Ex-Gratia payments ²are defined as discretionary payments to staff, suppliers and third parties that the Council is under no legal obligation to make. The **Head of Paid Service** and **Executive Directors** in consultation with the **Chief Finance Officer** and **Monitoring Officer** shall have discretion to make ex-gratia payments when he/she considers them justified by reason of the particular circumstances. Ex-gratia payments to staff shall not be made in respect of salary arrangements covered by established Council practice. Ex-gratia payments shall be met from appropriate service budgets.

Retention of records

G.136 The **Chief Finance Officer** shall determine the requirements that the **Head of Paid Service** and **Executive Directors** shall observe in relation to the retention of financial records. Retention may be in electronic format.

Part F. External Arrangements Introduction

G.137 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It should also promote social value and the economic, social or environmental well-being of its area.

Partnerships

G.138 The **Head of Paid Service** and **Executive Directors**, with agreement of the **Chief Finance Officer**, must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. The **Chief Finance Officer** is also responsible for ensuring proper arrangements for partnership cost sharing where appropriate. He or she must ensure that risks have been fully appraised before agreements are entered into with external bodies.

G.139 The **Head of Paid Service** and **Executive Directors** are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to financial transactions with external bodies.

External funding

G.140 The **Chief Finance Officer** is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. The **Head of Paid Service** and **Executive Directors** shall inform the **Chief Finance Officer** immediately of funding notified by external bodies and any conditions attached, and shall ensure that claims for funds and project progress reports are submitted by the due date in liaison with the **Chief Finance Officer**. If any new financial obligations are placed upon the Council as a condition of receiving external funding, these obligations must be approved by the Cabinet prior to the submission of any bids.

² Should there be a limit on what Officers can agree?

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- G.141** Expenditure of any external funding will be the responsibility of the appropriate Head of Service, in consultation with the **Chief Finance Officer**.

Work for third parties

- G.142** Contractual arrangements to undertake work for third parties, must be approved by Cabinet in situations where the **Chief Finance Officer** is of the view that such a contract may cause a significant risk of net cost to the Council, or where the total value of new work in one year will exceed £50,000.
- G.143** Where support services and front line services are to be sold to external customers, due diligence must be undertaken to ensure that services provided are of good quality, and to minimise the risk of non-payment.

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SECTION H: CONTRACT STANDING ORDERS

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BRIEF GUIDE TO CONTRACT STANDING ORDERS

Brexit impact

Many of the laws and practices within this Constitution, such as the UK public procurement regime, derive from EU laws, and are therefore impacted by the UK's withdrawal from the EU.

As of 31 January 2020, the UK is no longer an EU Member State and its relationship with the EU is governed by the Withdrawal Agreement, which came into effect on 1 February 2020. The Withdrawal Agreement contains transitional arrangements, which provide for a transition period until 31 December 2020.

During this period, the UK continues to be treated as a Member State for current purposes and continues to be bound by the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016. Whilst they are based on EU Law the rules are unlikely to change significantly in the short term (on 1 January 2021 when Britain leaves the EU following the transitional period) and most likely only to accommodate World Trade Organisation or other Trade Rules.

If at any time these rules differ from the law in force then the law must be followed as it will override any conflicting provision in these rules.

This Constitution and these Contract Standing Orders will be kept under review during the implementation period and updated accordingly. For further guidance, please contact the Monitoring Officer.

These Contract Standing Orders (issued in accordance with section 135 of the Local Government Act 1972) are intended to promote good purchasing practice, public accountability and deter corruption. Officers responsible for purchasing must comply with these Contract Standing Orders. They lay down **minimum requirements** and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that Quotes be obtained, it might be appropriate in particular circumstances to seek additional Quotations in writing or Tender submissions).

Following the rules promotes probity, integrity and impartiality and is the best defence against allegations of fraud or corruption. Failure to follow the rules could result in disciplinary action.

Key considerations for Officers engaged in purchasing works, goods and services include:

- Follow the rules if you purchase goods or services or order building work;
- Take legal, financial and procurement advice;
- Declare any personal financial interest in a contract. Corruption is a criminal offence;
- Check whether there is an existing Corporate Contract, Government Procurement Service framework, Hampshire County Council, Hampshire and the Isle of Wight procurement partnership or other purchasing

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arrangement you can make use of **before** undergoing a competitive process;

- Consider the social, economic and environmental wellbeing of the area and how this can be strengthened by delivering your needs (social value);
- Normally allow at least four weeks for submission of bids;
- Keep bids confidential;
- Complete a written contract or purchase order before the supply or works begin;
- Identify a contract manager with responsibility for ensuring the contract delivers as intended;
- Keep written records of dealings with suppliers;
- Report as required periodically on performance of the supplier; and
- Assess each contract afterwards to see how well it met the purchasing need and Best Value requirements.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

Capitalized words are defined terms which can be found in the 'Definitions' at the back of this Section H. Words in **bold** are defined in the [Glossary](#).

SCOPE OF CONTRACT STANDING ORDERS

1. BASIC PRINCIPLES

1.1 All purchasing and ³concession procedures must:

- Achieve Best Value and Value for Money for public money spent;
- Support the Council's corporate and departmental aims and policies;
- Be consistent with the highest standards of integrity;
- Be transparent;
- Be non-discriminatory;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements and provide accountability for decisions made, with an audit trail appropriate to the decision;
- Ensure that Non-commercial Considerations do not influence any Contracting Decision (except for social value considerations);
- Wherever possible be made on the Council's terms/industry model contracts; and
- Comply with the Council's Procurement Strategy and other relevant policies.

1.2 Before starting a procurement process, the Public Services (Social Value) Act 2012 requires the authority to consider the following:

- (a) How what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area; and

³ Disposal has been removed - this would normally be dealt with under the Financial Procedure Rules, see G71-75 or via concessions for which references have now been added

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- (b) How, in conducting the process of procurement, it (the authority) might act with a view to securing that improvement.

The above matters should influence the commissioning strategy and how local businesses can be supported relevant to what is proposed to be commissioned or procured.

Further, the authority must consider whether to undertake any consultation as to the matters referred to in (a) and (b) above.

1.3 The following are key principles of public procurement:

- Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.
- No procurement shall be designed with the intention of excluding it from the scope of the regime or of artificially narrowing competition. Competition is artificially narrowed where a procurement is designed with the intention of unduly favouring or disadvantaging certain economic operators.

If the Council fails in this duty, a potential supplier may have justifiable cause for complaint. The Council may be required to pay compensation if such a complaint were upheld; in addition, a contract or Framework Agreement may be rendered ineffective, either in whole or in part, and civil financial penalties may be imposed on the Council.

2. OFFICER RESPONSIBILITIES

2.1 Officers

- 2.1.1 Officers responsible for purchasing must comply with these Contract Standing Orders, the [Financial Procedure Rules](#), the Code of Conduct for Officers and with all UK and European Union binding legal requirements. Officers must ensure that any agents, Consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers must:

- Have regard to guidance received from Legal and Procurement Officers;
- Check whether a suitable existing Corporate Contract, Government Procurement Service Contracts, Hampshire County Council, Hampshire and the Isle of Wight procurement partnership exists before seeking to let another contract; where a suitable contract exists, this must be used unless there is a reason not to in which case the reason must be recorded;
- Keep the records required by Rule 6;
- Comply with s117 of the Local Government Act 1972 in relation to the declaration of interest in contracts;
- Comply with the Code of Conduct for Officers and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received

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corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the Bribery Act 2010; and

- Take legal, financial and procurement advice.

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended (TUPE) issues are considered and obtain legal and personnel advice before proceeding with inviting Tenders or Quotations.

2.1.4 Officers must not extend existing contracts without the consent of the **Chief Executive** and **Chief Finance Officer** unless the original contract made provision for extension of the original term.

2.2 Heads of Service must:

- Ensure that their staff comply with Rule 2.1; and
- Keep registers of:
 - Contracts completed by signature, rather than by the Council's seal (see Rule 19.3) and arrange their safekeeping on Council premises; and
 - Exemptions recorded under Rule 3.2.

3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

3.1 The **Executive** has power to waive any requirements within these Contract Standing Orders for specific projects, and any such decision may be a **Key Decision**. The **Full Council** may waive these rules in respect of **non-executive functions**.

3.2 A Head of Service may, (subject to the **Chief Finance Officer's** written approval where the Total Value is likely to exceed £50,000) and subject to paragraph 3.3 below waive any requirements within these Contract Standing Orders, where they are satisfied:

- Goods are to be bought at auction or reverse auction and the **Chief Executive** has approved in writing that the Council's best interest will be served by purchase through auction and has agreed an upper limit for bids;
- Only one contractor can provide the goods services or works required and there is no reasonable alternative contractor or the nature of the goods, services or works is so specialised that only one supplier or two suppliers can be found e.g. servicing existing specialist plant, dredging, computer software or equipment or where each supplier is different and rigorous evaluation has been undertaken to ensure Value for Money e.g. specialist Consultants; and
- The need for the goods, services or works is so urgent that the time needed to comply with the rules would be prejudicial to the Council's interests.

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- 3.3 Where a proposed contract is likely to exceed the EU Threshold, a Head of Service has no delegated powers and the matter has to be determined by the **Executive or Full Council** (see Rule 3.1). Above the EU Threshold only EU compatible exemptions can be used.
- 3.4 All exemptions, and the reasons for them, must be recorded by the Head of Service. The Corporate Procurement Service must be consulted and any exemption approved in writing by the **Monitoring Officer** in advance. **The Chief Finance Officer** may monitor the use of all exemptions.
- 3.5 The Corporate Procurement Service, the **Chief Finance Officer** and the **Monitoring Officer** must be consulted prior to commencing any procurement process using Government Procurement Service Contracts or other joint purchasing arrangements with another local authority, statutory undertaker or public service purchasing consortium.
- 3.6 The terms and conditions of contracts applicable to any joint purchasing framework or consortium arrangement, including the requirement to undertake competition between providers (mini-competitions), must be fully complied with.
- 3.7 All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these Contract Standing Orders and no exemption is required. However, purchases above the EU Threshold must be let under the EU Procedure, unless the framework or consortium has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of the authority and other consortium members.
- 3.8 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with these Contract Standing Orders and no exemption is required. However, advice must be sought from the **Monitoring Officer** and the Corporate Procurement Service.
- 3.9 The presumption is that any procurement (whether open, restricted, competitive procedure with negotiation, competitive dialogue, concession or e-auction) will be managed electronically, through systems managed by the Corporate Procurement Service. The use of e-procurement technology does not negate the requirement to comply with all applicable elements of these contract procurement rules, particularly those relating to competition and Value for Money.

4. RELEVANT CONTRACTS

- 4.1 All Relevant Contracts must comply with these Contract Standing Orders. A Relevant Contract is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The carrying out of construction and engineering works;

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- The supply of goods;
- Works or services concessions;
- The hire, rental or lease of goods or equipment; and
- The delivery of services.

4.2 Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the authority;
- Planning obligations under s. 106 Town and Country Planning Act 1990 or similar;
- Grants, awards, loans or advances of money; or
- Agreements regarding the acquisition, disposal, or transfer of land which do not form part of a wider transaction under which the Council procures or is deemed to procure works, goods, services or development (for which the [Financial Procedure Rules](#) shall apply).

COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

5.1 The Officer must access the purchase, in a manner commensurate with its complexity and value, and take into account the Purchasing Guidance, by:

- Defining the need and whether in light of social value obligations the Council, or local suppliers could provide the supplies works or services;
- Satisfying themselves that they have the necessary authority to deal with the purchase and that there is budget provision for the purchase;
- Taking into account the requirements from any relevant review appraising the need for the expenditure and its priority defining the objectives of the purchase;
- Assessing the risks associated with the purchase (including data and information governance obligations) and how to manage them;
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
- Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
- Consulting potential suppliers if appropriate;
- Drafting the terms and conditions that are to apply to the proposed contract;
- Where the purchase is to be funded from mainstream capital or regarded as capital by the **Chief Finance Officer** it is submitted to the Chief Finance Officer for comment as soon as practicable;
- Setting out these matters in writing if the Total Value of the purchase exceeds £50,000; and

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- Assessing any insurance requirement or bond to be included in accordance with the risk assessment outcomes.

and by confirming that:

- There is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and schemes of delegation to **Cabinet members** and/or Officers as set out in the Constitution; and
- If the purchase is a **Key Decision**, all appropriate steps have been taken.

6. RECORDS

6.1 In all contractual arrangements the Officer responsible for letting the contract shall ensure that legal services is notified and any contract is stored within the Council's strong room.

6.2 Where the Total Value is less than £50,000, the following records must be kept:

- A unique reference number (provided by the legal service before filing in the strong room) for the contract and the title of the contract;
- Invitations to Quote or Tender and Quotations or Tenders;
- A record:
 - Of any exemptions and the reasons for them; and
 - Of any Contracting Decision and the reasons for it including the evaluation of the Quotation or Tender.
- Written records of communications with all tenderers or an electronic record if a written record of the transaction would normally not be produced.

6.3 Where the Total Value exceeds £50,000 the Officer must record:

- A unique reference number (from legal services) for the contract and the title of the contract;
- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it;
- Any exemption under Rule 3 together with the reasons for it;
- The Award Criteria in descending order of importance;
- Tender documents sent to and received from Candidates;
- Pre-Tender market research;
- Any selection criteria relied upon;
- Any evaluation criteria relied upon;
- Clarification and post-Tender negotiation (to include minutes of meetings);
- The contract documents;
- Post-contract evaluation and monitoring; and
- Communications with Candidates and with the successful contractor throughout the period of the procurement.

6.4 Records required by this rule must be kept for six years after the end of the contract.

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7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS

7.1 Identifying and Assessing Potential Candidates.

7.1.1 Officers shall ensure that, where proposed contracts, irrespective of their Total Value, might be of interest to potential Candidates located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- The Council's website;
- Portal websites specifically created for contract advertisements;
- A local or national newspaper or specialist publication; and
- National official journals, Central Government **Contracts Finder** website <https://www.gov.uk/contracts-finder> /Tenders Electronic Daily (TED) or OJEU (even if there is no requirement within the EU Procedure). These can be placed by the Corporate Procurement Service.

7.1.2 Officers are responsible for ensuring that all Candidates for a Relevant Contract are suitably assessed. The assessment process shall establish that the potential Candidates have sound:

- Economic and financial standing (to be confirmed with the finance team); and
- Technical ability and capacity to fulfil the requirements of the authority.

7.1.3 This shall be achieved in respect of proposed contracts that are expected to exceed £100,000 by selecting firms from:

- Approved Lists of providers, maintained by the authority or on its behalf, and compiled following responses to a public advertisement;
- An open Tender process including this assessment; or
- Shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.

7.1.4 Public advertisements issued over the EU Threshold shall reflect the potential degree of interest from Candidates located within other member states of the EU.

7.2 Framework Agreements

7.2.1 The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

7.2.2 Contracts based on Framework Agreements may be awarded by either:

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- applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
- by holding a mini competition in accordance with the terms and conditions of the Framework Agreement.

CONDUCTING PURCHASE

8. COMPETITION REQUIREMENTS FOR PURCHASE AND PARTNERSHIP ARRANGEMENTS

The Officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the **Monitoring Officer**.

8.1 Purchasing – Competition Requirements

- 8.1.1 Where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Shortlisting shall be done by the persons specified in the third column.

Total Value	Award Procedure	Shortlisting
Up to £10,000	One oral Quotation (confirmed in writing where the Total Value exceeds £500)	Officer
£10,001 – £50,000	At least three written Quotations	Officer and Line Manager
£50,001 - £100,000	Three written Quotations or invitation to Tender by advertisement/list to at least three Candidates	Officer and Line Manager
£100,001–EU Threshold	Three written Quotations or invitation to Tender by advertisement/list to at least three Candidates	Officer, Line Manager and Corporate Procurement Service
Above EU Threshold	EU Procedure or, where this does not apply, Invitation to Tender by advertisement/list to at least four Candidates	Consult the Monitoring Officer – see Rule 8.1.4.

- 8.1.2 Where it can be demonstrated that there are insufficient suitably qualified Candidates to meet the competition requirement, all suitably qualified Candidates must be invited.

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8.1.3 An Officer must not enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these Contract Standing Orders.

8.1.4 Where the Total Value exceeds £100,000 the Corporate Procurement Service should be consulted prior to the commencement of the procedure and, where the EU Procedure is required, the Officer shall consult the **Monitoring Officer** to determine the method of conducting the purchase.

8.2 Providing Services to External Purchasers

The **Chief Finance Officer** must be consulted where contracts to work for organisations other than the authority are contemplated and any bid, Tender and contract for work shall be made in accordance with the [Financial Procedure Rules](#).

8.3 Collaborative and Partnership Arrangements

Collaborative and partnership arrangements are subject to all procurement legislation and must follow these Contract Standing Orders. Officers must seek the advice of the **Monitoring Officer** and the Corporate Procurement Service.

8.4 The Appointment of Consultants to Provide Services

8.4.1 Consultant architects, engineers, surveyors and other professional Consultants shall be selected and commissions awarded in accordance with the procedures detailed within these Contract Standing Orders and as outlined below.

Total Value	Award Procedure	Shortlisting
Up to £50,000	One oral Quotation (confirmed in writing where the Total Value exceeds £5,000)	Officer and Line Manager
£50,001 – EU Threshold	Three written Quotations	Officer and Line Manager and procurement service
Above EU Threshold	EU Procedure or, where this does not apply, (such as where Part B Services under the EU Procedure), Invitation to Tender by advertisement/list to at least four and no more than six Candidates	Consult the Monitoring Officer see Rule 8.1.4

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- 8.4.2 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.
- 8.4.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.4.4 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the **Chief Finance Officer** for the periods specified in the respective agreement.
- 8.4.5 The instruction of external legal advisers must only be carried out by the **Monitoring Officer** and the instruction of counsel shall not be subject to the requirements of Rules 8.4.1 – 8.4.4 (inclusive)

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The Officer responsible for the purchase:
- May consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Candidate, but
 - Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition.

10. STANDARDS AND AWARD CRITERIA

- 10.2 The Officer must ascertain the standards necessary to properly describe the subject matter of the contract having regard to any relevant British, European or international standards. The **Monitoring Officer** must be consulted if it is proposed to use standards other than European standards.
- 10.3 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be one of the following:

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

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, social value, relevant environmental considerations, aesthetic and functional characteristics (including security and control features),

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safety, aftersales services, technical assistance and any other relevant matters. Officers shall have regard to the Purchasing Guidance when defining the Award Criteria.

10.3 Award Criteria must not include:

- Non-commercial Considerations; and
- Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement, except where social value considerations can objectively be demonstrated.

11. INVITATIONS TO TENDER/QUOTATIONS

11.1 The Invitation to Tender shall state that the Council reserves the right to reject a Tender that is not received by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this requirement shall be considered without the **Monitoring Officer's** prior approval and shall not be considered under any circumstances when it is received after the other Tenders have been opened.

11.2 All Invitations to Tender shall include the following:

11.2.1 A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.

11.2.2 A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).

11.2.3 A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.

11.2.4 Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.

11.2.5 A description of the Award Procedure and, unless defined in a prior advertisement, details of the Award Criteria in objective terms and if possible in descending order of importance.

11.2.6 Tenders will normally be sought in accordance with an electronic tendering process approved by the Procurement Team in consultation with the **Chief Finance Officer** and **Monitoring Officer** and a statement that any Tenders submitted by fax or other electronic means shall not be considered.

11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 18).

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- 11.4 The Invitation to Tender or Quotation may state that the Council is not bound to accept any or all of any Quotation or Tender.

12. SHORTLISTING

- 12.1 Shortlisting must have regard to the financial and technical standards relevant to the contract and the Award Criteria.
- 12.2 The Officers responsible for Shortlisting are specified in Rule 8.1.1.
- 12.3 Where Approved Lists are used, Shortlisting may be done by the Officer in accordance with the Shortlisting criteria drawn up when the Approved List was compiled (see Rule 7.2). However, where the EU Procedure applies, Approved Lists may not be used.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

- 13.1 Candidates must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The EU Procedure lays down specific time periods (see guidance in the Purchasing Guidance).
- 13.2 All Tenders must be returned in accordance with the Invitation to Tender. Particular note should instruct tenderers not to place any mark on the envelope as set out in the invitation to tender.
- 13.3 Tenders will normally be sought in accordance with an electronic tendering process approved by the Procurement Team in consultation with the **Chief Finance Officer** and **Monitoring Officer** and tenders received by fax or other electronic means (e.g. email) must be rejected.
- 13.4 The Officer must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of Tenders.
- 13.5 The Corporate Procurement Service shall be responsible for the safekeeping of Tenders until the appointed time of opening. Each Tender must be:
- Suitably recorded so as to subsequently verify the date and precise time it was received;
 - Adequately protected immediately on receipt to guard against amendment of its contents; and
 - Recorded immediately on receipt in the Tender Record Log.
- 13.6 The Officer must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two Officers, independent of the procuring Officer.

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13.7 Upon opening, a summary of the main terms of each Tender must be recorded in the Tender Record Log.

13.8 Quotations and Tenders received after the specified closing date should be returned and the Head of Service shall inform the tenderer that their Tender or Quotation was disqualified from consideration by being received after the closing date (unless the tenderer is able to prove that the Tender should have been delivered by the closing date and through no fault of its own the receipt was delayed).

14. CLARIFICATION PROCEDURES

14.1 Providing clarification of an Invitation to Tender to potential or actual Candidates or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. If clarification is provided to one Candidate, then this must also be copied to the other Candidates. However, discussions with tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-Tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price.

15. EVALUATION

15.1 Apart from the debriefing required or permitted by these Contract Standing Orders, or Regulations, the confidentiality of Quotations, Tenders and the identity of Candidates must be preserved at all times and information about one Candidate's response must not be given to another Candidate.

15.2 Contracts must be evaluated and awarded in accordance with the Award Criteria. During this process, Officers shall ensure that submitted Tender prices are compared with any pre-Tender estimates and that any discrepancies are examined and resolved satisfactorily.

15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the Tenderer, who should be requested to confirm, clarify or withdraw their Tender. If the rates in the Tender, rather than the overall price, were stated within the Tender invitation as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.

15.4 In the event that Tender prices exceed the budget the **Chief Finance Officer** must be notified and no further action taken without notification in writing from the Chief Finance Officer as to how to proceed.

16. POST TENDER NEGOTIATIONS

16.1 If post Tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the tenderer that is identified as having submitted the best/most economically advantageous Tender and after all unsuccessful Candidates have

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been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the Head of Service to carry out post Tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

- 16.2 Post-Tender negotiation must only be conducted in accordance with the guidance issued by the **Monitoring Officer** who, together with the Corporate Procurement Service, must be consulted wherever it is proposed to enter into post Tender negotiation. Negotiations must be conducted by a team of at least two Officers, one of whom must be from a division independent to that leading the negotiations.
- 16.3 Where post-Tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

17. **AWARD OF CONTRACTS AND FRAMEWORK AGREEMENTS AND DEBRIEFING CANDIDATES**

- 17.1 Heads of Service may accept Quotations and tenders received in respect of proposed contracts and Framework Agreements, provided they have been sought and evaluated fully in accordance with these Contract Standing Orders and, in respect of proposed contracts and Framework Agreements that are expected to exceed £250,000, with the approval of the **Chief Executive** and **Chief Finance Officer**.
- 17.2 For contracts and Framework Agreements subject to the EU Procedure, the Officer must notify all Candidates simultaneously and as soon as possible of the intention to award the contract or Framework Agreement to the successful Candidate and provide a standstill letter as required by the Regulations specifying the name(s) of the successful Candidate(s), the Award Criteria and the reasons for the decision including the score of the Candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful Tender. The Officer must provide unsuccessful Candidates with a period of at least ten clear days (fifteen where letters are sent by post rather than electronically) in which to challenge the decision before the Officer awards the contract or Framework Agreement. If the decision is challenged by an unsuccessful Candidate then the Officer shall not award the contract or Framework Agreement and shall immediately seek the advice of the **Monitoring Officer**. It is good procurement practice to provide standstill letters with the outcome of the process even where this is not legally required.
- 17.3 If a Candidate requests in writing the reasons for a Contracting Decision, the Officer must give in writing the name(s) of the successful Candidate(s), the Award Criteria and the reasons for the decisions including the score of the Candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful Tender within 15 days of the request. If requested, the Officer must also give the debriefing information referred to in Rule 17.2 above to Candidates who were unsuccessful in a pre-qualification Shortlisting process.

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CONTRACT AND OTHER FORMALITIES

18. COMPLIANCE WITH LEGISLATION

- 18.1 There must be compliance with all laws relevant to procurement and the public sector including but not limited to the Public Contracts Regulations 2015, the Equality Act 2010, the Bribery Act 2010, the Public Services (Social Value) Act 2012, Freedom of Information Act 2005 and the Data Protection Act 2018 and any relevant government guidance relating to procurement.

18.2 EQUALITIES AND DIVERSITY

The authority is committed to equal opportunities in all aspects of its operation and encourages suppliers and contractors to implement similar policies. It is therefore a requirement that all prospective contractors are able to demonstrate their compliance with the authority's policies in this respect.

In every written contract for the execution of work or the supply of goods or materials, the following clauses shall be inserted:

- “1.1 The [Contractor] shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in age, race, gender, religion, disability, sexual orientation or otherwise) in employment and shall have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 1.2 The [Contractor] shall take all reasonable steps to secure the observance of *clause 1.1* by all servants, employees or agents of the [Contractor] and all suppliers and sub-contractors employed in performance of this agreement.”

18.3 PREVENTION OF CORRUPTION

- 18.3.1 The Officer needs to be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the new corporate offence of failing to prevent bribery; and the authority's Anti-Money Laundering, Anti-Fraud and Corruption Strategy.
- 18.3.2 The Officer must comply with the Code of Conduct for Officers and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime.
- 18.3.3 The following clause must be put in every written authority contract:
- “The Council may terminate this contract and recover all its loss if the [Contractor], any of its employees or anyone acting on the [Contractor's] behalf does any of the following things:

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- (a) To directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:
 - (i) Induce that person to perform improperly a relevant function or activity; or
 - (ii) Reward that person for improper performance of a relevant function or activity;
- (b) To directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) Committing any offence:
 - (i) Under the Bribery Act;
 - (ii) Under legislation creating offences concerning fraudulent acts;
 - (iii) Under money laundering legislation;
 - (iv) At common law concerning fraudulent acts relating to this Agreement or any other contract with the Authority; or
 - (v) Defrauding, attempting to defraud or conspiring to defraud the Council.”

18.4 HEALTH AND SAFETY

18.4.1 The authority is committed to ensuring the health, safety and welfare of its employees, contractors' staff, the public and all others affected by its undertakings. All contractors will therefore be expected to demonstrate compliance with all relevant health and safety legislation and to submit their health and safety policies and procedures, along with confirmation of their level of public and employee liability insurance cover.

18.4.2 The following clause must be put in every written authority contract:

- “1.1 The [Contractor] must comply with relevant health and safety legislation, including health and safety regulations and relevant codes of practice that are approved by the Health and Safety Executive.
- 1.2 The [Contractor] must comply with the authority’s health and safety policies”.

19. CONTRACT DOCUMENTS

19.1 Relevant Contracts.

19.1.1 All Relevant Contracts ⁴shall be in writing.

19.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

⁴ Previously only required contracts over £50k to be in writing – we would expect all contracts to be in writing, even low value exchanged by e-mail.

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- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- The provisions for payment (i.e. the price to be paid and when);
- The time, or times, within which the contract is to be performed; and
- The provisions for the Council to terminate the contract.

19.1.3 The Council's standard terms and conditions or standard contract forms issued by a relevant professional body must be used wherever possible.

19.1.4 In addition, every Relevant Contract of purchase over £50,000 must also state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent;
- Any insurance requirements;
- Data protection requirements, if relevant;
- Freedom of Information Act requirements;
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant;
- Clauses in relation to equalities and diversity, prevention of corruption, and health and safety in accordance with clause 18 above.

19.1.5 The formal advice of the **Monitoring Officer** must be sought for the following contracts:

- Where the Total Value exceeds £100,000;
- Those involving leasing arrangements;
- Where it is proposed to use a supplier's own terms; or
- Those that are complex in any other way.

19.2 Contract Formalities

19.2.1 Agreements shall be completed as follows:

Total Value	Method of Completion By
Up to £50,000	signature Authorised Signatory
Above £50,000	Authorised Signatory or sealing see Rule 19.3

19.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the **Monitoring Officer**.

19.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

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19.3 Sealing

19.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be executed by the fixing of the Council's seal, and must be witnessed by an Authorised Signatory.

19.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

19.3.3 A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end;
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;
- There is any doubt about the authority of the person signing for the other contracting party; or
- The Total Value exceeds £100,000

unless otherwise agreed by the **Monitoring Officer**.

20. BONDS AND PARENT COMPANY GUARANTEES

20.1 The Officer must consult the **Chief Finance Officer** about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and:

- The Total Value exceeds £250,000, or
- Award is based on evaluation of the parent company; or
- There is some concern about the stability of the Candidate.

20.2 The Officer must consult the **Chief Finance Officer** about whether a Bond is needed:

- Where the Total Value exceeds £1,000,000; or
- Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Candidate; and
- In such other circumstances where it is considered appropriate by the Chief Finance Officer.

CONTRACT MANAGEMENT

21. MANAGING CONTRACTS

21.1 Heads of Service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.

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- 21.2 Contract managers must follow the procedures set out in the Council's Purchasing Guidance.

22. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 22.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 22.2 For all contracts with a value of over £100,000, contract managers must consider maintaining a risk register during the contract period, undertake appropriate risk assessments and for identified risks ensure contingency measures are in place.

23. CONTRACT MONITORING, EVALUATION AND REVIEW

- 23.1 All contracts which have a value higher than the relevant EU Threshold limit, and which are High Risk, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the **Chief Finance Officer**.
- 23.2 For all contracts with a value higher than the EU Threshold limits, and which are High Risk, an annual report must be submitted to the Project Board (if any).
- 23.3 During the life of the contract, the Officer must monitor in respect of:
- Performance;
 - Compliance with specification and contract;
 - Cost;
 - Any Value for Money requirements; and
 - User satisfaction and risk management.

DEFINITIONS

The following terms are used within these Contract Standing Orders:

Approved List	A list drawn up in accordance with Rule 7.1.
Authorised Signatory	The Monitoring Officer or an officer authorised by the Monitoring Officer in accordance with the Council's constitution to sign a contract or witness affixing the Council's seal.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2.5).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local

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	Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to economy, efficiency and effectiveness as implemented by the Council.
Candidate	Any person who seeks to or is invited to submit a Quotation or Tender.
Consultant	Specialist advisers engaged to provide services to the Council.
Contracting Decision	Any of the following decisions: a) Withdrawal of Invitation to Tender; b) Whom to invite to submit a Quotation or Tender; c) Shortlisting; d) Award of contract or Framework Agreement any decision to terminate a contract.
Corporate Contract	A contract let by the Council under which purchases may be called off from time to time.
Corporate Procurement Service	The Council's central procurement unit charged with providing strategic direction and advice to secure Value for Money in the Council's procurement activities.
Council(s)	Havant Borough Council and East Hampshire District Council or either of them.
EU Procedure	The procurement procedure required by the EU where the Total Value exceeds the EU Threshold.
EU Threshold	The contract value at which the EU public procurement directives apply, currently: Supplies and services: £189,330; Works/Works concessions: £ 4,733,252; Light touch regime: £663,540.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular

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	with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
High Risk	A high-risk purchase that is in the opinion of the Chief Finance Officer one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
Invitation to Tender	Invitation to Tender documents in the form required by these Contract Standing Orders.
Line Manager	The Officer's immediate superior or the Officer designated by the Head of Service to exercise the role reserved to the Line Manager by these Contract Standing Orders.
Nominated Suppliers and Sub-contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	<p>(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters');</p> <p>(b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;</p> <p>(c) Any involvement of the business activities or interests of contractors with non relevant fields of government policy;</p> <p>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes');</p> <p>(e) The country or territory of origin of</p>

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	<p>supplies to, or the location in any country or territory of the business activities or interests of, contractors;</p> <p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support; and</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.</p> <p>Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be Non-commercial Considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.</p> <p>Insofar as matters relate to the Council's social value duty they are not Non-commercial Considerations,</p>
Officer	The Officer designated by the Head of Service to deal with the contract in question. Usually an employee.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next few years.
Purchasing Guidance	The guidance documents issued from time to time by the s151 Officer that support the implementation of these contract procurement rules. The guide is available on the Council's intranet.

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Quote/Quotation	A Quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these Contract Standing Orders apply (see Rule 4).
Shortlisting	The process of selecting Candidates who are to be invited to Quote or bid or to proceed to final evaluation.
Tender	A Candidate's proposal submitted in response to an Invitation to Tender.
Tender Record Log	The log kept by the director of resources to record details of Tenders (see Rule 13.5).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <p>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;</p> <p>(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;</p> <p>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48; and</p> <p>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</p> <p>For Nominated Suppliers and Sub-Contractors, the Total Value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-Contractor.</p>
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246) Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out

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	<p>the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
Value for Money	<p>Value for Money is not the lowest possible price; it is the most economically advantageous proposal that combines goods or services or works that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price. Whole life costing should be considered (e.g. lower maintenance costs can outweigh a difference in the initial cost) over a period of time or the useful life of the asset.</p>