

PART 4

RULES OF PROCEDURE

Council Procedure Rules

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1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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

The annual meeting will:-

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice Chairman of Council;
- (iv) approve the Minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or Head of the Paid Service;
- (vi) elect the Leader;
- (vii) elect the deputy leader;
- (viii) agree the number of Members to be appointed to the Executive Board other than the Leader, Deputy Leader and Chairmen of Area Committees and appoint those Members to the Executive Board;
- (ix) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to Council nor are executive functions (as set out in Part 3 of this Constitution)
- (x) Agree the scheme of delegation or such part as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xi) Approve a programme of ordinary meetings of the Council for the year; and
- (xii) Consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on the Executive Board, the Committees and Outside Bodies

At the annual meeting, Council will:-

- i. decide which Committees to establish for the municipal year;
- ii. decide the size and terms of reference for those Committees;
- iii. decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- iv. receive nominations of Councillors to serve on each Committee and outside bodies; and
- v. appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive.

2. ORDINARY MEETINGS

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

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman, Leader or Head of Paid Service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) deal with any Member questions on notice;
- (vii) deal with any business from the last Council meeting;
- (viii) receive reports from the Executive Board and the Council's Committees and receive questions and answers on any of those reports;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (x) consider Motions; and

- (xi) consider any other business specified in the summons to the meeting including any proposals from the Executive Board in relation to the Council's Budget and Policy Framework and reports of the overview and scrutiny committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:-

- i) the Council by resolution;
- ii) the Chairman of the Council in consultation with the Leader and/or political Group Leaders;
- iii) the Monitoring Officer; and
- iv) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF THE REGULATORY AND PROBITY COMMITTEES AND SUB-COMMITTEES

- 4.1 Substitute Members may be nominated for Regulatory and Probity Committees or their Sub-Committees by each political group represented on the Committee or Sub-Committee and shall comprise a number no greater than the number equal to the number of ordinary Members nominated by a political group to that Committee or Sub-Committee.
- 4.2 No substitute Member may be appointed to an Area Committee.
- 4.3 A substitute Member attending a Meeting of a Committee or Sub-Committee has the same powers and responsibilities as a full Member of the Committee or Sub-Committee.
- 4.4 A Member or substitute Member first in attendance at a meeting of a Committee or Sub-Committee cannot be substituted or replaced during the course of that meeting.
- 4.5 A list of substitutes nominated in accordance with Rule 4.1 should be supplied to the Proper Officer at any time up to the commencement of the meeting to which it relates and substitutions shall be made by the political group in order of precedence so that when a substitution is

made the Member in attendance at the meeting and highest on the list of substitutes will be the next substitute for his/her political group.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

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

7. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of the Committee and Sub-Committee.

8. QUORUM

8.1 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8.2 A meeting of the Standards Committee shall not be quorate unless at least 3 Members (including at least 1 independent Member unless prevented or restricted from participating in any business of the authority by virtue of the Code of Conduct) of that Committee are present for the duration of the meeting.

9. DURATION OF MEETING

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

10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask questions of the Leader of the Council and any Chairman of any Committee at ordinary meetings of the Council. The maximum time limit for asking each question is 3 minutes. The maximum time limit for a supplemental question is 1 minute.

10.2 Order of questions

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

10.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than midday 7 days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

10.4 Number of questions

At any one meeting no person may submit more than 2 questions and no more than 2 such questions may be asked on behalf of one organisation.

10.5 Scope of questions

The Chief Executive may reject a question if it:-

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

10.6 Record of questions

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

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

10.7 Asking the question at the meeting

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

10.8 Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question.

A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 Written answers

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

10.10 Reference of question to the Executive Board or a Committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive Board or the appropriate Committee or Sub-Committee. Once seconded, such a Motion will be voted on without discussion.

11. QUESTIONS BY MEMBERS

11.1 On Reports of Committee

A Member of the Council may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report of

the Executive Board or a Committee when that item is being received or under consideration by the Council.

11.2 Questions on notice at Full Council

Subject to Rule 11.4, a Member of the Council may ask:-

- The Chairman
- The Leader or
- The Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the district.

11.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 11.4, a Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that Committee or Sub-Committee.

11.4 Notice of questions

A Member may only ask a question under Rule 11.2 or 11.3 if either:-

- (a) they have given at least 5 working days notice in writing of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Chief Executive by midday on the day of the meeting.

11.5 Response

An answer may take the form of:-

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

11.6 Supplementary questions

A Member asking a question under Rule 11.2 or 11.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

12. MOTIONS ON NOTICE

12.1 Notice

Except for Motions which can be moved without notice under Rule 13, written notice of every Motion, on the authority of at least 2 Members, must be delivered to the Proper Officer not later than 5 working days before the date of the meeting. These will be entered in a book open to public inspection.

12.2 Motion set out in agenda

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

12.3 Scope

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

13. MOTIONS WITHOUT NOTICE

The following Motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the Motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to reduce the time allowed for speeches under rule 14.4;
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (h) to withdraw a Motion;

- (i) to amend a Motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 3 hours in duration;
- (o) to suspend a particular council procedure rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

14. RULES OF DEBATE

14.1 No speeches until Motion seconded

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

14.2 Right to require Motion in writing

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

14.3 Seconders' speech

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

14.4 Content and length of speeches

Speeches must be directed to the question under discussion, to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. Before commencement of the main business, a meeting may agree by a majority vote to a lesser time.

14.5 When a Member may speak again

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

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

14.6 Amendments to Motions

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

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

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

14.7 Alteration of Motion

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

14.8 Withdrawal of Motion

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

14.9 Right of reply

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

14.10 Motions which may be moved during debate

When a Motion is under debate, no other Motion may be moved except the following procedural Motions:-

- (a) to withdraw a Motion;
- (b) to amend a Motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;

- (g) that the meeting continue beyond 3 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

14.11 Closure Motions

- (a) A Member may move, without comment, the following Motions at the end of a speech of another Member:-
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting;
- (b) If a Motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.
- (c) If a Motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural Motion to the vote. If it is passed he/she will give the mover of the original Motion a right of reply before putting his/her Motion to the vote.
- (d) If a Motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply.

14.12 Point of order

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

14.13 Personal explanation

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

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A Motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least 8 Members.

15.2 Motion similar to one previously rejected

A Motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least 10 Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

16 VOTING

16.1 Majority

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

16.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote provided he or she has already exercised a substantive vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

16.3 Show of hands

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

16.4 Recorded vote

If one-fifth of the Members present at the meeting and entitled to vote stand to demand it, the names for and against the Motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

16.5 Right to require individual vote to be recorded

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

16.6 Voting on appointments

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

17. MINUTES

17.1 Signing the Minutes

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

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

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

17.3 Form of minutes

Minutes will contain all Motions and amendments in the exact form and order the Chairman put them.

18. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting will be recorded by the Committee Administrator.

19. EXCLUSION OF PUBLIC AND PRESS

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

20. MEMBERS' CONDUCT

20.1 Standing to speak

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

20.2 Chairman standing

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

20.3 Member not to be heard further

If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructing business, the Chairman may move that the Member be not heard further. The Motion will be voted on without discussion.

20.4 Member to leave the meeting

If the Member continues to behave improperly after such a Motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. The Motion will be voted on without discussion.

20.5 General disturbance

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

21. DISTURBANCE BY PUBLIC

21.1 Removal of Member of the public

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

21.2 Clearance of part of meeting room

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

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All of these Council Rules of Procedure except this Rule and Rule 16.5 and 17.2 may be suspended by Motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

22.2 Amendment

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

23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive Board. Only Rules 4-9, 11-23 (but not Rule 20.1) apply to meetings of Committees and Sub-Committees.

Access To Information Procedure Rules

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees, the Standards Committee and regulatory Committees and the public meetings of the Executive Board (together called meetings).

2. Additional rights to information

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

3. Rights to attend meetings

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

4. Notices of meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Council Offices, South Street, Rochford and Civic Suite, Hockley Road, Rayleigh; the designated offices.

5. Access to agenda and reports before the meeting

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

6. Supply of copies

The Council will supply copies of:-

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

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

All agendas and minutes which are open to the public are available on the Council's website at www.rochford.gov.uk.

7. Access to minutes etc after the meeting

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

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

All agendas and reports which are open to the public are available on the Council's website at www.rochford.gov.uk.

8. Background papers

8.1 List of background papers

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

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

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

8.2 Public inspection of background papers

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

9. Summary of public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council Offices, Rochford and Rayleigh.

10. Exclusion of access by the public to meetings

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order

10.4 Meaning of exempt information

Exempt information means information falling within the following 10 categories (subject to any condition).

Information falling within paragraphs 1 – 7 (which is not prevented from being exempt information by conditions) 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:

CATEGORY	CONDITION
1 Information relating to an individual.	
2 Information which is likely to reveal the identity of an individual.	
3 Information relating to the financial or business affairs of any person (including the authority holding that information).	<p>“Financial or business affairs” includes contemplated as well as past or current activities.</p> <p>Information is not exempt information under this paragraph if it is required to be registered under the Companies Act 1985; the Friendly Societies Act(s) 1974 & 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993.</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.	<p>“Employee” mean a person employed under a contract of service.</p> <p>“Labour relations matter” means matters which may be the subject of a trade dispute within the meaning of current legislation or any dispute about such matter.</p>
5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	

CATEGORY	CONDITION
<p>6 Information that reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	
<p>7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.</p>	

Information falling within any of paragraphs 1 – 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

In respect of the Standards Committee or Sub-committee of the Standards Committee exempt information also means information falling within the following 3 categories:

CATEGORY	CONDITION
<p>8 Information which is subject to any obligation of confidentiality.</p>	
<p>9 Information which relates in any way to matters concerning national security.</p>	

CATEGORY	CONDITION
10 The deliberations of the Standards Committee or a Sub-Committee of a Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 64(2) or 71(2) of the Local Government Act 2000.	

11. Exclusion of access by the public to reports

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

12. Application of rules to the executive board

Rules 13–24 apply to the executive and its committees. If the Executive Board meets to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general Exceptions) or Rule 16 (Special Urgency) apply. A key decision is as defined in Article 13.03 of this Constitution

If the Executive or its committees as a body meet to discuss a key decision to be taken collectively with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. Procedure before taking key decisions

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

(a) a notice (called here a forward plan) has been published in connection with the matter in question;

(b) at least 5 clear days have elapsed since the publication of the forward plan; and

(c) where the decision is to be taken at a meeting of the Executive Board or its committees, notice of the meeting has been given in

accordance with Rule 4 (notice of meetings).

14. The forward plan

14.1 Period of forward plan

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

14.2 Contents of forward plan

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

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

The forward plan must be published at least 14 days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

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

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

15. General exception

If a matter that is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chairman of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and

(d) at least 5 clear days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

16. Special urgency

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

17. Report to council

17.1 When an overview and scrutiny committee can require a report

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

(a) included in the forward plan; or

(b) the subject of the general exception procedure; or

(c) the subject of an agreement with a relevant overview and scrutiny committee chairman, or the chairman/vice chairman of the Council under Rule 16;

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

17.2 Executive Board report to Council

The Executive Board will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the

individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

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

18. Record of decisions

After any meeting of the Executive Board or any of its committees, whether held in public or private, 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 practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. Executive meetings relating to matters which are not key decisions

The Executive Board will decide whether meetings relating to matters which are not key decisions will be held in public or private.

20. Notice of private meeting of the Executive Board

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

21. Attendance at private meeting of the Executive Board

a) All members of the Executive Board will be served notice of all private meetings of committees of the executive, whether or not they are members of that committee.

b) All members of the Executive Board are entitled to attend a private meeting of any committee of the executive.

c) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive Board and its committees. The Executive Board may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.

d) A private Executive Board meeting may only take place in the

presence of the proper officer or his/her nominee with responsibility for recording and publicising the decisions.

22. Decisions by individual members of the Executive Board

22.1 Reports intended to be taken into account

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

22.2 Provision of copies of reports to overview and scrutiny committees

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

22.3 Record of individual decision

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

23. Overview and scrutiny committees access to documents

23.1 Rights to copies

Subject to Rule 23.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive Board and which contains material relating to

(a) any business transacted at a public or private meeting of the Executive Board or its committees; or

(b) any decision taken by an individual member of the executive.

23.2 Limit on rights

An overview and scrutiny committee will not be entitled to:

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

24. Additional rights of access for Members

24.1 Material relating to previous business

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

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information;
- (b) or it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract; or
- (c) it contains the advice of a political adviser.

24.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive Board or its committees which relates to any key decision unless paragraph (a) or (b) of 2 above applies.

24.3 Nature of rights

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

25. Freedom of information act 2000

The Council will publish documents mentioned in its Publication Scheme approved by the Information Commissioner. Copies of the scheme are available on the Council's website or from the Head of Administrative & Member Services.

Budget And Policy Framework Procedure Rules

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for executive decisions

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

2. Process for developing the framework

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

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Executive Board will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Councils budget and policy framework. Once drawn up the proper officer will serve copies of them on the chairmen of relevant overview and scrutiny committees together with dates when the Executive Board will consider them further, which shall be at least 6 weeks after service of the notice on the chairmen.
- (b) The overview and scrutiny committee will be convened within 14 days to consider whether to respond to the executives initial proposals and whether any consultation by it is appropriate. If so the overview and scrutiny committee will conduct a consultation exercise and will reflect any representations made to it in its response to the Executive Board within the timescale set for decision by the executive.
- (c) The Executive Board will finalise its proposals for the Council to consider having taken into account the comments from the overview and scrutiny committee. The report to Council will show the Executive Board's response to those comments.
- (d) The Council will consider the proposals of the Executive Board and may adopt them, amend them, refer them back to the Executive Board for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive Board's proposal without amendment) or (if the Executive Board's proposal is not accepted without amendment), that the Councils decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

- (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the proper officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 14 working days of the receipt of the Leaders written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive Board, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council

3. Decisions outside the budget or policy framework

- (a) Subject to the provisions of paragraph 5 (virement) the Executive Board, committees of the Executive Board, individual members of the Executive Board and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Executive Board, committees of the Executive Board, individual members of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the budget or policy framework

- (a) The Executive Board, a committee of the Executive Board, an individual member of the Executive Board or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Councils policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

i) if it is not practical to convene a quorate meeting of the full Council; and

ii) if the chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairman of the relevant overview and scrutiny committees consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of a relevant overview and scrutiny committee the consent of the chairman of the Council, and in the absence of both the Vice-Chairman will be sufficient.

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

5. Virement

Financial Regulations shall provide a Scheme of Virement to enable the Executive Board, other Committees, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by full Council and therefore to optimise the use of resources.

6. In-year changes to Policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive Board, a committee of the Executive Board, an individual member of the Executive Board or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which makes up the policy framework may be made by the Executive Board or a Committee or Officer with delegated authority except those changes:-

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

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

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Councils budget, then it shall seek advice from the monitoring officer and/or chief financial officer.
- (b) In respect of functions which are the responsibility of the executive, the Monitoring Officers report and/or Chief Financial Officers report shall be to the Executive Board with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive Board must meet to decide what action to take in respect of the Monitoring Officers report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, and to the overview and scrutiny committee if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 14 days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
 - i) endorse a decision or proposal of the Executive Board as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;
 - Or
 - ii) amend the councils financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive Board to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer.

EXECUTIVE PROCEDURE RULES

EXECUTIVE PROCEDURE RULES

1. Executive Board Decisions

1.1 Who may make executive decisions?

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

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

1.2 The Council's scheme of delegation and executive functions

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

1.3 Conflicts of Interest

(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution

(b) If every member of the Executive Board has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution

1.4 Executive Meetings

The Executive Board will meet at least once a month at times to be agreed by the Leader. The Executive Board shall meet at the Civic Suite offices or another location to be agreed by the Leader.

1.5 Public/Private Meetings of the Executive Board

The Access to Information Rules in part 4 of this constitution set out the requirements covering public and private meetings.

1.6 Quorum

The quorum for a meeting of the Executive Board, or a committee of it, shall be three Members of the Executive Board (including the Leader and/or Deputy Leader).

1.7 Decisions Taken by the Executive Board

Executive decisions will be taken by the Executive Board as a whole at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

2. Executive Board Meetings

2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside. If neither is present, then a person appointed to do so by those present shall preside.

2.2 Who May Attend?

These details are set out in the Access to Information Rules in Part 4 of this Constitution. All Members may attend, to speak but not vote, at the invitation of the Leader or person presiding. Members of the public may attend except where exempt or confidential information is being considered.

2.3 Order of Agenda

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

- (j) consideration of the minutes of the last meeting
- (ii) declarations of interest, if any
- (i) matters referred to the Executive Board (whether by the Review Committee or by the Full Council) for reconsideration by the Executive Board in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution
- (ii) consideration of reports from other committees; and
- (iii) matters set out in the agenda for the meeting

2.4 Consultation

All reports to the Executive Board from any member of the executive or an officer on proposals relating to the budget and policy framework must obtain details of the nature and extent of consultation with stakeholders and relevant committees, and the outcome of that consultation. Reports about other matters will set out the details and

outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Items on the Executive Board Agenda

The Leader will decide upon the schedule for the meetings of the Executive Board. The Leader may put on the agenda of any Executive Board meeting any matter, whether or not authority has been delegated to the Executive Board in respect of that matter. The proper officer will comply with the Leader's request in this respect.

Any member of the Executive Board may propose to the Leader the inclusion of any item for the next available meeting of the Executive Board. The proper officer will comply with the requests of the Leader for inclusion of items to be included in the agenda.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Executive Board where the Review Committee or the full Council have resolved that an item be considered by the Executive Board.

Any member of the Council may ask the Leader to put an item on the agenda or an Executive Board meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Executive Board. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. (This individual will be invited to attend the meeting, whether or not it is a public meeting.)

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an Executive Board meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive Board needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of the Executive Board meeting. If there is no meeting of the Executive Board 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.

The Chief Executive or any member of the Management Team may place an item for consideration on the agenda for an Executive Board meeting.

Overview And Scrutiny Procedure Rules

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. The Council will appoint one Review Committee which will perform all overview and scrutiny functions on behalf of the Council. The Review Committee may appoint Sub-Committees.
 - (a) The Review Committee will consist of eight Members of the Council.
 - (b) Within its remit under Article 6 of this Constitution the terms of reference of the Review Committee will be:-
 - i) the performance of all Overview and Scrutiny functions on behalf of the Council.
 - ii) the appointment of such Sub-Committees as it considers appropriate to fulfil those Overview and Scrutiny functions;
 - iii) to receive reports from the leader/spokesperson at its first meeting after each Annual Council meeting on the Council's priorities for the coming year and its performance in the previous year;
 - iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committees' time is effectively and efficiently utilised;
 - v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
 - vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Executive Board or relevant Area Committee either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
 - vii) in the event of reports to the Executive Board or relevant Area Committee exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of the Executive Board or relevant Area Committee business or jeopardises the efficient running of Council business, at the request of the Executive Board or relevant Area Committee, to make decisions about the priority of referrals made.

2. **Who may sit on the Review Committee?**

All Councillors except members of the Executive Board may be Members of the Review Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. **Co-optees**

The Review Committee shall be entitled to recommend to Council the appointment of non-voting co-optees.

4. **Meetings of the Review Committee**

There shall be at least ten ordinary meetings of the Review Committee in each year. Additional meetings may be called from time-to-time as and when appropriate. A Review Committee meeting may be called by the Chairman of the Review Committee, by any four Members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for a Review Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Who chairs Review Committee meetings?**

The Chairman of the Review Committee will be drawn from among the Councillors sitting on the Committee and, subject to this requirement, the Council may appoint such a person as it considers appropriate as Chairman.

7. **Work programme**

The Review Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of Members of that Committee.

8. **Agenda items**

- 8.1 Any Member of the Review Committee shall be entitled to give 5 working days notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

- 8.2 Any 2 Members of the Council who are not Members of the Review Committee may give 5 working days written notice to the Proper Officer that they wish an item to be included on the agenda of the Review Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Committee for consideration.

- 8.3 The Review Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Executive Board to review particular areas of Council activity. Where it does so, the Review Committee shall report its findings and any recommendations back to the Executive Board and/or Council. The Council and/or the Executive Board shall consider the report of the Review Committee at the next available meeting.

9. Policy review and development

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

10. Reports from the Review Committee

- (a) Once the Review Committee has formed recommendations on proposals under paragraph 9 above, the Proper Officer will submit its formal report for consideration by the Executive Board or, if the Review Board so requests, by the Council (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Review Committee cannot agree on one single final report to the Council or the Executive Board as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Policy Committee with the majority report.
- (c) The Council or Executive Board shall consider the report of the Review Committee at the next available meeting after it is submitted to the Proper Officer.

11. Making sure that Overview and Scrutiny reports are considered by the Executive Board

- (a) The agenda for the Executive Board meetings shall include an item entitled "Issues arising from the Review Committee". The reports of the Review Committee referred to the Executive Board shall be included at this point in the agenda (unless they have been considered in the context of the Executive Board's deliberations on a substantive item on the agenda) of the next available Executive Board or Council after the Review Committee has completed its report/recommendations.

12. Rights of Review Committee Members to documents

- (a) All Councillors have the right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution as well as any specific rights they may have as Members.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive Board and Review Committee as appropriate depending on the particular matter under consideration.

13. Members and Officers giving account

- (a) The Review Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Executive Board and/or any senior Officer to attend before it to explain in relation to matters within their remit:-

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance

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

- (b) Where any Member or Officer is required to attend a Review Committee under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer

concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Review Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of one working month from the date of the original request.

14. Attendance by others

The Review Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

15. Call-in

Call-in and referral should only be used in exceptional circumstances.

- (a) When a decision is made by the Executive Board or an Area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available to all Chairmen of Committees within two days of being made.
- (b) The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless referred to Full Council by a minimum of 3 Members or called in by the Review Committee.
- (c) During that period, the Proper Officer shall:-
 - (1) refer a decision to be taken at the Full Council if a Member(s) provides him/her with the names of 3 Members who require the relevant decision to be referred or
 - (2) call in a decision for scrutiny by the Review Committee if so requested by the Chairman or any 3 Members of that Committee, and in either case shall then notify the Chairman of the Executive Board or relevant Area Committee of the referral or call-in.

Having considered the decision, if the Review Committee still has concerns, then the Committee may refer the matter back to be re-considered by the Executive Board or the relevant Area Committee, setting out the nature of its concerns in writing or refer the matter

direct to the next Full Council also setting out the nature of its concerns.

- (d) Any matter referred to Full Council shall be included for debate on the agenda of the next ordinary Full Council meeting.

Call-In And Urgency

- (e) The call-in and referral procedure set out above shall not apply where the decision being taken by the Executive Board or relevant Area Committee is urgent. A decision will be urgent if any delay likely to be caused would, for example, seriously prejudice the interest of the Council or the public.
- (f) The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the relevant policy committee, the decision is an urgent one and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (g) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16. The party whip

When considering any matter in respect of which a Member of the Review Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17. Procedure at Review Committee meetings

- (a) the Review Committee shall consider the following business:-
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - iv) responses of the Executive Board or relevant Area Committee to reports of the Review Committee; and
 - v) the business otherwise set out on the agenda for the meeting.

- (b) Where the Review Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-
 - i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report for submission to the Executive Board or relevant Area Committee and/or Council as appropriate and shall make its report and findings public.

Financial Procedure Rules

Financial Regulations

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In the following Regulations all amounts quoted shall be net of Value Added Tax.

1. FINANCIAL ADMINISTRATION

- 1.1 The Head of Finance, Audit and Performance Management is the Chief Finance Officer in accordance with Article 12 of this Constitution.
- 1.2 The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972. In the absence of the Chief Finance Officer, the Financial Services Manager will act as Deputy Section 151 Officer.
- 1.3 As the Council's financial and economic adviser, the Chief Finance Officer shall report to the Council with respect to the level of financial resources proposed to be utilised in each financial year and shall keep it informed with respect to the Council's finances and financial performance.
- 1.4 The Chief Executive, Corporate Directors and Heads of Service (Senior Management Team) shall be responsible for the accountability and control of staff, and the security, custody and control of all other resources including plant, buildings, materials, cash and stores in accordance with the Scheme of Delegations.
- 1.5 The Chief Executive and Corporate Directors shall be responsible for ensuring that their Heads of Service comply with these Financial Regulations and Heads of Service shall inform the Chief Finance Officer of any matter within their responsibility which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to the Council.
- 1.6 Where the Chief Executive, Corporate Directors or Heads of Service propose:-
 - (i) a new policy, or
 - (ii) a variation of existing policy, or
 - (iii) a substantial variation in the means or time-scale of implementing existing policywhich affects or may affect the Council finances, they shall submit a report to the Council.
- 1.7 In these Regulations the term Council shall include any Committee reporting to the Council duly authorised to exercise such functions.

2. ACCOUNTING ARRANGEMENTS

2.1 The Chief Finance Officer shall:-

- (i) make satisfactory accounting arrangements for all financial transactions of the Council in consultation, where necessary, with the Chief Executive and Corporate Directors;
- (ii) make safe and efficient arrangements for the receipt and payment of the Council's money;
- (iii) review such arrangements periodically.

3. FINANCIAL PLANNING AND CONTROL

Capital Programmes

- 3.1 The Senior Management Team shall submit annually to the Council a capital programme for the next three years or longer period if required by the Council.
- 3.2 The programme shall distinguish between items previously approved and not previously approved by the Council and show the probable additional costs accruing from each scheme.
- 3.3 The programme shall be submitted to the Council annually, with recommendations as to priorities.
- 3.4 Estimates of capital payments shall be prepared by Heads of Service in consultation with the Chief Finance Officer.
- 3.5 Items in an approved capital programme, unless reserved to Council, may be proceeded with without the further approval of the Council subject to Para 3.6 below. Expenditure on all other items in the approved capital programme must not be incurred until the specific approval of the Council has been obtained, following the submission of a report from the Chief Executive, Corporate Directors or Head of Service responsible and the Chief Finance Officer upon the capital costs and subsequent revenue costs of the project.
- 3.6 Following the approval of capital projects in accordance with Para 3.5 tenders may be invited and accepted, (subject to compliance with Contract Procedure Rules), without further reference to the Council provided all necessary partnership funding and government approvals are in place.
- 3.7 Any variation to the approved start of scheme shall be approved by the Executive Board.

- 3.8 The substitution of a new capital project for one already included in an approved capital programme shall only be approved by the Executive Board following the submission of a report by the appropriate Corporate Director or Head of Service.
- 3.9 Expenditure on capital projects not included in a capital programme shall not be incurred without the specific approval of the Council, following the submission of a report by the Chief Executive or appropriate Corporate Director or Head of Service.
- 3.10 The Chief Finance Officer shall advise as to, and in appropriate cases shall determine, the method of financing capital expenditure on approved capital projects, subject to statutory and financial constraints.

Annual Revenue Estimates and Budgetary Control

- 3.11 Draft estimates are to be prepared by the Senior Management Team for submission to Council. Estimates shall be submitted within such limits as may have been previously specified by the Council.
- 3.12 No proposal by an Officer to incur any cost, debt or liability or to reduce the amount of any income shall be considered by the Executive Board unless adequate notice is given to the Chief Finance Officer. The Chief Finance Officer may require the submission of a joint report (including estimated costs) to the Executive Board based on the information received by him/her.
- 3.13 As soon as practicable after the end of each financial year, the Chief Finance Officer shall submit to the Council the Council's final accounts together with such supporting data as the Chief Finance Officer and the Chief Executive consider necessary and such further information as the Council may require.

Supplementary Estimates

- 3.14 The Chief Executive, a Corporate Director, Head of Service or Committee of the Council shall not incur expenditure which cannot be met from the amount provided in the revenue estimates under a head of estimate (including any virement) unless a supplementary estimate has been approved.
- 3.15 Supplementary Estimates may be used where additional financial commitments cannot be met from virements and arise from the following:
 - Unavoidable legal requirements arising from current service plans, including the need to publish statutory notices.
 - External legal costs arising from actions brought by or against the Council or incurred in respect of public enquiries.

- Other inescapable costs or income reductions that could not have been foreseen and arise from current service plans
- 3.16 Requests for supplementary estimates once approved by the relevant Corporate Director or Chief Executive shall be submitted to the Chief Finance Officer and:-
- The Chief Finance Officer shall have the authority to grant approval for sums up to £5,000
 - The Chief Finance Officer shall have authority to grant approval, following consultation with the Leader of the Council, for sums up to £40,000.
- 3.17 Any decisions on Supplementary Estimates will be reported to the Executive Board with the quarterly budget monitoring reports.

Virement

- 3.18 Virement' is the financing of an increase in expenditure or a reduction in income in one head of the approved revenue budget from another head in the revenue budget.
- 3.19 A Head of Service, in consultation with the Chief Finance Officer, may approve aggregate virements of up to £5,000 within a Head of Service's budget.
- 3.20 A Corporate Director, in consultation with the Chief Finance Officer, may approve aggregate virements of up to £10,000.
- 3.21 Virement outside these limits is a matter for the Chief Executive and Chief Finance Officer in consultation with the Leader of the Council or, in the Leader's absence, the Deputy Leader, up to £40,000, and above that must be referred to the Executive Board.
- 3.22 No proposal for virement between the revenue estimates for which different Heads of Service or Corporate Directors are responsible shall take place unless the Heads of Service or Corporate Directors whose estimates will be affected have been consulted and agree or the virement has been approved by the Senior Management Team in accordance with the limits within this regulation.
- 3.23 The Chief Executive and Corporate Directors, in consultation with the Chief Finance Officer may approve virements between capital projects up to 25% (maximum £40,000) of the capital programme budget. Any decisions on virements will be reported to the Executive Board with the quarterly budget monitoring reports.
- 3.24 All proposals for virement shall be put in writing.

- 3.25 Written details of any virement authorised by the Chief Executive or a Corporate Director shall be sent to the Chief Finance Officer within 10 working days of their authorisation.
- 3.26 Nothing in these rules shall prevent the Executive Board when dealing with an emergency planning situation from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to S138 of the Local Government Act 1972 or the Civil Contingencies Act 2004, subject to such action being reported to Council as soon as appropriate.

Maintenance of Reserves

- 3.27 It is the responsibility of the Chief Finance Officer to advise the Council on prudent levels of reserves for the authority, including those earmarked for specific services.

Carrying Forward Revenue Provisions

- 3.28 The Chief Finance Officer may authorise the carrying forward of any unspent vote into the next financial year if satisfied that it has not been possible to incur the estimated expenditure during the year. The Chief Finance Officer shall report the votes carried forward to the Council as soon as is practicable after the end of each financial year.

4. ORDERS FOR WORKS AND GOODS

- 4.1 Every Head of Service shall be responsible for all orders issued on their behalf.
- 4.2 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purchases or such other exceptions as the Chief Finance Officer may approve.
- 4.3 All orders shall be made using the prescribed on-line procurement system by the Chief Finance Officer. In certain exceptions, standards order forms may be used, with the agreement of the Chief Finance Officer.
- 4.4 Orders shall indicate clearly the nature and quantity of the works, goods or services required and any contract, estimate and authorisation relating thereto.
- 4.5 All copies of orders shall show the cost centre involved and the estimated amount chargeable.
- 4.6 All orders shall be raised via the purchase order system in accordance with procedures approved by Chief Finance Officer.

- 4.7 All manual orders shall bear the personal signature of a Head of Service or other authorised officer, in accordance with the Scheme of Delegations.
- 4.8 All electronic orders shall be authorised on-line by a Head of Service or other authorised officer, in accordance with the Scheme of Delegations.
- 4.9 Before authorising an order, the Head of Service or authorised officer shall be satisfied, by means of competitive quotations or otherwise, that it will obtain the best value for the price to be paid and that the order complies with the Contract Procedure Rules.

5. PAYMENT OF ACCOUNTS

- 5.1 There are two processes for authorising payments. Paragraph 5.8 onwards deal with those relating to orders raised using an on-line procurement system. In all other cases, paragraphs 5.2 to 5.7 apply.
- 5.2 Each Head of Service shall be responsible for the examination, verification and certification of the related invoices. The Chief Finance Officer shall make such checks, arithmetical and otherwise, as are deemed necessary and shall be given all information and explanations as are required.
- 5.3 Each Head of Service shall be responsible for ensuring that all discounts have been deducted.
- 5.4 Each Head of Service shall be responsible for marking the office copy of each order with:-
 - (i) the dates and quantities of goods or services supplied, and no invoice shall be certified for payment except for deliveries so recorded (except where some alternative method of recording has been approved by the Chief Finance Officer).
 - (ii) the dates and amounts of invoices passed to the Chief Finance Officer for payment (except where some alternative method of preventing duplicate payment has been approved by the Chief Finance Officer).
- 5.5 Each Head of Service shall be responsible for showing on each invoice, in a manner approved by the Chief Finance Officer, the relevant order number, the estimate head to be charged and the initials of the persons responsible for checking (a) the prices charged, (b) that goods have been received, and (c) that payment has not previously been authorised.
- 5.6 All invoices for payment shall be certified by a Corporate Director, Head of Service or other officer authorised by the Head of Service to

the extent approved by the Chief Finance Officer in writing. The Chief Finance Officer shall maintain an up to date list of officers authorised to certify invoices for payment.

- 5.7 Only invoices which the Chief Finance Officer is satisfied are in order shall be paid.
- 5.8 Paragraphs 5.1. to 5.5. do not apply to invoices related to orders raised using an on-line procurement system. In these cases the following apply: -
- 5.9 The Chief Finance Officer shall be responsible for the examination, verification and certification of the related invoices. The Chief Finance Officer shall make such checks, arithmetical and otherwise, as are deemed necessary and shall be given all information and explanations as are required.
- 5.10 Each Head of Service shall be responsible for ensuring that all discounts have been recorded in the order.
- 5.11 Each Head of Service shall be responsible for ensuring that the electronic order is updated when goods or services are received in line with the current procedures.
- 5.12 The Chief Finance Officer shall be responsible for ensuring that duplicate payments are not made.
- 5.13 All invoices for payment shall be certified by the Chief Finance Officer or other authorised officer.

6. TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES

- 6.1 Payments to Members, including co-opted Members of the Council or its Committees who are entitled to claim allowances, will be made by the Chief Finance Officer upon receipt of the prescribed form duly completed by the Member.
- 6.2 All claims by employees for payment of car allowances, subsistence allowances and travelling and incidental expenses shall be submitted, duly certified, in a form approved by the Chief Finance Officer.
- 6.3 The certification by or on behalf of a Corporate Director or Head of Service shall be taken to mean that the certifying Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

7. IMPREST ACCOUNTS

- 7.1 The Chief Finance Officer shall provide such imprests as he considers appropriate for such employees of the Council as may need them for the purposes of defraying petty cash and other expenses.
- 7.2 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the Council as provided elsewhere in these Regulations.
- 7.3 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 a receipted voucher to the extent that the Chief Finance Officer may require.
- 7.4 An employee responsible for an imprest account shall, if so requested, give to the Chief Finance Officer a certificate as to the state of the account.
- 7.5 Before leaving the employment of the Council or otherwise on ceasing to hold an imprest, an employee shall account to the Chief Finance Officer for the amount advanced and the Head of Service shall ensure that this happens.

8. CASH FLOATS

- 8.1 The Chief Finance Officer may advance such sums by way of cash floats as are deemed reasonable by the Chief Finance Officer.
- 8.2 The Chief Finance Officer shall be responsible for checking from time to time that there are arrangements for cash floats to be properly and securely maintained.
- 8.3 An employee responsible for a cash float shall, if so requested, give to the Chief Finance Officer a certificate as to the state of the float.
- 8.4 Before leaving the employment of the Council or otherwise on ceasing to hold a float, an employee shall account to the Chief Finance Officer for the amount advanced and the Head of Service shall ensure that this happens.

9. CONTRACTS AND PAYMENTS

- 9.1 Heads of Service and, in the case of formal contracts, the Head of Legal Services, shall inform the Chief Finance Officer as soon as possible of all contracts, agreements, awards, or other instruments involving the payment or receipt of money by the Council.
- 9.2 Where contracts provide for payment to be made by instalments, the Chief Finance Officer shall arrange for the keeping of a contract register to show the state of account on each contract between the

Council and the contractor, together with any other payments and any relating professional fees.

- 9.3 Payments to contractors on account of contracts shall be made only on a certificate issued by the Head of Service supervising the contract.
- 9.4 Subject to the provisions of the contract in each case, every extra or variation shall be authorised in writing by the appropriate Head of Service.
- 9.5 Any variation or other increase in cost in excess of £10,000 shall be reported to the Chief Finance Officer and Chief Executive as soon as practicable.
- 9.6 The Head of Service, in consultation with the Chief Finance Officer and Chief Executive, shall report to the Executive Board as soon as possible on any capital project over £10,000 which is likely to exceed the approved cost by more than 25% or £40,000, whichever is less.
- 9.7 The final certificate of completion of any contract (or, in the case of the Institution of Civil Engineers' Conditions of Contract, the maintenance certificate) shall not be issued until the Head of Service has produced to the Chief Finance Officer a detailed statement of account and all relevant documents required and the Chief Finance Officer has approved the amount to be certified.
- 9.8 The Chief Finance Officer shall be entitled to make all such enquiries and receive such information and explanations required in order to be satisfied as to the accuracy of the final accounts to contracts.
- 9.9 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Head of Legal Services for consideration of the Council's legal liability and the action to be taken decided by the Senior Management Team.
- 9.10 Where completion of a contract is delayed and the contract provides for liquidated damages to be payable for delayed completion, it shall be the duty of the Head of Service concerned, after consulting with the Head of Legal Services and the Chief Finance Officer, to claim the liquidated damages unless it is otherwise agreed by the Head of Legal Services and the Chief Finance Officer.

10. SALARIES AND WAGES

- 10.1 The payment of all salaries, wages, compensation and other emoluments to all employees or former employees of the Council shall be made by the Chief Finance Officer or under arrangements approved and controlled by him.

- 10.2 The relevant Head of Service shall notify the Corporate Director (Internal Services) and/or Corporate Director (External Services) as soon as possible and in the prescribed form of all matters affecting such payments, and in particular:-
- (a) appointments, resignations, dismissals, suspensions, secondments, and transfers;
 - (b) absences from duty for sickness or other reasons, apart from normal annual leave;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 10.3 All time records or other pay documents shall be in a form approved by the Chief Finance Officer and shall be certified by the Head of Service or authorised Officer. The names of Officers authorised to sign such records shall be sent to the Chief Finance Officer together with specimen signatures by the Heads of Service who shall advise the Chief Finance Officer of any changes.
- 10.4 If payments are to be made for additional duties, e.g. home deliveries, the work must have been completed before payment can be made. All instructions to make such a payment shall be in a form approved by the Chief Finance Officer and shall be certified by the Head of Service or authorised officer.

11. INCOME

- 11.1 The collection of all money due to the Council shall be under the supervision of the Chief Finance Officer.
- 11.2 Each Head of Service shall furnish the Chief Finance Officer with such particulars in connection with work done, goods supplied or services rendered and all other amounts due as may be required by the Chief Finance Officer to record correctly all such income due to the Council and to ensure the prompt rendering of accounts.
- 11.3 Heads of Service shall notify the Chief Finance Officer promptly of all income due to the Council and of contracts, leases and other agreements and arrangements entered into by the Council and the Chief Finance Officer shall have the right to inspect all documents or other evidence in this connection in the possession of any employee.
- 11.4 The arrangements for the control of all receipt forms, tickets and other such documents which acknowledge sums received shall be approved by the Chief Finance Officer.

- 11.5 All money received by an employee on behalf of the Council shall without delay be paid to the Chief Finance Officer or, as directed, to the Council's bank account. No deduction may be made from such money save to the extent that the Chief Finance Officer has specifically authorised in writing. Each employee who so banks money shall enter on the paying-in slip a reference to the cheque (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque). On the reverse of each cheque, the employee shall enter such information to identify the transaction as instructed by the Chief Finance Officer.
- 11.6 Cheques for sums exceeding £2,000 shall be paid in at the main Cash Office at the latest on the next working day.
- 11.7 Collecting Officers should immediately pay in all cheques (irrespective of their value) to the main Cash Office, particularly if they have any doubt as to the credibility or credit worthiness of the customer or client making the payment.
- 11.8 The Chief Finance Officer shall ensure that all monies received are collected by the next Security collection, for payment into the Council's bank account .
- 11.9 Personally drawn cheques (and third party cheques) shall not be cashed out of the money held on behalf of the Council.
- 11.10 Every transfer of the Council's cash from one member of staff to another shall be recorded by the signature of the receiving employee to confirm the fact of the transfer and the amount transferred.

Writing off Outstanding Monies

- 11.11 The Chief Finance Officer is authorised to write off amounts due or claimed by the Council up to £5,000 and, after consultation with the Leader of the Council, between £5,000 and £15,000. Amounts over £15,000 must be reported to the Executive Board.
- 11.12 All proposals to write off monies shall be made in writing with reasons.

12. STOCKS AND STORES

- 12.1 Heads of Service shall be responsible for the care and custody of the stocks and stores in their respective service divisions or units.
- 12.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Chief Finance Officer, Chief Executive or Corporate Directors.

- 12.3 Heads of Service shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked in accordance with the programme approved by the Chief Finance Officer.
- 12.4 Heads of Service and Corporate Directors shall give the Chief Finance Officer such information as is required in relation to stores for the accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction except with the approval of the Chief Finance Officer in the case of items not exceeding £1,000 in value or that of the Chief Executive in any other case.

13. INVENTORIES

- 13.1 Inventories shall be maintained by all Heads of Service and Corporate Directors and therein shall be recorded a sufficient description of furniture, fittings and equipment, plant and machinery, for which they are responsible. The extent to which the property of the Council shall be so recorded and the form in which the inventories shall be kept is to be determined by the Chief Finance Officer.
- 13.2 The relevant Corporate Director or Head of Service shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 13.3 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Chief Executive, a Corporate Director or Head of Service responsible.

14. ESTATES

- 14.1 The Corporate Property Officer (or Head of Service nominated by the Chief Executive) will maintain a record of all properties owned by the Council and the Head of Legal Services shall have the custody of all title deeds under secure arrangements.

15. SECURITY

- 15.1 Each Head of Service is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc under his control. The Chief Finance Officer shall be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 15.2 Maximum limits for cash holdings shall be agreed with the Chief Finance Officer.

- 15.3 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of any such keys must be reported to the Chief Finance Officer and relevant Head of Service immediately.
- 15.4 Each Head of Service in conjunction with the Head of Administrative and Member Services shall within their department be responsible for maintaining proper security and privacy in respect of information held in any computer system.

16. INSURANCES

- 16.1 The Chief Finance Officer shall be responsible for the maintenance of insurance cover wherever appropriate for the Council's activities, the negotiation of premiums and the keeping of such records as are necessary.
- 16.2 Each Head of Service shall tell the Chief Finance Officer of the extent and nature of all new risks to be insured, and of any alterations affecting insurable risks and the Chief Finance Officer shall notify the Head of Service immediately the insurance has been effected.
- 16.3 Each Head of Service shall immediately notify the Chief Finance Officer and the Head of Legal Services in writing of any loss, liability or damage.
- 16.4 The Head of Legal Services shall negotiate all claims in which legal issues are involved unless the Council's insurers are acting.

17. AUDIT

- 17.1 A continuous internal audit shall be arranged to carry out an examination of accounting, financial and other operations of the Council. The internal audit shall be under the control of the Chief Finance Officer who shall ensure it meets the requirements of Section 151 of the Local Government Act 1972.
- 17.2 The Chief Executive, Corporate Directors and Chief Finance Officer or their authorised representative shall have authority to:-
- (a) enter at all reasonable times on any Council premises or land;
 - (b) have access to all records, documents and correspondence relating to any financial and other transactions of the Council;
 - (c) require and receive such explanations as are necessary concerning any matter under examination and

- (d) require any employees of the Council to produce cash, stores or any other Council property under their control.
- 17.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Authority, the Corporate Director or Head of Service concerned shall forthwith notify the Chief Executive, the Chief Finance Officer and the Monitoring Officer, who shall take such steps as are considered necessary by way of investigation, action and report.
- 17.4 The Chief Finance Officer shall report direct to the Council the Executive Board, or Audit Committee on any matter which the Chief Finance Officer considers necessary.
- 17.5 The Audit & Performance Management Manager, in consultation with the Monitoring Officer, may report independently to the Executive Board, the Audit Committee or Council if the Audit & Performance Management Manager should consider this necessary.

18. BANKING ARRANGEMENTS AND CHEQUES

- 18.1 All arrangements with the Council's bankers concerning the Council's banking accounts and the issue of cheques shall be made by the Chief Finance Officer.
- 18.2 All new cheques shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.
- 18.3 Cheques drawn on the Council's bank accounts shall bear the facsimile signature of the Chief Finance Officer or shall be signed by the Chief Finance Officer or any other cheque signatory authorised by the Council.
- 18.4 The Chief Finance Officer shall be responsible for the negotiation of banking terms on behalf of the Council.

19. TREASURY MANAGEMENT

- 19.1 The Chartered Institute of Public Finance and Accountancy's (CIPFA) 'Code of Practice' for Treasury Management in Local Authorities" has been adopted and is deemed to be incorporated in these Financial Regulations.
- 19.2 The following **Treasury Policy Statement** is adopted.
 - a) This Council adopts CIPFA's "Treasury Management in the Public services: Code of Practice 2001".

- b) The Council defines its treasury management activities as:
“The management of the authority’s cash, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.
- c) The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly the analysis and reporting of treasury management activities will focus on their risk implications for the authority.
- d) This Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance measurement techniques within the context of effective risk management.
- e) All money in the hands of the Council shall be aggregated for the purposes of treasury management and shall be under the control of the Officer designated for the purposes of Section 151 of the Local Government Act 1972 referred to in the Code as the Chief Finance Officer.
- f) All executive decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer or through him to his staff, who shall all be required to act in accordance with CIPFA’s “Treasury Management in the Public Services: Code of Practice 2001”.
- g) The Chief Finance Officer shall report to the Executive Board, on the treasury management policies, practices and activities including an annual strategy and plan in advance of the year and annual report after its close, and on the exercise of Treasury Management powers delegated to him.

20. TRUSTS

- 20.1 All Trust fund accounts shall wherever possible be in the name of the Council.
- 20.2 All employees acting as trustees by virtue of their official position shall deposit all securities, etc relating to the trust with the Head of Legal Services unless the trust instrument otherwise requires.

Contract Procedure Rules

ROCHFORD DISTRICT COUNCIL **CONTRACT PROCEDURE RULES**

INTRODUCTION

These Rules deal with procedures for obtaining quotations and tenders and entering into contracts for work, goods and services. They apply to purchases and sales, hiring, leasing, licensing of, for example, computer software or other intellectual property as well as works contracts and the employment of consultants. The rules do not apply to the acquisition or disposal of land or any interest in land or contracts for the engagement of Counsel. Some contracts, depending on their value, are subject to EU Law on procurement. This is a complex area and if officers are not sure whether the EU regime applies, they should contact the Head of Legal Services.

The current European Union contracting thresholds are:-

	£
Works Contracts	3,611,319
Supplies	144,371
Services	144,371

These limits are changed at regular intervals and details of the latest thresholds can be obtained from the Head of Legal Services.

1 GENERAL

1.1 Interpretation

1.1.1. In these Contract Procedure Rules, unless the context requires otherwise, the following words and phrases shall bear the respective meanings set out below:-

‘building contract’ means any contract for the execution of building or civil engineering works.

‘Head of Service’ means the Chief Executive, any Corporate Director or Head of Service of the Council or any Officer designated to act on behalf of a Head of Service for the purpose specified.

‘CPR’ means Contract Procedure Rules.

‘contract’ means any contract made by or on behalf of the Council for any of the purposes set out in CPR 1.5.

‘Council’ means the Full Council, the Executive Board or any Committee authorised to act on behalf of the Council.

‘most financially advantageous’ means the lowest if payment is to be made by the Council and the highest if payment is to be made to the Council and, in either case, refers to a tender which conforms to the Council's specification and tendering requirements.

‘nominated Officer’ means an Officer to whom power to act has been delegated by the Scheme of Delegations in Part 3 of this Constitution, or who has been nominated for the purpose of the relevant Rule in writing by a Head of Service.

‘person’ or ‘persons’ shall include a firm, partnership, company or public authority.

‘quotation’ means a bid for a Council contract to be submitted to the nominated Officer otherwise than under Rule 3.2.

‘tender’ means a bid for a contract to be submitted in accordance with Rule 3.2.

1.1.2 Where there is a requirement to consult the relevant Member and that Member is unavailable, the Officer concerned shall consult another Member nominated for the purpose by the Leader of the Council.

1.1.3 References to contract values are to the value excluding Value Added Tax (if any).

1.2 Contract Principles to be Applied

All the following principles must be applied to every contract or proposed contract to be entered into by or on behalf of the Council:-

- 1.2.1 appropriate quality standards should be required;
- 1.2.2 the cost to be paid or sum to be received by the Council shall be the most advantageous, in terms of price, quality of work and delivery, and be consistent with achieving Best Value;
- 1.2.3 tendering and contracting procedures are carried out fairly and openly;
- 1.2.4 wherever practicable, the sustainable use of resources shall be sought;
- 1.2.5 all legal requirements, including where applicable the EU procurement rules, shall be complied with by the Council.

1.2.6 Adequate records shall be kept for all contracts entered into.

1.3 Responsibility for Contracting Procedures

Every Officer to whom the letting of contracts has been delegated under the Scheme of Delegations in Part 3 of this Constitution shall comply with these Rules and be responsible for compliance by those acting under their instructions (including consultants).

1.4 Consultants to Comply With Standing Orders

Every consultant engaged to manage or let a contract for the Council, or provide services in connection with a contract:-

- (1) shall be supplied with a copy of these Rules;
- (2) shall be required to enter into a written contract to comply with these Rules as though the consultant was a Chief Officer of the Council;
- (3) on request, shall produce to the nominated Officer or the Chief Finance Officer all records maintained in connection with the administration of the contract and following completion of the contract and payment of the final account, deliver all such records to the Officer responsible for the contract.

1.5 Rules to Apply to All Contracts

The Contract Procedure Rules apply to every contract or proposed contract to be entered into by or on behalf of the Council for:-

- 1.5.1 the supply of goods, materials, computer software, plant and equipment (including by lease, licence or hire);
- 1.5.2 the carrying out of work;
- 1.5.3 the supply of services including consultancy services; and
- 1.5.4 any combination of these.

UNLESS

- (A) *compliance with the Rules has been waived under 1.6;*
- (B) *The exceptions under Rule 2.3 apply.*

1.6 Waiving Standing Orders

The Council may approve exceptions from Contract Procedure Rules in such cases as they think fit, but only after consideration of a written report submitted by a Head of Service (or another Officer to whom this responsibility is delegated) after consultation with the Monitoring Officer and the Chief Finance Officer.

2 **TENDERS AND QUOTATIONS**

2.1 Summary of Requirements for Tenders and Quotations

The following table sets out which procedure shall apply to various values of contract:-

Estimated Contract Value	Procedure to Apply	
Up to £10,000	The Procurement Officer is required to demonstrate that best value has been achieved in accordance with Clause 2.5. Alternatively, 3 competitive quotations should be obtained.	2.5
£10,000 - £25,000	At least 3 written quotations	2.6
Between £25,000 and £75,000	Competitive Tender (Minimum of 3)	2.2/2.3
Between £75,000 and the relevant European Union Contracting threshold	Competitive Tendering (Minimum of 4)	2.2 / 2.3
Between £25,000 and the relevant European Union Contracting threshold but tendering requirement waived by Council	Procedure to be approved by Council	1.6
Above European Union contracting threshold	In accordance with EU Directives if applicable otherwise competitive tendering or other procedure approved by Council	1.2.5 or 2.2 or 1.6

2.2 Competitive Tenders

Competitive tenders shall be invited for all contracts except where:-

- 2.2.1 the contract is to be entered into with or through other local authorities or public bodies or any partnership arrangement agreed by Council at rate(s) or price(s) established by competitive tendering, or at competitive rate(s) or price(s) or

- 2.2.2 the Council has waived this Rule under CPR 1.5 or where one of the exceptions set out in CPR 2.3 applies.

2.3 Exceptions from Competitive Tendering

Exceptions from the competitive tendering requirement may be made by the Chief Executive with the agreement of the Chief Finance Officer where: -

- 2.3.1 there are genuine reasons of urgency making competitive tendering impractical, in which case, unless the Chief Executive otherwise decides, at least three quotations shall be invited under CPR 2.6;
- 2.3.2 special expertise or manufacturing capacity is required, which is only available from such a limited number of sources that competitive tendering is impractical, in which case at least three quotations shall be invited under CPR 2.6;
- 2.3.4 special expertise or manufacturing capacity is required for which only one source has been identified after reasonable enquiries have been made, in which case Rule 2.5. will apply;
- 2.3.5 the work to be carried out or goods to be supplied comprise repairs, or parts for existing plant equipment, or vehicles, or updating computer software, or are required to be compatible with existing plant, equipment, vehicles or software, in which case, Rule 2.5. will apply;
- 2.3.6 the contract is to extend an existing contract and is the most economical means of obtaining what is required by the Council in which case Rule 2.5. will apply;
- 2.3.7 a consultant is proposed to be re-engaged to carry out further work on a project which they have worked on before and engaging new consultants would be inappropriate, or lead to extra costs, in which case, Rule 2.5. will apply.

2.4 Exceptions to be Reported to Council

All exceptions made from the competitive tendering requirements shall be documented and reported by the Chief Executive to the Leader of the Council and, where appropriate, the Chairman of the relevant Committee as soon as practicable.

2.5 Best Value

The cost to be paid by the Council shall be the most advantageous, in terms of price, quality of work and delivery and be consistent with

achieving best value. To this end, previous quotations for similar work, current market prices and professional and trade price indices shall be taken into account in order to deliver best value.

2.6 Competitive Quotations

If the estimated value of a contract is between £10,000 and £25,000 at least three quotations (or tenders if appropriate) shall be invited from at least three prospective contractors or suppliers recognised as capable of performing the contract. Where, because of the specialist requirement of the contract, less than three prospective tenders can be identified, all of them shall be invited to quote.

2.7 Alternative Competitive Tendering Procedures

The Head of Service shall decide which of the following procedures is to be used:-

- 2.7.1 tenders invited through a public notice in a local newspaper circulating in the District if the contract is likely to be capable of being performed by local contractors and in an appropriate trade journal circulating among persons who could be prospective tenderers; or
- 2.7.2 tenders invited from a shortlist of at least three (four if over £75,000) of the contractors selected by the Head of Service from amongst those who replied to a public notice in a trade journal circulating among prospective tenderers (and a local newspaper, if appropriate) inviting expressions of interest in the proposed contract or, if less than four replying, all of them; or
- 2.7.3 tenders invited from at least three (four if over £75,000) of the contractors included in a standing list of contractors relevant to the proposed contract maintained in accordance with CPR 2.8, such contractors to be invited to tender in turn so that all have a fair chance of winning the Council's contracts save that in addition a maximum of two contractors who have carried out similar work for the Council in the last two years may be nominated by the Head of Service from the standing list in agreement with the Chief Finance Officer.

2.8 Standing Lists of Contractors

Standing lists shall be compiled, kept up to date and reviewed by the Head of Service for the purpose in accordance with the following rules:-

- 2.8.1 when a standing list is to be prepared or reviewed, public notice shall be placed in a local newspaper and a trade journal circulating among prospective applicants inviting suitable contractors to apply within not less than 28 days;

- 2.8.2 standing lists shall be reviewed every four years. Contractors on an existing list shall be invited to apply to remain on the list and shall be allowed not less than 28 days in which to reply, unless the Council has resolved not to invite a contractor to re-apply following consideration of a report from the Head of Service or Chief Finance Officer relating to the financial status or performance of a contractor;
- 2.8.3 any contractor may, by giving written notice to the Council, withdraw from any standing list.
- 2.8.4 A copy of current standing lists shall be available for inspection by Members on the Council's intranet.

3 TENDERING ARRANGEMENTS

3.1 Terms to be included in Contracts

3.1.1 General

- (a) All contracts must state:-
 - (i) the work to be done or the goods or services to be supplied; and
 - (ii) the price and any deductions;
- (b) Contracts not made by an order must state the time within which the contract is to be carried out.

3.1.2 Liquidated Damages

In appropriate cases, contracts valued at more than £100,000 must provide for adequate liquidated damages to be paid by a contractor that fails to complete the contract in the time specified.

3.1.3 Specifications and Standards

All contracts where a specification issued by the British Standards Institution or a European Standard is current at the date of the tender or quote and is relevant shall require as a minimum that the goods or materials used in their execution or services supplied shall be in accordance with that specification.

3.1.4 Security

The Council may insist that the contractor provides adequate security for carrying out the contract and may specify the nature of that security.

3.1.5 Corruption

Every contract must state that the Council may cancel the contract and recover any resulting losses from the contractor, if the contractor, its employees or agents, with or without its knowledge:-

- (i) improperly offers or gives anyone anything in order to influence the way in which any contract with the Council is given, completed or carried out; or
- (ii) commits any offence under the Prevention of Corruption Acts 1889 to 1916 or section 117(2) of the Local Government Act 1972.

3.1.6 Data Protection

All contracts shall require a contractor to comply with the requirements of the Data Protection Act 1998 or any re-enactment of that Act in so far as any Data supplied by the Council or obtained on behalf of the Council is kept secure and is not disclosed to any other party without the express consent of the appropriate Head of Service.

3.2 Invitation to Tender

Every invitation to tender shall be in writing and state:-

- (a) that all tenders must be delivered in a plain sealed envelope addressed to the nominated officer and bearing the words 'tender for' and the title of the contract, but without any name or mark from which the sender might be identified; and
- (b) that the Council does not bind itself to accept any tender.

- 3.3 Tender envelopes received shall remain unopened in the custody of the nominated officer until the time appointed for their opening.

4 RECEIPT AND OPENING OF TENDERS

- 4.1 All the tenders for a contract shall be opened together in the same place after the expiration of the time for tendering in the presence of at least two Officers of different disciplines, usually the nominated officer and a Chief Officer who has not been involved in the tender invitation.

- 4.2 All tenders received shall be recorded.
- 4.3 Any tenders received after the expiration of the time for tendering, or which contravene any provision of these Rules, shall not be considered and shall be returned to the tenderer.
- 4.4 All tenders and accompanying documents shall be treated as confidential until their contents become public in the normal course of the Council's business.

5 ACCEPTANCE OF TENDERS

- 5.1 Subject to the provisions of this Rule, the Head of Service may accept the most financially advantageous tender.
- 5.2 In the case of contracts to be financed from capital, a tender shall not be accepted unless any necessary Government approvals and borrowing authorisations have been received and, where the tender exceeds the capital programme budget by no more than 10% up to a maximum of £25,000, the Chief Executive and/or Chief Finance Officer approve. In the case of building works, before accepting the tender the Head of Service responsible must take appropriate technical and professional advice, and do so in accordance with guidelines (if any) which may be laid down from time to time by the Chief Executive.
- 5.3 In the case of works or services or the supply of goods or materials to be financed from the revenue budget or revenue reserves, authority to accept a tender is subject to sufficient provision existing in the approved revenue budget or approval to spend from a Revenue Reserve.
- 5.4 The following provisions apply to negotiations with tenderers and amending their tenders:-
 - 5.4.1 in exercising the powers contained in CPR 5.1, 5.2 and 5.3 above, the Officer responsible may negotiate with the tenderer submitting the most financially advantageous tender to obtain improvements in terms of price, delivery or content, but shall not alter the original specification unless the revenue budget or capital programme budget is exceeded or the Chief Executive considers other special circumstances exist, in which case all those persons who originally submitted a tender for the contract shall be given an opportunity to re-tender;
 - 5.4.2 negotiation after receipt of formal tenders and before the letting of a contract shall not take place without the written authorisation of the Head of Service and shall be undertaken in accordance with arrangements approved by the Monitoring

Officer and the Chief Finance Officer. Amendments to tenders, once agreed, shall be put in writing and signed by the tenderer;

5.4.3 In the event of any amendment made under 5.4.1 and 5.4.2 above resulting in a decrease in the total tender of more than 10% for contracts over £25,000, such alteration shall be reported to the next following meeting of the Council;

5.4.4 Notwithstanding any other provision of this Rule persons tendering shall be allowed after the tenders have been opened, on being provided with details of errors of arithmetic discovered in their tenders, to confirm or withdraw their tender.

6 TENDERS OTHER THAN MOST FINANCIALLY ADVANTAGEOUS

6.1 Tenders, other than the most financially advantageous, may only be accepted after consultation with the Leader of the Council and, where appropriate, the relevant Chairman of the Committee responsible for the function.

6.2 All tenders accepted after such consultation shall be reported to the next meeting of the Council.

7 RECORDS OF TENDERS

7.1 Heads of Service shall maintain a record of tenders received, tenders accepted and amendments agreed by them under the powers given to them by these Rules; such record to be in a form agreed with the Chief Finance Officer and copied to the Monitoring Officer.

8 CONTRACTS TO BE IN WRITING

8.1 Every contract shall be in writing except for purchases using petty cash or other small cash transactions which would not in the normal course of business be reduced to writing.

8.2 Every contract for more than £25,000 in value shall be in a form approved by the Head of Legal Services and shall either be:-

- (a) sealed with the common seal of the Council; or
- (b) signed on behalf of the Council by the nominated officer, or such officer as the nominated officer has authorised in writing.

8.3 Every other contract shall be in a form approved by the Head of Legal Services or in accordance with guidance as to the form of contracts issued by him/her from time to time and shall be signed by the nominated Officer.

9 SUB CONTRACTORS AND NOMINATED SUPPLIERS

- 9.1 This Rule applies where a sub contractor or supplier is to be nominated to a main contractor by the Council.
- 9.2 Where the estimated cost of the sub-contract or of the goods to be supplied by the nominated supplier is £25,000 or more, competitive tenders shall be invited from at least three (four if over £75,000) tenderers for the nomination unless CPR 2.3 applies.
- 9.3 The terms of the invitation shall require an undertaking that the sub contractor, if selected, will be willing to indemnify the main contractor against the main contractor's obligations under the main contract in relation to the work or goods to be carried out or supplied by the sub-contractor.
- 9.4 The provisions of Standing Orders 4,5,6 and 7 (invitation to tender and receipt, opening and acceptance of tenders) shall apply to tenders received under this Rule.
- 9.5 The Head of Service responsible shall nominate to the main contractor the person whose tender is successful but, if that tender is not the most advantageous received, the acceptance shall require the approval of the Monitoring Officer and Chief Finance Officer and the circumstances shall be reported to the Council.

Officer Employment Procedure Rules

OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor, Officer of the Council or the partner of such persons.
 - (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.
- (b)
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
 - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
 - (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
 - (i) the duties of the Officer concerned; and
 - (ii) any 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 (1) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of Council.

4. **Appointment of chief Officers and Deputy Chief Officers**

A Committee or Sub-Committee of the Council will appoint Chief Officers and Deputy Chief Officers.

5. **Other appointments**

- (a) **Officer below Deputy Chief Officer.** Appointment of Officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. **Disciplinary action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action against any Officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action.

7. **Dismissal**

Councillors will not be involved in the dismissal of any Officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissal.

**Rules of Procedure
For Local Determination Of
Allegations About The Personal
Conduct Of Members Under The
Local Authorities (Code Of
Conduct) (Local Determination)
Regulations 2003**

Local Determination Procedure Rules

Introduction

1. This procedure governs the local determination of complaints where a matter has been referred to the Council's Monitoring Officer by an Ethical Standards Officer of the Standards Board for England. It applies to complaints about the conduct of elected Members, and co-opted Members with voting rights, of Rochford District Council and Parish Councillors within the Rochford District Council area.
2. The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The Ethical Standards Officer or Investigator appointed on their behalf will be referred to as the ESO.

1 Appointment of Reporting Officer

3. Upon receipt of a report from the ESO (the ESO report), the Monitoring Officer will appoint a Reporting Officer to take conduct of the matter, make arrangements for a hearing of the Standards Committee (the Committee) and present the ESO report. The Reporting Officer may be the Monitoring Officer, the Deputy Monitoring Officer or any other appropriate officer.
4. The Monitoring Officer will normally provide advice to the Committee but if he takes on the role of Reporting Officer, he must arrange for a separate legal adviser in respect of the allegation.

2 Notifying the Member and Complainant

5. As soon as is practicable, the Reporting Officer shall notify the Chairman of the Committee of receipt of the ESO report and provide a copy of the ESO report to the Member and, where possible, the Complainant, conditional upon an appropriate undertaking of confidentiality.
6. At the same time the Reporting Officer will ask the Member to state in writing, within fifteen working days, whether he/she:
 - disagrees with any of the findings of fact in the ESO report including the reasons for any disagreements;
 - intends to be represented at the hearing, at his/her own expense, by a solicitor, barrister or any other person;
 - intends to give evidence at the hearing, either verbally or in writing;
 - intends to call any witnesses to give evidence and if so to provide details;

- wants any part of the hearing to be held in private;
- wants any part of the ESO report or other relevant documents to be withheld from the public.

A pro forma based on guidance from the Standards Board for England will be supplied to the Member for the purpose of providing this information. This will include notice that, if the Member seeks to dispute any matter contained in the ESO report without previous notification, the Committee may postpone the hearing or refuse to admit the disputed matter.

7. On return of the pro forma, the Reporting Officer will provide the ESO with a copy of the Member's response for comment, within fifteen working days, to say whether or not the ESO:-
 - wants to be represented at the hearing;
 - wants to call relevant witnesses to give evidence at the hearing;
 - wants any part of the hearing to be held in private;
 - wants any part of the ESO report or other relevant documents to be withheld from the public.
8. The Reporting Officer will notify the Monitoring Officer and Chairman of the Committee of the responses from the Member and the ESO.
9. The Member, the ESO and the Reporting Officer are entitled to request that any witnesses they want should be called. However, the Reporting Officer on behalf of the Committee may limit the number of witnesses if he/she believes the number requested is unreasonable so as to avoid repetition of the same evidence by several witnesses or evidence that will not assist the Hearing Panel to reach its decision.
10. Nothing in this procedure shall limit the Reporting Officer on behalf of the Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Hearing Panel to reach its decision.

3 The Hearing Panel

11. The Reporting Officer, in consultation with the Chairman of the Standards Committee, will appoint a Hearing Panel to consider the complaint and the report.
12. The Chairman of the Hearing Panel will be an Independent Member selected by the Chairman of the Committee.

13. The membership of the Hearing Panel will be chosen by the Chairman of the Hearing Panel from the Committee to consist of at least one third Independent Members comprising a minimum of three and a maximum of five members.
14. The Reporting Officer, in consultation with the Chairman of the Hearing Panel, will then:-
 - confirm a date, time and place for the hearing, which must be within three months from the date that the ESO report was received by the Monitoring Officer;
 - confirm the main facts of the case that are agreed;
 - confirm the main facts that are not agreed;
 - confirm the witnesses to give evidence;
 - outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private; and
 - provide this information, with an Agenda, to everyone involved in the hearing at least two weeks before the proposed date of the hearing.
15. Where appropriate the Reporting Officer may arrange for support for a Member who is not represented but who wishes to make an oral representation to the Hearing Panel.

4 The Hearing

16. The quorum for the Hearing Panel shall be three with a minimum of one third Independent Members. If the hearing involves a Parish Councillor, the Parish Member must be present. Substitutes will not be allowed except from membership of the Committee.
17. The Hearing Panel will decide, on a balance of probability, whether there has been a breach of the Code. It shall do so by considering the ESO report and any written or oral representations made by the parties to the hearing.
18. Each Hearing Panel member present for the duration of the hearing shall have one vote and all matters/issues shall be decided by a simple majority of votes cast. Abstentions shall not be permitted.
19. The Principal Committee Administrator will provide administrative services for the hearing.
20. The hearing will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 and regulations is likely to be disclosed.

5 Procedure at the Hearing

21. The order of business at the hearing will be as follows, subject to any changes the Hearing Panel thinks fit in order to ensure a fair and efficient meeting:-
- declarations of interest;
 - where the Member is not present, to decide whether to proceed in his/her absence or to adjourn;
 - introductions;
 - to receive representations from any party to the proceedings on procedural issues with regard to the hearing;
 - presentation of the ESO report by the Reporting Officer or ESO if present;
 - if there is any disagreement as to the facts of the case, the Reporting Officer or ESO will be invited to make representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed;
 - the Member will then be invited to make representations to support his or her version of the facts, calling supporting witnesses as agreed;
 - the Hearing Panel may ask questions at any point during the hearing;
 - other parties or their representatives being the persons specified in paragraph 6 will only be allowed to challenge any oral evidence by questions directed through the Chairman;
 - the Hearing Panel may at any time seek advice from its legal adviser;
 - the parties will be given the opportunity to make closing statements.
22. Where the Member seeks to dispute any matter in the ESO report without having given prior notice of disagreement, the Member must give good reasons for not having raised it before the hearing. If the ESO is not present, the Hearing Panel will consider whether or not it is in the public interest to continue in his/her absence. Having considered the Member's explanation the Hearing Panel may then:-
- continue with the hearing, relying on the information in the ESO report to proceed to a decision;

- allow the member to make representations about the issue and invite the Reporting Officer or ESO to respond and call any witnesses as necessary; or
 - postpone the hearing to enable appropriate witnesses and/or the ESO to be present.
23. Where appropriate the Reporting Officer will make representations on behalf of the Complainant to the Hearing Panel.

6 Decision by the Hearing Panel

24. The Hearing Panel will consider in private session which of the following findings to adopt:-
- That there is no evidence of any failure to comply with the Code of Conduct;
 - That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
 - That the Member has failed to comply with the Code of Conduct and should be:-
 - censured, or
 - restricted access to the premises and resources of the Authority for a period up to a maximum of three months (but ensuring that such restrictions will not unnecessarily restrict the Member's ability to carry out his/her responsibilities as an elected or co-opted Member), or
 - suspended or partially suspended for a maximum period of three months, or
 - suspended or partially suspended for a maximum period of three months or until such time as he/she submits a written apology or undertakes any training or conciliation specified by the Hearing Panel.
25. In deciding on a penalty, the Hearing Panel will consider all relevant circumstances including those covered in the Guidance produced by the Standards Board for England.
26. The Hearing Panel will then return and the Chairman will announce the decision and the reasons for that decision.
27. If the matter is a complicated one, where the complaint has a number of aspects, the Hearing Panel can decide to consider the evidence and reach a finding on each aspect separately.

28. The Hearing Panel may make recommendations to the Committee arising from consideration of the allegation. For example, to review or reconsider any decision which was the subject of the breach of the Code of Conduct or to rectify any deficiency in the Council's decision making procedures or to prevent or deter any further breaches of the Code of Conduct.

7 Appeal

29. Where the Hearing Panel determines that the Member has failed to comply with the Code of Conduct, the Monitoring Officer shall inform the Member of his or her right to appeal against the determination to an appeal tribunal drawn from the Adjudication Panel.

8 Notice of findings

30. The Principal Committee Administrator will make a short written decision available on the day of the hearing and a full written decision in draft will be prepared by the following day.
31. Within two weeks of the end of the hearing the Principal Committee Administrator will circulate a full written decision to the Member, the Complainant (where possible), the ESO concerned, the Standards Committee and any other authority concerned.
32. At the same time the Principal Committee Administrator shall arrange for a summary of the findings to be published in at least one newspaper circulating in the area of the Authority and on the Council's web site.
33. Where the Hearing Panel determines that there has not been a breach of the Code of Conduct, the notice specified in paragraph 29 shall:-
 - (i) state that the Hearing Panel found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
 - (ii) not be published in local newspapers if the Member so requests.
34. Where the Hearing Panel determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice specified in paragraph 29 shall:-
 - (i) state that the Hearing Panel found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
 - (ii) specify the details of the failure;
 - (iii) give reasons for the decision reached; and

- (iv) state that Member concerned may apply for permission to appeal against the determination.
35. Where the Hearing Panel determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified in paragraph 29 shall:-
- (i) state that the Hearing Panel found that the Member had failed to comply with the Code of Conduct;
 - (ii) specify the details of the failure;
 - (iii) give reasons for the decision reached;
 - (iv) specify the sanction imposed; and
 - (v) state that the Member concerned may apply for permission to appeal against the determination.

9 Confidentiality and disclosure of information

36. The Hearing will be held in public except:-
- where 'confidential information' is to be revealed. Confidential information is information provided by a government department under the condition that it must not be revealed, and information that cannot be revealed under any legislation or by a court order.
 - where 'exempt information' is likely to be revealed the Hearing Panel may exercise their discretion in deciding whether or not to exclude the public. The categories of exempt information are set out in Part 1 of Schedule 12A to the LGA 1972 and regulations and include information relating to the personal circumstances of any person.
 - where the Panel deliberate before reaching any finding on a matter referred under the provisions of section 64(2) or 71(2) of the Local Government Act 2000.